

**MARINE CORPS COMMUNITY SERVICES****SOLICITATION/OFFER/AWARD FORM (NONAPPROPRIATED FUNDS)**

PAGE 1 OF 49

Award will be made on this form

**1. SOLICITATION NO.**  
**TWM-10-R-0005****2. DATE ISSUED**  
**8 June 2010****3. TYPE OF PRODUCT/SERVICE**  
**Carbonated & Non-Carbonated Soft Drink Vending Machine Operations****4. ISSUED BY**Marine Corps Community Services, Procurement & Contracting Division  
PO Box 788150, Building 1533  
Marine Corps Air Ground Combat Center  
Twentynine Palms, CA 92278**5. ADDRESS OFFER TO (if other than Block 4)****SOLICITATION****6. Solicitation for furnishing the supplies or services described in the Schedule will be received at the place specified in Block 4, or if hand-carried, to the location in (refer to Block 4) until 2:00 p.m. Pacific daylight savings time (14:00, PDT, 9 July 2010)**

NO APPROPRIATED FUNDS OF THE UNITED STATES SHALL BECOME DUE, OR BE PAID, TO THE CONTRACTOR BY REASON OF THIS CONTRACT.

All offers are subject to the following:

- |  |   |
|--|---|
| 1. The attached Solicitation instructions and Conditions.                        | 3. The Schedule attached hereto.  |
| 2. The Contract Clauses, which are attached or incorporated herein by reference. | 4. Such other provisions, representations, certifications, and specifications, as are attached or incorporated herein by reference. (Attachments are listed in the Schedule.) |

FOR INFORMATION CALL (No collect calls): Mr. TC Dowden 760-830-6163 X221 or email: [dowdentc@usmc-mccs.org](mailto:dowdentc@usmc-mccs.org)

7.

**TABLE OF CONTENTS**

SEC	DESCRIPTION	PGS	SEC	DESCRIPTION	PGS
<i>PART 1 – THE SCHEDULE</i>			<i>PART 2 -- CONTRACT CLAUSES</i>		
X A	AWARD/CONTRACT FORM	1	X I	CONTRACT CLAUSES	21-28
X B	COMPENSATION SCHEDULE	2	<i>PART 3 – LIST OF DOCUMENTS, EXHIBITS &amp; OTHER ATTACHMENTS</i>		
X C	DESCRIPTION/WORK STATEMENT	3-11	X J	ATTACHMENTS	29-34
X D	PACKAGING AND MARKING	12	<i>PART 4 – REPRESENTATIONS AND INSTRUCTIONS</i>		
X E	INSPECTION AND ACCEPTANCE	13	X K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	35-40
X F	DELIVERIES OR PERFORMANCE	14	X L	INSTRUCTIONS, CONDITIONS & NOTICES OF OFFERORS	41-47
X G	CONTRACT ADMINISTRATION DATA	15-16	X M	EVALUATION FACTORS	48-49
X H	SPECIAL CONTRACT REQUIREMENTS	17-20			

The Sections marked with an "X" are incorporated.

**OFFER**

8. In compliance with the above, the undersigned offers and agrees to furnish any or all items/services upon which prices are offered and to deliver at the designated point(s) within the time set forth in the schedule, if this offer is accepted within \_\_\_ calendar days from the date specified for receipt of the offers (60 calendar days unless a different period is inserted by the offeror).

9. ACKNOWLEDGMENT OF AMENDMENTS      AMENDMENT NO.    DATE                      AMENDMENT NO.    DATE

(The offeror acknowledges receipt of amendments to the SOLICITATION for offers and related documents numbered and dated.)

10. OFFEROR'S NAME, ADDRESS, &amp; PHONE NO. (Street, City, State, &amp; Zip Code)

11. NAME &amp; TITLE OF PERSON AUTHORIZED TO SIGN OFFER

Check if Remittance Address is different from above.  
\_\_\_\_ Enter such address in schedule.

12. SIGNATURE

13. OFFER DATE

**AWARD**

(To Be Completed by Activity)

14. ACCEPTED AS TO ITEMS NUMBERED

15. AMOUNT

16. CONTRACT NUMBER

17. SUBMIT INVOICES (4 copies unless otherwise specified)

18. PAYMENT WILL BE MADE BY  
Contractor shall pay MCCS per Section G-4

19. NAME AND SIGNATURE OF CONTRACTING OFFICER

20. AWARD DATE

21. EFFECTIVE DATE

**SECTION B SUPPLIES OR SERVICES SCHEDULE (Nonappropriated Funds)**

B-2 A description of the services to be furnished, the specifications, schedule of services and other terms and conditions applicable to contract requirements, are set forth below, or attached in other sections of the contract:

B-2	DESCRIPTION OF SERVICES	COMPENSATION %
1.	<p>This [primary/secondary] contract is for the furnishing, maintaining, and servicing of nationally-known carbonated and non-carbonated soft drink vending machine services aboard MCAGCC, Twentynine Palms.</p> <p>The Primary Vendor will be apportioned 60% of the total installed contracted machines. The Secondary Vendor will be apportioned 40% of the total installed contracted machines.</p> <p>The Contractor shall furnish all necessary equipment, transportation, supplies and employees to provide the above mentioned services aboard the MCAGCC Twentynine Palms, CA as defined in Section C, the Statement of Work, and according to the standards set forth in Section H, Special Contract Requirements and elsewhere in this contract. The concession will be made available to MCCS authorized patrons aboard MCAGCC.</p> <p>The Contractor shall pay the following constant percentage as a concession fee of gross sales, excluding sales tax. Concession fee does cover payment for electricity. The Contractor's payment for utilities is covered under Sections C-4.3 and C-8.</p>	<p>_____ %</p>
B-3	<p>Insert below Contractor/Offeror's name address, point of contact, phone number, fax and e-mail address</p>	

## **SECTION C - STATEMENT OF WORK**

### **C-1 GENERAL INFORMATION TO OFFERORS.**

**C-1 INTRODUCTION.** *This is an invitation to offerors to propose an offer for a contract between Marine Corps Community Services (MCCS), Marine Corps Exchange, Twentynine Palms, CA and \_\_\_\_\_, hereafter also referred to as "the Contractor", for the furnishing, maintaining, and servicing of carbonated and non-carbonated soft drink vending services on the premises of MCAGCC, Twentynine Palms. The Contractor agrees to provide their family of nationally-known beverage products to include: carbonated and non-carbonated soft drinks, Tea(s), fruit juices, and sports/energy drinks. The products sold will be made available to all authorized patrons aboard MCAGCC, 29 Palms, CA. Two contracts will be awarded, Primary Vendor and Secondary Vendor. The Primary Vendor contract will be apportioned 60% of the total contracted machines. The Secondary Vendor will be apportioned 40% of the total contracted machines.*

**C-1.1** MCCS, a nonappropriated fund instrumentality (NAFI) of the United States that includes the Marine Corps Exchange will execute a contract on behalf of the Marine Corps Community Services (MCCS) at Marine Corps Air Ground Combat Center (MCAGCC), Twentynine Palms, (CA) to provide Soft Drink Vending Machines at the MCCS activity located at Twentynine Palms, CA.

**C-1.2 Competition.** *This Contract is a nonexclusive concession contract.* MCCS makes no warranty or representation, neither expressed nor implied, that the services are free of competition on board MCAGCC. During the contract period, other government agencies and concessionaires may sell the same or similar merchandise or services on board MCAGCC Twentynine Palms.

**C-1.3 Appropriated Funds.** No appropriated funds of the United States shall become due or be paid by reason of this contract. MCCS activities are Nonappropriated Fund Instrumentalities of the Federal government, and are therefore subject to directives issued by the Department of Defense, the Secretary of the Navy, and the Commandant of the Marine Corps.

### **C-2 BACKGROUND**

**C-2.1** The Marine Corps Community Services consists of Retail Activities, Concession and Lounge Facilities, Recreational Areas and Service Activities.

**C-2.2 Mission.** The MCCS mission is to provide active duty military and other authorized patrons with articles of goods and services, recreational leisure time activities, food and entertainment at reasonable and competitive prices.

**C-2.3 NAFI.** MCCS activities are nonappropriated fund instrumentalities (NAFI) of the Federal Government, and are therefore subject to directives issued by the Department of Defense, the Secretary of the Navy, and the Commandant of the Marine Corps. The activities are for the most part self-supporting. Each year earnings from its major revenue generators are used to help fund non-revenue generating MCCS programs.

**C-2.4 Disputes.** MCCS activities are an integral part of the Department of Defense, and are a NAFI of the United States Government. MCCS contracts are United States contracts; however, they do not obligate appropriated funds of the United States except for a judgment or compromise settlement in suits brought under provisions of the Contract Disputes Act (41 USC

601-613), in which event the MCCA will reimburse the United States Government (31 USC 1304 [c]). (NOTE: The Federal Acquisition Regulation (FAR) published pursuant to the Office of Federal Procurement Policy Act of 1974, as amended, applies to procurements with appropriated funds. It does not apply to MCCA procurement except for those provisions of the FAR that have been administratively adopted by MCCA)

**C-2.5 Demographics.** MCA GCC, Twentynine Palms demographic information as of 31 Dec 2009 is provided at Section J-1.

**C-2.6 Contract Term.** See Section G-1.1.

**C-2.7 Service Contract Act.** This contract is subject to the Service Contract Act. See Section J-2.

**C-3 SITE LOCATION.** The Contractor shall furnish, install, and maintain at its own expense, at such locations as may be designated by MCCA, Soft Drink Vending Machines in such numbers as may from time to time be agreed upon by the parties hereto during the period of this contract. Scope of work includes the supply of appropriate equipment; and operation of Soft Drink Vending Machines aboard MCA GCC, Twentynine Palms, CA. Current site locations are included as Section J-6.

**C-4 ITEMS AND SERVICES PROVIDED BY MCCA.** The MCCA agrees to furnish to the Contractor, the following:

**C-4.1** Adequate locations suitable for the installation of Soft Drink Vending Machines aboard MCA GCC.

**C-4.2** Copies of applicable regulations concerning safety, fire, environmental, and sanitation.

**C-4.3** Existing electrical lines adequate for Contractor's use. Special electrical needs requiring additional transformer or conditioner will be borne by the Contractor.

**C-4.4 Government Furnished Equipment (GFE)** Not Applicable

**C-5 HOURS OF OPERATION.** Deleted, not applicable.

**C-6 SERVICES TO BE PERFORMED AND RELATED CONDITIONS**

**C-6.1** The Contractor shall furnish, install, and maintain at its own expense, at such retail locations as may be designated by MCCA, Soft Drink Vending Machines in such numbers as may from time to time be agreed upon by the parties hereto during the period of this contract. MCCA shall have the right to determine, at any time during the period of this contract, that any said machines are surplus to its requirements, whereupon said machines shall be promptly removed by the Contractor at its own cost and expense, and in the event the said machines are not removed by the Contractor, MCCA may remove and store them at the expense of the Contractor.

**C-6.2** All electrically operated machines furnished hereunder shall be equipped so as to provide thermal overload protection, and shall comply with Specifications MIL-1-16910 (SHIPS) and any amendments thereto hereafter issued with regard to the elimination of radio interference. In addition, all electrical machines furnished hereunder shall be equipped with all necessary safety valves, and shall bear the seal of approval of the Underwriters' Laboratories, Inc. All installed vending machines are required to be either "Energy Star" rated or have an "Energy Miser" device

such as, or similar to, "VendingMiser®".

**C-6.3** The Contractor, at its own expense, shall:

- a. Keep said machines in proper mechanical working order, including any meters and special attachments thereto. Non-resettable meters are required on all machines.
- b. Promptly repair and maintain said machines and provide necessary replacement for any part, which may become broken, destroyed or inoperative.
- c. Keep said machines in a clean and attractive condition to the satisfaction of MCCS.
- d. Install and maintain said machines and equipment in accordance with safety standards prescribed by MCCS.

**C-6.4** Upon request by MCCS, in addition to providing normal service required herein, provide within twenty-four (24) hours after notice by MCCS, adequate repair service, out-of-order service, removal services, and relocation services. The Contractor shall also provide all services deemed necessary by MCCS on Saturdays, Sundays and Holidays when requested by MCCS to provide such services.

**C-6.5 Site Visit.** Potential contractors **are required** to participate in a site inspection to satisfy themselves regarding all general and local conditions that may affect the cost of contract start-up and performance to the extent that the information is reasonably obtainable. Site visit(s) may last approximately two hours. Prospective contractors that do not participate in a site inspection will not be considered for contract award. Participation in a site inspection must be coordinated in advance directly with the Contracting Officers Representative (COR) or the Contracting Officer, as identified below. In no event shall failure to inspect the performance sites constitute grounds for a claim after contract award. Site visits may be arranged by contacting **Janet New at 760-830-4509** or email to [newj@usmc-mccs.org](mailto:newj@usmc-mccs.org) or **TC Dowden at 760-830-6163** or email [dowdentc@usmc-mccs.org](mailto:dowdentc@usmc-mccs.org). Additional information regarding MCCS Twentynine Palms can be accessed at <http://www.mccs29palms.com/>.

**C-6.6 Title to Machines.** Unless specifically provided otherwise elsewhere in this contract, full title to the said machines shall remain the Contractors. The Contractor assumes full risk and responsibility for any loss, destruction, or damage occurring to the said machines, except such as may be attributable to MCCS by reason of the negligence of its officers, agents, or employees while acting within the scope of their employment.

**C-6.7 Vending Machines.** MCCS agrees that the vending machines used in the performance of this contract need not be owned by the Contractor. Machines will be clearly individually identifiable. Vending machines must be equipped with non-resettable counters. Vending machines must be capable of accepting \$1.00 coins in accordance with Public Law 109-145 "Presidential One Dollar Coin Act of 2005". Vending machine shall accept paper currency up to the reasonable face value for products vended.

**C-6.8 Supply of Product.** The Contractor shall provide MCCS with an adequate supply of beverages for sale through the vending machines. Vending machines will be serviced with such product by the Contractor. Vending machines being reported to Contractor as "empty" will be serviced with 24 hours of given notice.

**C-6.9 Title to product.** All products provided by the Contractor for sale through the said vending machines (including the initial stock of such product contained in the said machines at

the commencement of the contract) shall become, from the time of their being placed within the vending machines, and shall remain at all times thereafter until vended, the property of the Contractor.

**C-6.10 Promotional events.** The Contractor shall provide no fewer than two promotional events per year. The events must be coordinated with and approved by M CCS.

## **C-7. PRICES**

**C-7.1 Proposed Pricing.** The Contractor shall submit a Proposal with a complete price list to include all products to be sold and prices to be charged. The products to be sold and prices to be charged are subject to the approval of the Contracting Officer and shall be incorporated as a part of this Contract upon award.

**C-7.2 Price List Maintenance.** The Contractor shall maintain the retail vended prices in accordance with the price list submitted by the Contractor and approved by the Contracting Officer. A price list approved by the Contracting Officer shall be displayed in a manner that is fully visible and easily understood by authorized patrons. If Contractor has the same machines at more than one location on MCAGCC, 29 Palms, CA Contractor agrees to have exactly the same price at all locations. If Contractor also has off base locations, in 29 Palms, Contractor agrees that prices for each machine will be equal to or less than the same as comparable products offered at the off-base location.

**C-7.3 Sales Tax.** Contractor is responsible for Sales Tax, see Section G-4.

**C-7.4 Price Changes.** Price changes, additions or deletions to the price list must be requested in writing and shall not be implemented without the Contracting Officer's written approval and formal modification to the Contract. The Contractor shall notify Contracting Officer of all pending price changes and submit menu and price lists to Contracting Officer at least 30 days prior to change.

## **C-8 OPERATIONAL EXPENSES**

**C-8.1** The Contractor is responsible for all operational expenses excluding electricity.

**C-8.2 Utilities.** M CCS will provide electrical service adequate for Contractor's use.

**C-8.3 Telephone** Deleted.

**C-9 CONTRACTOR PERSONNEL.** Personnel employed under this contract must present a clean and neat appearance and be in accordance with M CCS and Combat Center Dress Code Regulations. Personnel must be able to effectively communicate with the customers. Contractor employees must comply with relevant combat center orders including those dealing with obtaining identification cards and vehicle registration. M CCS reserves the right to request the contractor remove from the installation, Contractor employees who are identified as a potential threat to the health, safety, security, general well-being or operational mission of the installation and its population or violates federal regulations while aboard the military installation. Contractor personnel shall not loiter in or around the military installation during off-duty hours. The Contractor shall staff, operate, and maintain Soft Drink Vending Machines for authorized M CCS patrons in a professional manner in accordance with prevailing customs and standards of trade.

**C-9.1 Supervision.** The Contractor shall at all times provide adequate supervision of their employees to ensure complete and satisfactory performance of all services in accordance with the terms of the Contract.

**C-9.2 Licensing and Certification.** If applicable, the Contractor is responsible to provide personnel who are licensed or certified by the appropriate agency when it is required by law or regulation. The Contractor shall ensure that all personnel update all applicable licenses or certificates to perform services under this Contract. Applicable licenses or certificates shall be displayed where they are visible to authorized patrons. At no time shall the Contractor provide services with unlicensed or uncertified personnel.

**C-9.3 Base Access.** The Contractor is responsible to obtain base passes and identification cards for his/her employees as directed by the CCO 5512.2(series) . A copy of CCO 5512.2(series) will be given upon request of any potential contractor. Contractor is required to provide background checks for any employee that they employ under this contract. A list of all employee names will be submitted to the Contracting Officer or COR and updated whenever there is any change in employees. All employees/day laborers who work aboard the installation are required to obtain an Installation Access Card (IAC) to access the Combat Center. All non-government employees must be sponsored as an employee by an authorized Unit or Directorate to obtain an IAC. Personnel who possess an IAC only are not authorized to escort/sponsor other individuals on the installation. Personnel must provide one form of government provided photo ID to receive an IAC. Use of the retail facilities by Contractor personnel aboard MCAGCC, Twentynine Palms, California, is strictly prohibited, with the exception of MCCA Food Court(s) and convenience stores for snacks and beverages consumed on premises. Contractor personnel shall not purchase alcohol or tobacco products at MCCA convenience stores.

a. **DoD Decals.** DoD Decals may be issued to civilian contractors who have a contract to provide goods or services to the MCAGCC or its residents, limited to contractor supervisors and persons of long standing with the contractor who require access to the base multiple times in a given week.

b. **Gate Closures.** Unscheduled gate closures by the Military Police may occur at any time, causing personnel entering or exiting the installation to be delayed. Privately owned vehicles are subject to being searched pursuant to applicable base regulations. This contract does not create a right to have access to MCAGCC, 29 Palms, CA.

**C-9.4 USMC Rules and Regulations.** The Contractor and his/her employees shall comply with all Department of Defense, Department of the Navy and United States Marine Corps regulations and directives and conduct themselves so as not to reflect discredit on MCCA. Copies of pertinent installation rules and regulations may be requested from the COR prior to contract start.

**C-9.5 Sanitation/Health Requirements.** The Medical Officer or his designated representative will perform periodic sanitation inspections, usually monthly, of the installed machines. Contractor is solely responsible for satisfactory sanitation standards set forth by the Naval Manual of Preventive Medicine, NAVMED P-5010. All discrepancies noted on the inspections must be resolved immediately.

**C-9.6 Management Controls.** The Contractor is responsible for establishing effective management controls, exercising sound management practices, establishing internal control procedures consistent with the provisions of this contract, and for providing a complete and accurate accounting of all transactions. Financial controls shall be established by the contractor

that shall cause each sales transaction to be recorded/documented. The Contractor shall cause the daily beginning and ending non-resettable totals to be recorded for each location.

**C-9.10 Citizenship.** The Contractor shall ensure that each of the Contractor's employees shall be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by Alien Registration Receipt Card Form I-151, or who presents other evidence from the Immigration and Naturalization Service that employment will not affect the Contractor's employees immigration status.

## **C-10 CUSTOMER SATISFACTION AND SERVICE POLICY**

**C-10.1 Customer Satisfaction.** The Contractor shall comply with the following MCCS customer satisfaction guarantee: "Customer satisfaction or money cheerfully refunded."

**C-10.2 Customer Service.** All customers will be serviced in a friendly and professional manner. In the event of a customer experiencing a monetary loss from a vending machine operated by the Contractor, lost moneys will be refunded by the Service Operations Division of MCCS. MCCS will record the date, time, machine number, and amount, and submit to Contractor for refund.

**C-10.3 Quality Control Program.** The Contractor shall institute and maintain throughout the Contract period a properly documented quality control program designed to ensure that the services are provided at all times and in all respects in accordance with the contract. The program shall include providing daily supervision and conducting frequent inspections of the Contractor's staff performance and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by MCCS.

**C-10.4 Customer Complaints.** The contractor will install a local customer comment/complaint program and processing system. The program shall allow for the identification and validation of customer complaints. The Contractor shall provide written feedback and corrective actions taken on a weekly basis to the COR. The term "customer" refers to customers both internal and external to the organization identified by this solicitation. The Contractor shall forward a report detailing validated customer complaints to the COR no later than five (5) working days after the end of each month.

**C-10.5 Interactive Customer Evaluation (ICE) system.** MCCS uses the DoD's Interactive Customer Evaluation (ICE) system for customer comments. The ICE system will be used in addition to any local customer comment system implemented by the Contractor. ICE is a web-based tool that collects feedback on services provided by various organizations throughout the Department of Defense (DoD). The ICE system allows customers to submit online comment cards to rate the service providers they have encountered at military installations and related facilities. It is designed to improve customer service by allowing managers to monitor the Satisfaction levels of services provided through reports and customer comments. MCCS managers are required to respond to ICE comments within five (5) days of receipt. Any ICE comments received that pertain to the Contractor's services are to be answered in accordance with the standards of the ICE program within three (3) days of receipt.

**C-10.6 Acceptable Standards for Public Areas. (As applicable)** Contractor will monitor their assigned spaces and ensure that all customers encounter conditions that are conducive to family participation and not bring discredit to the MCCS, the Combat Center, or the United States Marine Corps. All machines and other public areas are to be free from obscenity, vulgar or profane language, sexually suggestive materials, or racially insensitive music, videos, or other written, aural, or video materials.

## **C-11 SALES TRANSACTIONS.**

**C-11.1 Transactions.** Each sale, whether accomplished by cash, check, credit card, shall be recorded immediately on the Point Of Sale system in use at the location.

**C-11.2 Collection of Monies.** All sales shall be collected from the vending machines by the Contractor, and is subject to such internal control procedures as may be required by M CCS. Wherever practicable, the machines shall be equipped by the Contractor with non-resettable counters. Further, M CCS shall be permitted to have authorized representative present with the Contractor's representative to verify deliveries appropriate by the Contracting Officer.

**C-11.3 Bad Checks.** Not applicable.

**C-11.4 Refunds for Unacceptable Product.** Contractor will refund customer payments if the customer is not satisfied with the delivered product. If the Contractor cannot resolve a refund dispute, between a M CCS patron and the Contractor, the Contracting Officer will resolve it. If the Contracting Officer determines that a refund is appropriate, it will be deducted from gross sales.

**C-11.5 Adjustments.** Contractor shall account for all funds collected by each location. Refunds and other such actions that affect the cash balances of a location shall be documented by a management official on duty and copies of the action affecting the cash balance shall be provided with the daily cash register report to the Accounting Department.

**C-11.6 Audit Authority.** The Contracting Officer retains the right to direct periodic third-party audits of prices, sales reports and other aspects of the contract as deemed necessary.

## **C-12 FACILITIES AND MAINTENANCE**

**C-12.1 Space Assignment.** The assigned space(s) for the Contractor to provide services under this Contract is a revocable license and is not a tenancy. In the event the premises furnished by or through M CCS is destroyed either in whole or in substantial part (so as to significantly hinder or prevent normal operations by the Contractor) by acts of God, but not limited to fire, flood, hurricane, unusually severe weather conditions, enemy aggression or Government involved in a war, etc. or as a result of any other unusual occurrence not caused by M CCS or the Contractor's negligence, Contractor or the Contractor's insurer shall repair/restore Contractor equipment.

**C-12.2 Cleanliness.** The Contractor shall ensure all products placed in the vending machines are current and no expired products shall be left in the machine. M CCS has the right to inspect the machines for expired products and require the Contractor to remove, replace or correct the rejected products.

**C-12.3 Repair and Maintenance.** The Contractor shall be liable for any damage to the interior and/or exterior of assigned premises resulting from acts or omissions of the Contractor, his/her employees, or agents.

**C-12.4 Utility Connections.** Connections for electric lines adequate for Contractor's use and hookups to such connections shall be at the expense of M CCS.

**C-12.5 Design and Build.** Not Applicable

**C-12.6 Relocation.** During the contract period, the Contracting Officer may require the concession to relocate vending machines (i.e., to temporarily or permanently move) within the premises or to any installation premises to better meet MCCS needs or those of the installation, as determined by the Contracting Officer. Contractor will be given advance notice. MCCS will pay for moving and installing MCCS furnished equipment and fixtures and hooking up utility lines.

**C-12.7 Machine Placement.** Placement, removal, or movement of vending machines on the Combat Center will be at the discretion of and by approval of the Contracting Officer. MCCS will not be liable for lost income, profit and/or salaries associated with relocating.

**C-12.8 Contractor Equipment.** Contractor will provide and install all the equipment, furniture and movable trade fixtures required to execute this contract. All contractor furnished property is subject to approval of the Contracting Officer. All electrical equipment will carry the Underwriters' Laboratories (UL) Seal of Approval. At the request of the Contracting Officer, and prior to the commencement date of services under this contract, contractor will give the Contracting Officer a typed list of all equipment and movable trade fixtures to be used for this contract. Each item will be identified by manufacturer, model name/number, serial number or contractor's fixed asset number, as appropriate. Contractor furnished equipment requiring utilities hookup will comply with installation energy conservation policies. Contractor furnished equipment determined by the Contracting Officer to be energy inefficient will be replaced with acceptable equipment at contractor's expense. Title to contractor furnished equipment and fixtures remain with the contractor. Contractor investment in equipment and fixtures for this contract is a business risk of the contractor. It is expressly understood and agreed that neither MCCS nor any other agency or instrumentality of the United States is or will be liable to contractor for costs of contractor's investing in equipment movable trade fixtures in the event of termination of this contract without extension.

**C-12.9 Return of Premises.** Upon completion of contract, assigned spaces shall be vacated and returned to MCCS in a condition that is suitable for use. Damages to the premises will be the responsibility of the contractor. The Contracting Officer and/or his representative will perform closing inspection with the contractor.

### **C-13 SAFETY AND SECURITY**

**C-13.1 Physical Security.** The Contractor shall be responsible for safeguarding any Government property and equipment, if any, provided for use under this contract.

**C-13.2 Theft, Break In.** The Contractor shall assume full responsibility for all losses occurring to the Contractor's machines due to theft, break in or any other cause and for loss, damage or destruction to property of the U.S. Government.

**C-13.3 Safety Requirements.** In performing work under this contract the Contractor shall:

a. Adhere to base regulations governing safety and fire prevention. Copies of local regulations will be provided to the contractor by the COR and can be found at [www.29palms.usmc.mil](http://www.29palms.usmc.mil).

b. Take such additional immediate precautions as the Contracting Officer may reasonably require for safety and mishap prevention purposes.

c. Record and report promptly to the Contracting Officer or designated Contracting Officer's Representative (COR) all available facts relating to each instance of damage to Government property or injury to either Contractor, Government personnel or customer.

d. In the event of an accident/mishap, take reasonable and prudent action to establish control of the accident/mishap scene, prevent further damage to persons or property, and preserve evidence until released to the accident/mishap investigation authority.

#### **C-14. CURRENT WAGE APPLICABLE TO CONTRACT**

**C-14.1** This contract is subject to the Contract Services Act. See Section J. The Administrator, Wage and Hour and Public Contracts Division of the United States Department of Labor is the federal agency responsible for determining the wage applicable to service employees that are expected to be employed in the performance of this Contract. A request for such a determination was submitted, as required, and if received is enclosed. In the event that the Administrator advises that no wage determination is applicable to the specified locality and classes of service employees, the following shall be applicable:

“Neither the Contractor nor any subcontractor under the Contractor shall pay any employee performing work under this Contract (regardless of whether or not they are service employees) less than the minimum wage specified by Public Law 93-259 (5 U.S.C. 5343 (c)).”

**C-15 TRANSITION PLAN**. The Contractor shall take all actions necessary for a smooth transition of operations and uninterrupted service should there be a change in contractors.

**C-15.1 POAM**. The incoming Contractor shall have 30 days from the date of contract award to submit a detailed Plan of Actions and Milestones (POAM) for concession startup. This time period is for the incoming Contractor to make necessary arrangements for equipment purchases, personnel actions and coordination with base agencies. The POAM will detail specific actions for establishing the concession, to include equipment purchases, personnel actions and coordination with Combat Center agencies.

**C-15.2 Contractor Site Visits**. The Government reserves the right to conduct site visits in all Contractor operated locations in conjunction with the solicitation of offers for any follow-on contract.

## **SECTION D - PACKAGING AND MARKING**

**D-1** Commission payments, all correspondence, and reports due MCCA shall be FOB destination.

### **D-2 ADDRESSING: Commission payment and reports:**

MCAGCC, MCCA Service Operations  
Box 788150, Building 1522  
Twentynine Palms, CA 92278  
ATT: Janet New

### **D-2.2 ADDRESSING: Contract Correspondences:**

MCAGCC, MCCA Contracting  
Building 1533, Box 788150,  
Twentynine Palms, CA 92278,  
ATT: Contracting Officer, TC Dowden

Tel: (760) 830-6163 X221  
Fax: (760) 830-7239  
Email: [dowdentc@usmc-mcca.org](mailto:dowdentc@usmc-mcca.org)

## **SECTION E - INSPECTION AND ACCEPTANCE**

### **E-1. GENERAL:**

**E-1.1** The Contractor agrees that authorized representatives of MCCS will have access, during normal business hours, to inspect any work performed under this Contract.

**E-1.2** In case any services are not acceptable, or otherwise do not conform to the requirements of this Contract, MCCS will have the right to reject such services, and to require correction within 24 hours. The Contractor, after notice of defective or non-conforming services or any part thereof, shall be responsible for all costs that may be incurred to correct rejected services or non-conformance to the terms and conditions of the contract.

**E-2. CONTRACT SURVEILLANCE.** At sole discretion, MCCS may initiate or conduct periodic reviews, audits, or administrative investigations into the activities of the contractor, his/her employees or any subcontractors, directly related to the performance of the contract, to verify the contractor's compliance with the contract, and to identify activities constituting fraud, waste, or abuse (FWA) of MCCS assets. At the sole discretion of the MCCS, the contractor shall be so notified of such reviews, audits or administrative investigations, as appropriate (and at the appropriate time.) The contractor agrees to cooperate fully during such reviews, audits or administrative investigations. Further, the Contractor shall take appropriate steps to correct any issues of FWA or other operational problems identified during such audits, reviews or investigations, including issuing payment to MCCS in compensation for any damages suffered by MCCS.

**E-3. ACCEPTANCE.** Acceptance of services will be made if the Contractor complies with the requirements of this contract. The COR shall determine acceptability of services and his or her determination shall be conclusive. Acceptance will be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.

## **SECTION F - DELIVERY AND PERFORMANCE**

**F-1 CONTRACTOR PERFORMANCE CANCELLATIONS.** The COR will notify the Contractor telephonically, as timely as possible, of the need to cancel any contract performance activity due to circumstances beyond the control of the local MCCS. Circumstances, such as acts of God (tornado, storm, earthquake, etc.) or potential or actual acts of War or Terrorism as well as unexpected repairs or maintenance to the facility that may cause the local MCCS to cancel scheduled operations. Should this be deemed necessary, the COR shall notify the Contractor as timely as possible. No claim may be submitted by the Contractor to MCCS as a result of cancellations caused by the circumstances described herein.

**F-2 TRAYS, PACKAGING AND OTHER ACCESSORIES.** Not Applicable.

**F-3 CONTRACTOR PERFORMANCE.** The Contractor shall perform the services described in this contract in a professional manner and conform to the quality standards set forth herein and in conformance to their standards for their national locations. Contractor warrants that such services shall have been performed in a good and workmanlike manner in accordance with applicable industry standards.

**F-4 CONTRACTOR CHARGE ACCOUNTS.** The Contractor shall not offer to customers the ability to maintain a "charge" account with the Contractor. This does not preclude the use of commercial credit cards to obtain items of the contractor. Charge card transactions shall be for the exact amount of the transaction only. Master Card and VISA charge cards may be accepted for payment of goods delivered.

**F-5 SUBLET/SUBCONTRACT.** The Contractor may not subcontract or sublet any of the premises provided him by reason of this contract without prior written approval of the Contracting Officer.

**F-5.1 DAVIS BACON (DEPARTMENT OF LABOR) deleted.**

**F-6 UNOCCUPIED BUILDINGS.** From time to time, buildings where vending machines are placed may become unoccupied due to troop deployments and other operational events. MCCS will not be liable for lost sales due to vacant buildings.

## **SECTION G – CONTRACT ADMINISTRATION DATA**

### **G-1 EFFECTIVE DATE OF CONTRACT**

**G-1.1. Contract period and renewal options.** This contract shall become effective on the date the concession contract is signed by both parties and shall remain in effect for a period of three (3) years, unless sooner terminated by the parties in accordance with contract provisions. In addition to the initial three (3) year period, MCCS shall have the option to unilaterally extend the concession contract for any or all of two (2) additional one-year periods.

**G-1.2.** This contract will be automatically terminated for the convenience of the government in the event of the discontinuance of the operation of MCCS without cost or liability to either party. In all other instances, the provisions covering termination as set forth in Section I shall apply.

### **G-2 APPOINTMENT OF CONTRACTING OFFICER'S REPRESENTATIVE (COR)**

**G-2.1** The Contracting Officer will appointed a COR in writing to perform the following tasks during the term of this contract:

- a. Oversee contractor performance.
- b. Handle routine correspondence.
- c. Serve as liaison among contractor, contracting officer and facility managers.
- d. Perform other tasks as designated by the contracting officer.

**G-2.2** The COR may not change the terms or conditions of this contract, may not interpret the contract, nor execute or agree to any contract modifications thereto. Only the contracting officer can authorize modifications to the terms and conditions of this contract, including deviations from specification requirements. In the event that the Contractor does deviate without written approval of the contracting officer, such deviation shall be at the Contractor's risk. Any costs related to the Contractor's unauthorized deviation shall be borne by the Contractor.

### **G-3 COMPENSATION AND PAYMENT PROCEDURES**

**G-3.1 Fee Adjustments.** Commission Fee Adjustment under this provision is subject to the final decision by the Contracting Officer and must be implemented by formal written mutual modification and must be made in writing 30-days in advance to the Contracting Officer, and must provide sufficient factual information and data to substantiate the proposed revision, including a clear and definite identification of existing cost factors which could not be identified at the time of entering into the contract. A commission fee adjustment under this provision is subject to negotiation and mutual agreement of the parties and the accomplishment of a written modification to the contract. Contractor has no express or implied right to a fee adjustment by reason of this clause.

**G-3.2 Payments and Reports.** The Contractor shall submit to the MCCS Service Operations Division the commission payment and a true statement of all matters pertaining to transactions under this contract each month. The monthly report shall consist of and include the following:

- a. **Monthly Summary.** A summary of all daily transaction totals for the calendar month, from the first through the last day of the month.

b. **Weekly Report.** A weekly report of gross sales will also be submitted to Service Operations each Monday morning before 10:00 a.m.

c. **Payments.** Commission payment shall be made by mail to: MCCS Building 1522, MCAGCC, Box 788150, Twentynine Palms CA 92278, Attention Vending Services Manager; or may be hand delivered to the Vending Services Manager in Building 1522. Payment by any method must be received by MCCS no later than 4:00 pm PST on the 10th day following the month being reported.

d. In conjunction with the monthly commission payment the monthly activity report shall be mailed or hand carried, also to arrive by the 10<sup>th</sup> of the following month, at this address: Marine Corps Community Services (Attn: Head, Service Operations), Box 788150 Bldg 1522, MCAGCC Twentynine Palms, CA 92278.

e. Commission payments shall **arrive** at the above address not later than 4:00 pm PST on the 10<sup>th</sup> day of the month following the month being reported. Commission payments that arrive late will be assessed a late penalty fee of 1% per day of the total monthly amount due MCCS. A commission payment that arrives 10 days late will be assessed a penalty of 10% of the normal on-time amount due MCCS for the preceding month. The total being 110% of the normal amount.

**G-4 TAXES.** The Contractor is liable for taxes applicable to sales, property and income arising out of or due from the performance of this contract. The Contractor will not be reimbursed for any direct or indirect tax imposed by reason of the contract or otherwise. Where a state or federal law imposes a tax on the sale of an item or service, the Contractor must show the tax as a separate item, add it to the price, and collect the tax from the customer. When the Contractor is provided Government facilities for the operation of the service, the county in which the installation is located may impose a possessory interest tax. This is a tax on the right of the Contractor to use Government-provided facilities. The Contractor is liable for any such taxes assessed by the taxing authority.

## **SECTION H - SPECIAL CONTRACT REQUIREMENTS**

**H-1 PROMOTIONAL MATERIAL.** Contractor shall furnish any local promotional material as required by the operation of the facility and shall have prior approval of MCCS prior to using such material. No promotional material of any kind shall be distributed off MCAGCC, Twentynine Palms, CA. No promotional material may state or infer that the facility is conducting business in the name of MCCS, MCAGCC Twentynine Palms, CA, or the U.S. Government.

### **H-2. INSURANCE REQUIREMENTS**

a. The Contractor shall procure and maintain, during the performance of this contract, insurance coverage listed below, with insurance companies acceptable to MCCS. All insurance coverage shall name the United States and MCCS activities as additional insureds.

b. The Contractor shall provide a Certificate of Insurance to the Contracting Officer. The Certificate of Insurance must show the United States and MCCS as an additional insured for all coverages, and will carry an endorsement waiving the Contractor's right to subrogation against the United States and MCCS. The "INSURED" block of the Certificate of Insurance must list both the Contractor's name and the MCCS contract number. Such Certificates of Insurance shall evidence that the below listed insurance is in effect, and that not less than thirty (30) days prior written notice shall be provided to the Contracting Officer in the event of modification, cancellation or non-renewal of any such insurance coverage.

**H-2.1 Comprehensive General Liability.** Contractor shall maintain the following types and minimum amounts of insurance:

\$1,000,000 Per Occurrence  
\$1,000,000 Personal Injury/Advertising Injury  
\$2,000,000 Products/Completed Operations Aggregate  
\$2,000,000 General Aggregate

**H-2.2 Workers' Compensation and Employer's Liability insurance.** The Contractor shall carry statutory benefits for all States in which the Contractor operates under the terms of this contract. Contractor shall maintain the following types and minimum amounts of insurance:

\$1,000,000 on each accident  
\$1,000,000 disease/policy limit  
\$1,000,000 each employee

**H-2.3 Automobile Bodily Injury and Property Damage Liability Insurance.** The Contractor shall maintain business auto insurance covering all owned, non-owned, and hired autos with a minimum combined Single Limit of \$2,000,000.

**H-2.4 Property Insurance Coverage.** The Contractor shall obtain and maintain Insurance Services Office, Inc. (ISO) Special Form (special causes of loss – commonly known as "all risk") insurance coverage for all risks including and without limitation, fire, flood, windstorm, earthquake, vandalism, malicious mischief, and extended coverage, that insures all locations, fixtures, and other property leased, licensed, occupied or otherwise authorized for use by MCCS to the Contractor pursuant to this contract, and the Contractor's owned or leased equipment, fixed assets, supplies, and inventory for the full replacement value thereof, without deduction for depreciation. The form of the policy shall not require any co-insurance payment on the part of MCCS. The Contractor agrees to waive subrogation against the United States and the MCCS.

**H-2.5 Business Interruption Insurance for Food Concession Operations.** [Please note: This insurance provision is applicable only to revenue-generating food concession contracts (including PPVs) that generate over \$100,000 annually in commissions payable to the MCCS per location].

a. The Contractor shall obtain Business Interruption (B.I.) insurance that provides protection from the actual loss of their earnings during the time required to restore, rebuild, or repair property, regardless of ownership, and resume operations at their pre-loss level. Such a loss of earnings would be due to a disruption of the Contractor's operations. Calculation of the Contractor's lost earnings shall include commissions or royalties owed to MCCS as a continuing expense of the Contractor's operations. Lost earnings will be calculated by using prior two years of actual historical data, if available, or year-to-date, annualized data and will be adjusted for actual days of the week. The Contractor's commercial B.I. insurance coverage shall cover the loss of commissions or royalties due and payable to MCCS, as a result of damage to or destruction of Contractor owned and non-owned property or equipment operated by the Contractor. In the case of a loss that gives rise to a B.I. claim, the Contractor will pay commissions or royalties to MCCS from proceeds the Contractor received from their insurance company in settlement of their B.I. loss, or from Contractor owned funds that represent their Self Insured Retention (S.I.R.). The latter applies when the Contractor's B.I. policy S.I.R. (deductible) amount exceeds the amount of the B.I. loss, therefore not triggering coverage of a B.I. claim under the Contractor's policy. The aggregate policy limit for such B.I. coverage will not be less than \$2,000,000.

b. The MCCS Contracting Officer, the Contracting Officer's Representative, and HQ USMC /MR (MRG/Insurance) shall be contacted in the event of any and all losses that result in either a B. I. claim, or a claim payment from the Contractor's insurance carrier, which was paid on behalf of a Contractor pursuant to this contract.

### **H-3 PAYMENT CARD INDUSTRY DATA SECURITY STANDARD (PCI DSS) NOTIFICATION.**

In the performance of this contract, the Contractor or its subcontractor will have access to payment card data and must comply with PCI DSS security requirements. The PCI DSS is a common set of data security requirements designed to protect payment card data and compliance is required of members, merchants, and service providers that store, process, or transmit payment card data, to include all payment channels (including "brick and mortar, mail/telephone order, and e-commerce), and all "system components." "System components" is defined as any network component, server, or application included in, or connected to, the payment card data environment; including, but not limited to, firewalls, switches, routers, wireless access points, network appliances, and other security appliances; Web, database, authentication, Domain Name Service (DNS), mail, proxy, and Network Time Protocol (NTP); and all purchased and custom applications, including internal and external (Web) applications.

**H-3.1 Adherence To PCI DSS Requirements.** If the Contractor or its subcontractor, in connection with performance of this contract, has access to any payment card data, then the Contractor hereby acknowledges and agrees that it is responsible for security of the payment card data in its possession and the Contractor shall adhere to PCI DSS requirements as set forth and available at [www.pcisecuritystandards.org](http://www.pcisecuritystandards.org) <<http://www.pcisecuritystandards.org>>.

**H-4 PRIVACY ACT NOTIFICATION (Jan 2008).** If applicable, the Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violation of the Act may involve the imposition of criminal penalties.

## **H-5 PRIVACY ACT (Jan 2008)**

### **H-5.1 The Contractor agrees to:**

a. Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies:

(1) The systems of records; and

(2) The design, development, or operation work that the Contractor is to perform;

b. Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the design, development, or operation of a system of records on individuals that is subject to the Act; and

c. Include this clause, including this subparagraph c., in all subcontracts awarded under this contract, which requires the design, development, or operation of such a system of records.

**H-5.2** In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individual's to accomplish an agency function. For purposes of the Act, when the contract is for operation of a system of records on individuals to accomplish an agency function, the Contractor and any employee of the Contractor is considered to be an employee of the agency.

**H-5.3** a. "Operation of a system of records," as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use and dissemination of records.

b. "Record," as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

c. "System of records on individuals," as used in this clause means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

**H-5.4** Contractor shall comply with the following requirements:

a. Privacy Act Data shall not be stored on any mobile storage device (i.e. laptops, thumb drives, portable hard drives, etc.).

b. If transmitting Privacy Act Data, files will be encrypted and password protected or sent via secure FTP.

c. If used for analysis, the use of unique identifiers or dummy data will be substituted whenever practical.

#### **H-5.5 NOTICE TO CONCESSIONAIRE OF ANTI-TERRORISM REQUIREMENTS.**

Pursuant to Marine Corps Policy, concessionaires and concessionaire employees may be subject to Anti-Terrorism Force Protection (ATFP) measures. These measures could include, but are not limited to, the following:

1. Contract employees will be issued access to the installation on an individual-by-individual basis.
2. Commercial and contract employees must possess a picture ID issued by State or Federal agency.
3. Contractor employees must provide full name, SSN, DOB, and current mailing address.
4. Contractor must provide criminal records check for each employee from State or County level covering previous two (2) years.
5. Criminal records check may be obtained from sources such as the County Clerk of Court, Defense Security Service and other approved sources, which may be provided.

## SECTION I - GENERAL PROVISIONS – SERVICES (MCX) (MAR 09)

I-1 DEFINITIONS	I-23 WITHHOLDING
I-2 LEGAL STATUS	I-24 DISPUTES (MCX)
I-3 EXAMINATION OF RECORDS	I-25 CONTRACTOR LIABILITY
I-4 OFFICIALS NOT TO BENEFIT	I-26 TERMINATION
I-5 GRATUITIES	I-27 REQUESTS FOR MONETARY OR OTHER RELIEF
I-6 ORAL REPRESENTATIONS	I-28 NOTIFICATION OF DEBARMENT OR SUSPENSION STATUS
I-7 CHANGES	I-29 EQUAL EMPLOYMENT OPPORTUNITY
I-8 REPRESENTATIONS	I-30 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS
I-9 ADVERTISEMENTS	I-31 AFFIRMATIVE ACTION AND NONDISCRIMINATION FOR WORKERS WITH DISABILITIES
I-10 SUBCONTRACTING	I-32 CONVICT LABOR
I-11 ASSIGNMENT	I-33 DRUG-FREE WORK PLACE
I-12 REPRESENTATIVES	I-34 ACCIDENT PREVENTION, FIRE PREVENTION, AND SANITATION
I-13 TAXES	I-35 ENVIRONMENTAL PROTECTION
I-14 PERMITS AND LICENSES	I-36 PERSONAL IDENTIFICATION OF CONTRACTOR PERSONNEL
I-15 NON-WAIVER OF DEFAULTS	I-37 RESTRICTIONS ON PURCHASES OF FOREIGN GOODS
I-16 INDEMNIFY AND HOLD HARMLESS	
I-17 INSURANCE	
I-18 WARRANTY	
I-19 ITEM SUBSTITUTION AND VARIATION IN QUANTITY	
I-20 NON-EXCLUSIVE CONTRACT	
I-21 INSPECTION AND ACCEPTANCE	
I-22 INVOICING AND PAYMENT	

I-1 **DEFINITIONS**. As used throughout this contract, the following terms shall have the meaning set out below:

a. "MR" identifies the Personal and Family Readiness Division, Headquarters, United States Marine Corps. "MCCS" identifies United States Marine Corps Community Services activities.

b. "Contract" identifies this contract or any modification thereto.

c. "Contracting Officer" means a person authorized in writing to execute and administer the contract on behalf of MR and MCCS. It includes said contracting officer's successor or successors. (NOTE: Only the contracting officer may waive or change contract terms; impose additional contract requirements, issue cure, show cause, or termination notices; or render final decisions according to contract terms.) Other MCCS and government officials who are by virtue of their positions concerned with the administration and operation of this contract may take certain administrative actions in behalf of the contracting officer. These officials may conduct inspections, process and collect contract payments, make administrative decisions, and perform other duties of an administrative nature. All questions concerning the authority of other MCCS or government officials should be referred to the Contracting Officer.

d. "Contractor" means the individual, partnership, corporation, or other entity which is a party to this contract and who is responsible for all actions, performance and work thereunder, to include that of any subcontractor.

I-2 **LEGAL STATUS (MAR 09)**. Marine Corps Community Services (MCCS) activities are an integral part of the Department of Defense, and are a Non-Appropriated Fund Instrumentality (NAFI) of the United States Government. MCCS contracts are United States contracts; however, they do not obligate appropriated funds of the United States except for a judgment or compromise settlement in suits brought under provisions of the Contract Disputes Act (41 USC 601-613), in which event MCCS will reimburse the United States Government (31 USC 1304 [c]). MCCS procurement is governed by Department of Defense Instruction (DODI) 4105.71 available at <http://www.dtic.mil/whs/directives/corres/pdf/410571p.pdf> and Marine Corps Order P7010.20 available at <http://www.marines.mil/news/publications/Documents/MCO%20P7010.20.pdf>. (NOTE: The Federal Acquisition Regulation [FAR] published pursuant to the Office of Federal Procurement Policy Act of 1974, as amended, applies to procurements with appropriated funds. It does not apply to MCCS procurement except for those provisions of the FAR that have been administratively adopted by MCCS.)

### I-3 **EXAMINATION OF RECORDS**

a. This clause is applicable if the amount of this contract exceeds \$10,000 and the contract was entered into by means of negotiation. The Contractor agrees that the Contracting Officer or his duly authorized representative shall have the right to examine and audit the books and records of the Contractor directly pertaining to the contract during the period of the contract and until the expiration of three (3) years after final payment under the contract.

b. The Contractor agrees to include clause "a" in all subcontracts hereunder which exceed \$10,000.

I-4 **OFFICIALS NOT TO BENEFIT**. No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

I-5 **GRATUITIES**. The MR or MCCS may terminate the right of the Contractor to proceed if, after notice and hearing, the agency head or designee determines that the Contractor, its agent, or another representative—

a. Offered or gave a gratuity (i.e., entertainment or gift) to an officer, official, or employee of the MR, MCCS or Marine Corps; and

b. Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

If this contract is terminated per this clause, the MR or MCCS is entitled to pursue the same remedies as in a breach of the contract.

I-6 **ORAL REPRESENTATIONS**. This written contract includes the entire agreement between the parties. MR and MCCS will not be bound by any oral or written representation not included in the written contract or a change or amendments thereto. MR and MCCS will not be bound by any terms on Contractor forms or letter unless such terms are specifically agreed to and incorporated in the contract and signed by the Contracting Officer.

I-7 **CHANGES**. The Contracting Officer may at any time, by a written order, make changes within the general scope of the contract, in any one or more of the following: (a) specifications (including drawings and designs); (b) method or manner of performance of the work; (c) MR or MCCS furnished facilities, equipment, materials, services, or site; or (d) accelerating the performance of work. If any such change causes an increase or decrease in the cost of the work under the contract which was changed, an equitable adjustment may be made in the contract price and the contract may be modified in writing accordingly. Any claim by Contractor for adjustment under this clause must be asserted no later than 30 days from the date of receipt by the Contractor of the notification of change. Claims for constructive changes to the contract will not be considered.

I-8 **REPRESENTATIONS**. The Contractor shall not represent itself to be an agent or representative of MR, MCCS or any other agency or instrumentality of the United States.

I-9 **ADVERTISEMENTS**. The Contractor shall not represent in any manner, expressly or by implication, that items or services purchased or sold under this contract are approved or endorsed by any element of the U.S. Government. Any advertisement by the Contractor which refers to a military resale or MCCS activity will contain a statement that the advertisement was neither paid for nor sponsored, in whole or in part, by the particular activity.

I-10 **SUBCONTRACTING**. Contractor shall not subcontract any part of the work to be performed without the prior written consent of the Contracting Officer. Any subcontractor used in connection with this contract is the agent of the Contractor and not the agent of MR and MCCS.

I-11 **ASSIGNMENT**. Contractor shall not assign its rights or delegate its obligations under this contract without the prior written consent of the Contracting Officer.

I-12 **REPRESENTATIVES**. Contractor is fully responsible for the actions of all contractor employees, agents, and representatives. Books and records of contractor representatives are subject to examination and audit under the Examination of Records clause of the contract.

I-13 **TAXES**. Contractor assumes complete and sole liability for all federal, state, and local taxes applicable to the property, income, and transactions of the Contractor. The prices charged MCCS under this contract will be deemed to include all applicable taxes. The prices charged will not include any amount for taxes which are not applicable:

- a. by reason of MCCS legal status as an instrumentality of the United States government; or
- b. by reason of MR and MCCS immunity from direct state or local taxation; or
- c. by reason of federal, state, or local tax exemptions for sales to the Federal Government; or
- d. otherwise, such as items purchased for export.

It will be the sole responsibility of Contractor to demonstrate, to the reasonable satisfaction of the Contracting Officer, the applicability and amount of any taxes which are included in the prices charged MR and MCCS. The Contracting Officer, upon request, will furnish additional documentation to support tax exemptions if required by an appropriate tax authority.

I-14 **PERMITS AND LICENSES**. Contractor shall, at his own expense, obtain all necessary permits, give all notices, pay all license fees and comply with all laws, rules, ordinances, and regulations relating to the preservation of the public health or applicable to the service or business carried on under this contract. The burden of determining

applicability of licensing requirements, laws, ordinances, and regulations for Contractor and his employees rests with the Contractor.

I-15 **NON-WAIVER OF DEFAULTS**. Any failure by MR and MCCS at any time or from time to time to enforce or require strict performance of any terms or conditions of this contract will not constitute waiver thereof and will not affect or impair such terms and conditions in any way or MR and MCCS's right at any time to avail itself of such remedies as it may have for breach or breaches of such terms and conditions.

I-16 **INDEMNIFY AND HOLD HARMLESS**

a. Contractor shall indemnify, hold harmless and defend MR and MCCS and all other agencies and instrumentalities of the United States, their agents, representatives, employees and customers from any and all suits, judgments and claims, including those established by or pursuant to court decisions, to international agreements, or duly promulgated regulations of the United States Government, and all charges and expenses incident thereto which arise out of or in connection with:

(1) The alleged or established violation or infringement of any patent, license, copyright or trademark rights asserted by any third party with regard to items or services provided by Contractor;

(2) Loss, death, damage or injury alleged or established to have arisen out of or in connection with products, services, or equipment provided by Contractor, unless such loss, death, damage, or injury was caused by or resulted solely from the acts or omissions of MR, MCCS, its agents, representatives, or employees.

(3) Any loss, death, damage, or injury alleged or established to have arisen out of or in connection with any other acts or omissions of the Contractor, the Contractor's subcontractors, representatives, agents, or employees.

b. MR and MCCS will give Contractor notice and an opportunity to defend.

I-17 **INSURANCE**. The Contractor shall maintain, during any contract period, insurance coverage as stated in this contract, with insurance company(ies) acceptable to MR and MCCS. All liability insurance coverage will name the United States, MR, and MCCS as additional and several insureds for claims, demands, suits, judgments, costs, charges, and expenses arising out of or in connection with any loss, damage, or injury resulting from the negligence or other fault of Contractor, or Contractor's agents, representatives, or employees.

I-18 **WARRANTY**. Contractor warrants that:

a. The items furnished shall be merchantable, and fit and sufficient for the use intended and are not "seconds" as the term is normally understood in the trade. This warranty shall survive acceptance by MR and MCCS of the items and is in addition to other warranties of additional scope given by the Contractor to MR and MCCS.

b. The items or services furnished under this contract are covered by the most favorable warranties the Contractor gives to any customer for such items or services and that the rights and remedies provided in the Contractor's warranties are in addition to and do not limit any rights afforded to MR and MCCS by any other clause of this contract.

c. Where applicable, the items furnished under this contract have been manufactured in accordance with Underwriter's Laboratories, Inc. (UL) standards, or if manufactured overseas, the overseas equivalent of UL and the applicable item and/or component items carry the appropriate UL or overseas equivalent Seal of Approval.

d. Items, packing, and packaging provided will comply with all contract terms and with all laws, rules, and regulations applicable to delivery for domestic resale. Contractor shall comply with the Magnuson-Moss Warranty Act on all sales to MR and MCCS.

I-19 **ITEM SUBSTITUTION AND VARIATION IN QUANTITY**. No substitution or variation in the quantity of any item called for by this contract will be accepted unless authorized by the Contracting Officer.

I-20 **NON-EXCLUSIVE CONTRACT**. Unless specified elsewhere, this contract does not establish Contractor as the sole supplier of goods or services to be provided on this military installation.

I-21 **INSPECTION AND ACCEPTANCE**. Inspection and acceptance shall be made by the government per Section E of this contract.

a. The Contractor shall maintain an in-process and end-item quantity control program to ensure shipments to MR and MCCS do not include defective/ nonconforming items.

b. Inspection and acceptance shall not be conclusive with respect to latent defects or fraud, or with respect to MR and M CCS rights under the warranty provisions contained herein.

c. In case any supplies or services are defective in material or workmanship, or are otherwise not in conformity with the requirements of this contract, MR and M CCS shall have the right to reject such supplies or services, or to require replacement or correction. Rejected supplies shall be removed by and at the expense of the Contractor promptly after notice. If required by MR or M CCS, the Contractor, after notice of defect or non-conformance, shall with all possible speed, correct or replace the defective or non-conforming supplies or services, or any part thereof. When such rejection, correction or replacement requires transportation of the supplies or part thereof, all shipping and administrative costs to and from the Contractor's plant shall also be borne by the Contractor.

d. In the event the Contractor is unable to replace/reperform products/services and the Contractor refunds the purchase price, the Contractor shall be liable to MR and M CCS for the additional costs of procurement (if any).

e. The provisions of this clause do not affect the rights or obligations of either party, as they may be provided for in other portions of this contract or otherwise under applicable law.

## I-22 **INVOICING AND PAYMENT**

a. **Invoicing Instructions.** In order to be considered proper invoices for purposes of the Prompt Payment Act, invoices must be submitted as follows:

(1) Contractor must prepare a separate numbered invoice for each order or part of an order. Do not consolidate multiple purchase orders on one invoice. Additionally, when partial shipments are authorized, use a separate invoice. Do not duplicate an invoice number used for prior billings.

(2) Invoices must be issued by the company whose name is on the contract/order (unless otherwise authorized by Contracting Officer) and must contain the following minimum information to enable timely payment:

(a) Name of Contractor.

(b) Invoice date. This cannot be a date earlier than the ship date required by the contract or purchase/delivery order. In the event that the invoice date is a date earlier than the required ship date, MR and M CCS retains the right either to return the improper invoice to the Contractor for correction or to change the invoice date to be the required ship date. In the event that an improper invoice is returned to a Contractor because the date on the invoice is earlier than the required ship date or because the invoice is improper for any other reason, the invoice date, for purposes of prompt payment discounts, will be considered to be the date of receipt of the corrected, proper invoice.

(c) Contract or purchase/delivery order number.

(d) Item description and quantity shipped/delivered.

(e) Contract/order line item cost and total.

(f) Shipping and discount terms, including prompt payment discounts, and special allowance(s) if included in the contract. Prompt payment discounts and special allowances must be shown on the invoice using percentage figures only. Do not deduct any of these from the item cost or from the invoice total.

(g) "Ship To" address as shown on order or contract.

(h) Freight charges (on FOB origin shipments).

(i) Name, title and phone number of Contractor's contact person.

(j) Complete "remit to" mailing address on the invoice to indicate where Contractor's payment is to be sent. This address must be the same address as on the contract unless in accordance with paragraph b.(8) below.

(3) Correcting invoices and credit memos must be marked as such and must cross-reference the corrected invoice.

b. **Payment**

(1) A proper invoice is an invoice which contains all of the information/documentation specified in paragraph a.(2) above, and is sent to the address specified in the contract or purchase/delivery order for the designated MR or MCCS paying office. Improper invoices may be returned without payment to the Contractor.

(2) The net payment date for MR and MCCS contracts is established at 30 days after receipt of a proper invoice. Discounts for prompt payment, if included in the contract, will be applied as follows:

(a) If the contract or purchase order specifies a prompt payment discount period of less than 30 days, the discount will be taken if payment can be made within the stated period otherwise the net payment will be due 30 days after receipt of a proper invoice.

(b) If the contract or purchase order specifies a prompt payment discount period of 30 days or more, the discount will be taken if payment can be made within the stated period otherwise the net payment will be due 30 days after the prompt payment discount period ends.

(c) If the contract fails to specify any prompt payment discount, then net payment will be due 30 days after receipt of a proper invoice.

(3) In the event that a prompt payment discount, or other special discounts or allowances specified on Contractor's invoice are better than that specified in the contract or purchase order, MR or MCCS may take the more favorable discounts and/or allowances.

(4) For the purpose of determining whether payment is timely made by MR or MCCS, a "day" is counted for each calendar day. When payments fall due on Saturday, Sunday or legal Federal holidays, payments made the following business day will not incur late payment interest penalties.

(5) A discount for prompt payment can be taken by MR or MCCS if the discounted payment is made within the discount period specified. The prompt payment discount period begins to run on the date of the invoice. Computation of the period for prompt payment discounts begins with the date of invoice; computation for net payment begins with receipt of a proper invoice.

(6) Payment is made:

(a) the date a check for payment is dated.

(b) the date an electronic fund transfer is received, regardless of the date the financial institution posts the transfer.

(c) the date a withholding authorized by the contract is initiated by MR or MCCS.

(7) Payment will be made by mailing a check to the address shown on the contract, unless the Contractor provided a different "remit to" address to the Contracting Officer at the time the terms were negotiated or the contract was issued.

(a) If a Contractor wishes to change the address (e.g., street, P.O. box, city/state) to which payment should be sent or wishes its payments to also reflect a factor's name and be sent to the factor's address, the request must be in writing, signed by a responsible official of the Contractor, and submitted to the Contracting Officer. All such requests must clearly establish which division or subsidiary of a corporation such changes apply to and the address which is superseded by the changes. These changes will become effective on the date determined by MR or MCCS, normally 30 days after approval. Changes will be done on an accommodation basis only, with the understanding that no legal obligation is imposed on MR or MCCS for failure to make payment to the new payee/address.

(b) Any request by the Contractor to change the name shown on the contract or to delegate its obligation under the contract must be sent to the Contracting Officer.

(8) Any questions or inquiries concerning invoice payments should be directed to the MR or MCCS paying office designated on the contract or purchase/delivery order.

(9) Any interest penalties due to Contractors will be computed in accordance with the Prompt Payment Act, 31 U.S.C. 3901-3906, as amended.

I-23 **WITHHOLDING**. MR or MCCS may withhold payment for:

a. Amounts due or creditable to MR or MCCS under this contract, e.g., returns, damages.

b. Amounts otherwise due or creditable to MR or MCCS. Any dispute will be processed under the Disputes clause of this contract unless it became due pursuant to another contract which included a Disputes clause.

I-24 **DISPUTES (EXCHANGE)**

a. This contract is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601-613). Except as provided in the Act, all disputes arising under or relating to this contract will be resolved under this clause.

b. "Claim" as used in this clause means a written demand or written assertion by one of the contracting parties seeking the payment of money in a sum certain or other relief arising under or relating to this contract. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under this clause.

c. Contractor must submit any request for monetary or other relief relating to this contract in writing to the Contracting Officer. The request must specify the amount of money or the other relief requested and include all supporting data. In addition, with the request or any amendment thereto, Contractor must submit a signed certificate reading as follows:

"I certify that this request and any ensuing claim are made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief, and that any amount requested accurately reflects the amount for which Contractor believes MR or MCCS is liable.

\_\_\_\_\_  
(Signature of Individual Authorized to Bind Contractor)"

(NOTE: SUBMISSION OF FALSE CLAIMS IS A VIOLATION OF FEDERAL LAW AND MAY RESULT IN CIVIL AND OR CRIMINAL PENALTIES.)

d. Contractor's request for payment of money or other relief is not a "claim" until:

- "c" above,
- (1) A written request has been received by the Contracting Officer complying fully with subparagraph
  - (2) A dispute arises between the parties after a reasonable time for review and disposition, and
  - (3) Contractor requests the Contracting Officer to issue a final decision.

e. Contractor's request for a contract modification or for relief that is discretionary with the Contracting Officer will not be considered a "claim."

f. All disputed claims relating to this contract will be decided by the Contracting Officer, who will issue a written Final Decision and mail or otherwise furnish a copy thereof to Contractor. The Contracting Officer's decision will be final and conclusive unless:

- (1) Within 90 days from the date of Contractor's receipt of the Contracting Officer's Final Decision, Contractor mails or otherwise furnishes the Contracting Officer a written appeal (two copies) addressed to the Armed Services Board of Contract Appeals (ASBCA); or
- (2) Within 12 months from the date of Contractor's receipt of the Contracting Officer's Final Decision, Contractor brings an action in the United States Court of Federal Claims.

g. The decision of the ASBCA is final and conclusive except:

- (1) Contractor may appeal such a decision to the United States Court of Appeals for the Federal Circuit within 120 days of receipt of a copy of the decision of the ASBCA.
- (2) MCCS may transmit the decision of the ASBCA to the United States Court of Appeals for the Federal Circuit for judicial review within 120 days from the date of MCCS' receipt of a copy of the decision of the ASBCA.
- (3) ASBCA decisions made under the Board's small claims (expedited) procedures (\$50,000 or less) may be set aside only in case of fraud. In all other cases, the ASBCA decisions on questions of fact may be set aside only where the decisions are fraudulent, arbitrary, capricious, or so grossly erroneous as to necessarily imply bad faith,

or if such decisions are not supported by substantial evidence. The decisions of the ASBCA on any questions of law will not be final or conclusive as to the United States Court of Appeals for the Federal Circuit.

h. Pending final resolution on any request for relief, disputed claim, appeal, or action, related to this contract, Contractor will proceed diligently with the performance of this contract and will comply with the Contracting Officer's decisions.

i. If Contractor cannot support any part of its claim as a result of fraud or misrepresentation of fact, then, in addition to other remedies or penalties provided for by law, Contractor will pay MR or MCCS an amount equal to the unsupported part of the claim plus all MR or MCCS costs attributable to reviewing that part of the claim.

#### I-25 **CONTRACTOR LIABILITY**

a. Except as set out specifically elsewhere in the contract, Contractor shall be liable for costs to MR, MCCS and other agencies of the United States associated with termination for default, rejection of items, and breach of warranty, in addition to reimbursement of payment of the purchase price and procurement costs.

b. Contractor will not be liable for damages if the failure to perform arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. In such case Contractor shall provide prompt written notice to the Contracting Officer; the Contracting Officer, at his option may accept late, partial or substituted performance, or may terminate the contract in whole or in part effective immediately upon receipt of written notice by Contractor.

I-26 **TERMINATION**. The rights and remedies of MR and MCCS provided in this clause are in addition to any other rights and remedies provided by law or under other clauses of this contract.

a. Termination for Default. MR and MCCS by written notice may terminate this contract in whole or in part for failure of the Contractor to perform any of the provisions hereof. In such event, the Contractor shall be liable for damages including the excess costs of reprocurring similar products and services provided that if (i) the Contractor was not in default; or (ii) the Contractor's failure to perform is without his/her or his/her subContractor's control or negligence, the termination shall be deemed a "Termination for Convenience."

b. Termination for Convenience. MR and MCCS by written notice may terminate this contract in whole or in part when it is in the best interest of MR or MCCS. If this contract is for products and services and is so terminated, the Contractor shall be compensated in accordance with Federal Acquisition Regulation in effect on this contract's date. To the extent that this contract is for services and is so terminated, MR and MCCS shall be liable for payment as set forth in the payment provisions of this contract for services rendered prior to the effective date of termination.

c. Mutual Termination. This contract may be terminated by mutual agreement of both MR or MCCS and the Contractor at any time by contract modification.

I-27 **REQUESTS FOR MONETARY OR OTHER RELIEF**. No claim by Contractor may be considered unless submitted in writing to the Contracting Officer within 90 days after termination of performance under the contract; however, this clause will not extend the period for filing claims which is further limited by another clause of the contract.

I-28 **NOTIFICATION OF DEBARMENT OR SUSPENSION STATUS**. The Contractor shall provide immediate notice to the Contracting Officer in the event of being suspended, debarred or declared ineligible by any Federal Department or Agency, or upon receipt of a notice of proposed debarment from another DoD Agency, during the performance of this contract.

#### I-29 **EQUAL EMPLOYMENT OPPORTUNITY**

a. The Contractor agrees to comply with regulations of the Department of Labor contained in Title 41, Code of Federal Regulations, Chapter 60, which are incorporated herein by reference.

b. A contract award in the amount of \$10,000 or more shall not be made unless the Contractor, and each first-tier subcontractor which will receive a subcontract of \$10,000 or more, are found on the basis of a review to be in compliance with the Equal Employment Opportunity regulations of the Department of Labor.

I-30 **EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS**. If this contract equals or exceeds \$10,000, and is not otherwise exempt, the Contractor agrees to comply with the regulations of the Department of Labor and the Office of Federal Contract

Compliance Program, and the Affirmative Action clause as set out in Title 41, Code of Federal Regulations, Part 60-250, which are incorporated herein by reference.

I-31 **AFFIRMATIVE ACTION AND NONDISCRIMINATION FOR WORKERS WITH DISABILITIES**. If the contract amount equals or exceeds \$10,000, and is not otherwise exempt, the Contractor agrees to comply with the regulations of the Department of Labor and the Affirmative Action clause as set forth in Title 41, Code of Federal Regulations, Part 60-741, which are incorporated herein by reference.

I-32 **CONVICT LABOR**. Except as provided in 48 CFR 5222-3, the Contractor shall not employ in the performance of this contract any person undergoing a sentence of imprisonment.

I-33 **DRUG-FREE WORK PLACE**. To the extent applicable, the Contractor will comply with the requirements of the Drug Free Workplace Act of 1988 (41 USC sec. 701, Pub. L. 100-690, as amended).

I-34 **ACCIDENT PREVENTION, FIRE PROTECTION, AND SANITATION**. If this contract is performed in whole or in part on premises owned or under the control of the United States Government, MCCS, and or the MCCS, the Contractor shall conform to all safety regulations and requirements concerning such premises in effect any time during the performance of the contract and take all necessary steps and precautions to prevent accidents. Any violation of safety regulations, unless immediately corrected as directed by the Contracting Officer, shall be grounds for termination of the contract under the "Termination For Default" clause.

I-35 **ENVIRONMENTAL PROTECTION**. The Contractor will comply with all applicable Environmental Protection laws and regulations.

I-36 **PERSONAL IDENTIFICATION OF CONTRACTOR PERSONNEL**. Contractor and any subcontractors shall be required to comply with applicable MR or MCCS identity verification procedures, installation access requirements, and security clearance policies.

I-37 **RESTRICTIONS ON PURCHASES OF FOREIGN GOODS (MAR 09)**

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

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

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

**SECTION J - ATTACHMENTS**

**J-1 TWENTYNINE PALMS DEMOGRAPHICS:**

The following is the demographic information as of 31 Dec 2009.

Active Duty Military	14,740
Family Member Dependents	12,449
Civilian Government Employees	2,319
Retired Military (Local Area)	7,505

Transient military personnel not permanently assigned to MCAGCC may be as high as 5,000 personnel at any given time due to participation in Training Exercises. Growth of 4,000 additional personnel plus families is expected over three next 3-4 years as a part of the "Grow the Force" initiative.

Construction contractors, professional service contractors, concessionaires and their employees, and other base transients are not included in the above demographics.

Economic Factor: Total Base Wages exceed \$698,000,000 annually.

**J-1.1 Sales Data.**

Gross Sales reported for the preceding four years:

2006 - \$642,225
2007 - \$630,163
2008 - \$685,626
2009 - \$619,910

**J-2 SERVICE CONTRACT ACT**

This Contract is subject to the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.) and is subject to all applicable provisions of the Act and regulations of the Secretary of Labor issued thereunder (29 CFR part 4).

**U.S. Department of Labor Wage Determination**

**Services Contract Act**

1. The attached U.S. Department of Labor Wage Determination applies to the operation of a concession activity at the following location:

<u>Location</u>	<u>Wage Determination No.</u>
CA Counties of Riverside & San Bernardino	WD 2005-2053

2. Any contract awarded as a result of this solicitation will be subject to the Service Contract Act of 1965. If applicable, contractor must comply with all requirements of the Act and must pay wages and fringe benefits not less than those specified in a wage determination issued by the Department of Labor. Any offeror participating in the solicitation does so with the understanding that a wage determination not yet received from the Department of Labor will upon receipt be applicable to any contract awarded as a result of this solicitation. Upon receipt of a reply from the Department of Labor, the solicitation will be amended to add the wage determination.

WD 05-2053 (Rev.-10) was first posted on www.wdol.gov on 06/02/2009  
\*\*\*\*\*  
REGISTER OF WAGE DETERMINATIONS UNDER | U.S. DEPARTMENT OF LABOR

THE SERVICE CONTRACT ACT		EMPLOYMENT STANDARDS ADMINISTRATION
By direction of the Secretary of Labor		WAGE AND HOUR DIVISION
		WASHINGTON D.C. 20210
		Wage Determination No.: 2005-2053
Shirley F. Ebbesen	Division of	Revision No.: 10
Director	Wage Determinations	Date Of Revision: 05/26/2009

---

State: California

Area: California Counties of Riverside, San Bernardino

---

\*\*Fringe Benefits Required Follow the Occupational Listing\*\*

OCCUPATION CODE - TITLE	FOOTNOTE	RATE
99000 - Miscellaneous Occupations		
99030 - Cashier		12.13
99050 - Desk Clerk		11.25
99095 - Embalmer		20.03
99251 - Laboratory Animal Caretaker I		11.84
99252 - Laboratory Animal Caretaker II		12.55
99310 - Mortician		25.51
99410 - Pest Controller		16.12
99510 - Photofinishing Worker		13.81
99710 - Recycling Laborer		19.60
99711 - Recycling Specialist		24.78
99730 - Refuse Collector		17.01
99810 - Sales Clerk		15.57
99820 - School Crossing Guard		9.98
99830 - Survey Party Chief		35.98
99831 - Surveying Aide		19.01
99832 - Surveying Technician		26.01
99840 - Vending Machine Attendant		14.10
99841 - Vending Machine Repairer		16.65
99842 - Vending Machine Repairer Helper		14.10

---

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$3.35 per hour or \$134.00 per week or \$580.66 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

THE OCCUPATIONS WHICH HAVE NUMBERED FOOTNOTES IN PARENTHESES RECEIVE THE FOLLOWING:

1) COMPUTER EMPLOYEES: Under the SCA at section 8(b), this wage determination does not apply to any employee who individually qualifies as a bona fide executive, administrative, or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate not less than \$27.63 (or on a salary or fee basis at a rate not less than \$455 per week) an hour would likely qualify as exempt computer professionals, (29 C.F.R. 541.400) wage rates may not be listed on this wage determination for all occupations within those job families. In addition, because this wage determination may not list a wage rate for some or all occupations within those job families if the survey data indicates that the prevailing wage rate for the occupation equals or exceeds \$27.63 per hour

conformances may be necessary for certain nonexempt employees. For example, if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer occupations for which this wage determination does not specify an SCA wage rate, then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

Additionally, because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the application of the computer professional exemption. Therefore, the exemption applies only to computer employees who satisfy the compensation requirements and whose primary duty consists of:

- (1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;
- (2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;
- (3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
- (4) A combination of the aforementioned duties, the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

**\*\* UNIFORM ALLOWANCE \*\***

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to

the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at <http://www.dol.gov/esa/whd/> or through the Wage Determinations On-Line (WDOL) Web site at <http://wdol.gov/> .

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C) (vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b) (2) of Regulations 29 CFR Part 4).
- 4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.
- 5) The contracting officer transmits the Wage and Hour decision to the contractor.
- 6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage

determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

**SECTION J-3 DAVIS-BACON WAGES (5 pages attached). Not Applicable**

**SECTION J-4 CONSTRUCTION CLAUSES (16 pages attached). Not Applicable**

**SECTION J-5 PRODUCT ITEM LIST AND PRICING** To be added on acceptance of vendor's proposal.


**SECTION J-6 CURRENT VENDING MACHINE PLACEMENT**

Bldg 1981	Bldg 1758 Tech Sch	Bldg 1666 2nd Flr Mid
Bldg 1636 Fruit. Mach	1360 Bottom Floor	Bldg 1446 Lobby
Bldg 1427 Cntr Hallway	Bldg 1453 Trailer	Bldg 1457
Bldg 1360	Bldg 1758 Tech School	Bldg 1738 Snack Lft Mac
Bldg 1510 Theater	Bldg 694 I/S Lounge	Bldg 1519..
Bldg 1616 Vending Room Csd	Bldg 1412	Bldg 1548 I/S Nxt To Ice
Bldg 1662 O/S E. So. Lft	1921 Outside	Bldg 5414 C.W. Laund Rm
Building 1364 Inside Lounge	Bldg 1776 3rd Floor	Bldg 1666 3rd Fl Rt Aqua
Bldg 1591 Dental	Bldg 1766 3rd Floor Csd	Bldg 1404 Inside Front Door Csd
Bldg 1431 Hallway	Bldg 1405 Csd	Bldg 1360 Upstairs Csd
Bldg 1463 Nxt To Snack Csd	Bldg 1766 1st Floor	Bldg 1466 O/S Day Room Csd
Bldg 1616 Vend Room* Aq	Btwn Bldg 1404 / 1411 O/S	Bldg 1665 O/S S E End Lft
Bldg 1566 X Frm Ice Mac	Bldg 1533	Bldg 5414 C.W. Laund. Rm
Bldg 1607 Csd	Bldg 1514	Bldg 1551 Rt Of Snk Mac
Bldg 1465 Next To Gatorade	Bldg-1003	Bldg 1666 1st Floor
Bldg 1968 I/S Shop Area	Btwn Bldg 1404 / 1411o/S	Bldg 1464
Bldg 2070	Bldg 1095 Sport Comp Mid	Bldg 1404 Vending Area
Bldg 1707 I/S Snack Area	Bldg 1078 O/S Gas Station	Bldg 1664 West North.
Bldg 1443 In Snack Rm	Bldg 1761 By Snk Rt Mac	Bldg 1664 West North
Bldg 1130 / Hallway	Bldg 1412	Building 1259
Bldg 2133 O/S Patio	Bldg 1024 Commissary	Bldg 1500 Laundry Room
Bldg 1432 4fl Hallway Snackroom*	Bldg 1974 Nxt To Office	Bldg 1429 Vending Area Csd
Bldg 1255 I/S Bay Door	Bldg 1519 So Side Of Bldg	Bldg 1565 Nxt To Ice Mach
Bldg 1445	Bldg 1951 I/S Mach Shop	Bldg 1664/ Middle Barrax
Bldg 1108t1 Nxt To Snack	Bldg 1859 In Hallway	Bldg 1403 Nxt To Snack Csd
Bldg 1645 Duty Room	Bldg 1666 3rd Flr Mid	Bldg 1533 Will Call Dock
Bldg 1645 Duty Room	Bldg 1412	Bldg 1432 2fl O/S Hallway Snackroom
Bldg 1219 I/S Bay Door	Bldg 1980	Bldg 1664 East South
O/S Bldg 1530	Bldg 1620	Bldg 1429 In Vending Area

Hospital Dock	Bldg 1816 I/S Lobby	Bldg 1666 Front Door Gf
Bldg 1607 Aq	Building 1102	Bldg 1664 E/S
Bldg 2143 Inside	Bldg 1423 Nxt To Snack	Bldg 1621 Class Room
Hosp. Dock	Bldg 2000 I/S Office	Bldg 1403
Bldg 1665 O/S S.E. End Rt	Bldg 1527 Mid Of Bldg	Bldg 1083 Auto. Shop
Bldg 1524 Dry Cleaners	Bldg 1411 2nd Floor Csd	Bldg 1465 Hallway
Bldg 1559 Conference Rm	Bldg 690 I/S Lobby	Bldg 1662 O/S E. S. Lft
Bldg 1737 Hall Way -	Bldg 1666 3rd Flr Lft Aq	Bldg 2054 Breezeway
Bldg 1737 Outside Mid Bldg.	Bldg 1865	Bldg 697 Outside Patio
Bldg 1763 Snack Area Csd	Btwn Bldg 1404 /1411 O/S	Bldg 1661 Mid Of Barrick Aq
Bldg 2365t1 C.W. Phones	Bldg 1533 Main Office	Bldg 1083 Auto Shop
Bldg 1738 Tech School	Bldg 2020 In Hallway	Bldg 1024 Home Store
Bldg 1763 Snack Area	Bldg 1350 Inside	Bldg 1661 Mid Of Barric Csd
2365t1 C.W. Phones	Bldg 1448	Bldg 1661 E Sd Of Barrick
Bldg 1466 O/S Day Rm H20	Bldg 1411 Front Door Aq	Bldg 2155 I/S Riflerange
Bldg 1748 Tech School	Bldg 1747	Bldg 1432 4fl Hallway Snackroom
Bldg 1411 Front Door Csd	Bldg 1537 I/S Rt Of Regrig	Bldg 1757 Tech School Rt
Bldg 5741 Camp Wilson	Bldg 1848 I/S Rm 110	Bldg 1467 H20 Day Csd
Bldg 1757 Tech School	Bldg 1748 Tech School	Bldg 1443 Snack Room
Bldg 1531 Family Arcade	Bldg 1636 Next To Snack	Bldg 1004
Bldg 1933	Bldg 2096 / Inside Shed	Bldg 1747 Hallway
Bldg 1707 O/S		

**SECTION K - REPRESENTATIONS, CERTIFICATION, AND OTHER STATEMENTS OF OFFERORS OR QUOTERS**

**K-1 FINANCIAL AND TECHNICAL CAPABILITY DATA FORM**

Before awarding any contract, the MCCS Contracting Officer must determine that a proposed Offeror is “responsible”. As used here, the term “responsible” means the Contracting Officer can reasonably expect satisfactory contract performance. **A proposed Offeror must be able to obtain (1) adequate financial resources; (2) organization, experience, & technical skills needed; (3) production & facilities required; (4) a record of satisfactory performance; and (5) a satisfactory record of integrity.** A proposed Offeror must also be legally eligible and have sufficient capacity to perform as required, considering all business activities. The preceding information is needed to for this determination and will be treated as confidential. The Offeror must demonstrate responsibility to the full satisfaction of the Contracting Officer. **If the information is not provided or is incomplete, the Contracting Officer may not be able to find the Offeror responsible.**

1. FINANCIAL STATEMENT: Attach a copy of your current business financial statement (certified)
  
2. FINANCIAL: Provide information about the financial position of your firm:
  - a. What is your estimate of financing required to begin operation? \_\_\_\_\_
  - b. How will operation be financed? (Check one)  
 OFFER'S RESOURCES       USE OF BANK CREDIT
  - c. If Credit/Bank:  
NAME OF SOURCE      \_\_\_\_\_  
CONTACT PERSON      \_\_\_\_\_  
PHONE & FAX NUMBER      \_\_\_\_\_
  - d. List your DUN & Bradstreet Number (if assigned) \_\_\_\_\_
  - e. List your Bank, Financial, Credit Reference(s):
    - i. \_\_\_\_\_
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
    - iv. \_\_\_\_\_
  
3. BUSINESS ACTIVITIES: Include related Business/Contract with Government Agencies. Include name, type of business, years in operation, # of employees and complete address:
  - a. \_\_\_\_\_
  - b. \_\_\_\_\_
  - c. \_\_\_\_\_
  - d. \_\_\_\_\_

4. PERFORMANCE REFERENCES: Please provide references that know your work. Include name, phone, a complete address, and former or current relationship.

- a. \_\_\_\_\_
- b. \_\_\_\_\_
- c. \_\_\_\_\_
- d. \_\_\_\_\_

5. AUTHORIZATION TO RELEASE INFORMATION: Enter information, sign and date.

**“I authorize all of the listed references to release financial and/or performance information or business data or records to MCCS Twentynine Palms upon request.”**

Name and title of Offeror: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**SECTION K-2 BUSINESS QUESTIONNAIRE**

To be completed and submitted with and as part of proposal for subject service as set forth in invitation.

Type of Business: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Primary Business Address: \_\_\_\_\_

Type of Business Organization: (Complete applicable portion)

**Sole Enterprise**

Name of Owner: \_\_\_\_\_

Address: \_\_\_\_\_

**Partnership**

Names and Addresses of Partners: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Corporation**

State of Incorporation: \_\_\_\_\_

Principal Place of Business: \_\_\_\_\_

Names and Addresses of Officers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Names and Addresses of Board Members: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Are you or any of the above named members of your firm at present engaged in this or similar type business? \_\_\_\_\_

What is your primary business? \_\_\_\_\_

How long have you or your firm been engaged in the subject service? \_\_\_\_\_  
\_\_\_\_\_

What is your approximate yearly volume of business? \_\_\_\_\_

Do you or any of the above named members of your firm operate a business on or adjacent to the Marine Corps Air Ground Combat Center Twentynine Palms, CA, at the present time? \_\_\_\_\_ If yes, where? \_\_\_\_\_  
\_\_\_\_\_

Have you or any of the above members of your firm previously operated an activity or business on a military installation? \_\_\_\_\_

If yes, where, when, and what type? \_\_\_\_\_  
\_\_\_\_\_

Are you or any of the above named members of your firm at present indebted to any non-appropriated fund? \_\_\_\_\_ If so, explain \_\_\_\_\_  
\_\_\_\_\_

Are you a citizen of the United States? \_\_\_\_\_ If not, have you declared intentions? \_\_\_\_\_  
\_\_\_\_\_

Are the above named members of your firm citizens of the United States? \_\_\_\_\_ If not, have you declared intentions? \_\_\_\_\_

Assuming award of a contract, what are your intended sources for obtaining personnel to perform work on the Combat Center? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

It is understood and agreed that the foregoing answers are considered necessary for proper evaluation of quotations.

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Title of Authorized Representation of Quoter

\_\_\_\_\_  
Full Name and Address of Quoter

**K-3** The offeror represents and certifies as part of the offer that (check or complete all applicable items.)

**K-4 CONTINGENT FEE REPRESENTATION AND AGREEMENTS (FEB 87)**

(a) Representation. The offeror represents that, except for the full-time bona fide employees working solely for the offeror, the offeror--(Note: The offeror must check the appropriate boxes. A "bona fide employee" 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 NAFL contract(s) through improper influence.)

(1)\_\_\_\_has,\_\_\_\_has not employed or retained any person or company to solicit or obtain this contract, and

(2)\_\_\_\_has,\_\_\_\_has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(b) Agreement. The Offeror agrees to provide information relating to the above Representation as requested by the Contracting Officer and, when subparagraph (a)(1) or (a)(2) is answered affirmatively, to promptly submit to the Contracting Officer -

(1) A completed Standard Form 119, Statement of Contingent or Other Fees, (SF119); or

(2) A signed statement indicating that the SF 119 was previously submitted to the same contracting office, including the date and applicable solicitation or contract number, and representing that the prior SF 119 applies to this offer or quotation.

**K-5 TYPE OF BUSINESS ORGANIZATION (FEB 1987)**

(Applicable to solicitations for contracts anticipated to exceed \$25,000 annually)

(a) The Offeror certifies that --  
consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered:

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law: and

(3) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory --

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2)(i) Has been authorized, in writing, to act as agent for the following principal in certifying that those principals have not participated, and will not participate in any action contrary to subparagraph (a)(1) through (1)(3) above \_\_\_\_\_(insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror' organization);

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

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

**K-6 WALSH-HEALEY PUBLIC CONTRACTS ACT REPRESENTATION (FEB 1987)**

(Applicable to solicitations in which the resultant contract will be for the manufacture of materials, supplies, articles or equipment that exceeds or may exceed \$10,000).

The offeror represents as a part of this offer that the offeror is \_\_\_or is not\_\_\_ a regular dealer in, or is \_\_\_ or is not\_\_\_ a manufacturer of, the supplies offered.

**K-7 CERTIFICATION OF NON SEGREGATED FACILITIES (FEB 1987)**

(Applicable to solicitations for contracts that are expected to exceed \$10,000 and are covered by the Equal Opportunity Clause)

(a) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash room, restaurants and other eating areas, time clocks, locker room, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(b) By the submission of this offer, the offeror certifies that it does not and will not maintain or provide for its employees any segregated facilities any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract.

(c) The offeror further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will --

(1) Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;

(2) Retain the certifications in the files; and

(3) Forward The following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

**NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATIONS OF NON SEGREGATED FACILITIES.**

A Certification of Non segregated Facilities must be submitted before the award of a subcontract under which the subcontractor will be subject to the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

**K-8 AFFIRMATIVE ACTION COMPLIANCE (FEB 1987).** (Applicable to solicitations for contracts that are expected to exceed \$10,000 and are covered by the Equal Opportunity clause). The offeror represents that (a) it \_\_\_ has developed and has on file, \_\_\_ has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the secretary of Labor (41 CFR 60-1 and 60-2), or (b) it \_\_\_ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

**K-9 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1987)** (Applicable to solicitations for contracts which are expected to exceed \$10,000 and are covered by the Equal Opportunity clause). The offeror represents that ---

a. It \_\_\_ has, \_\_\_ has not participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114.

b. It \_\_\_ has \_\_\_ has not filed all required compliance reports; and

c. Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

**K-10 CLEAN AIR AND WATER CERTIFICATION (FEB 1987)** (Applicable to solicitations where contracts are expected to exceed \$100,000 or where orders under an indefinite quantity contract in any year are anticipated to exceed \$100,000) The offeror represents that --

a. Any facility to be used in the performance of this proposed contract \_\_\_ is, \_\_\_ is not, listed on the Environmental Protection Agency List of Violating Facilities;

b. The offeror will immediately notify the Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, (EPA) indicating that any facility that the offeror proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and

c. The offeror will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

**K-11 EQUAL EMPLOYMENT OPPORTUNITY.** Before award may be determined, MCCS will submit a pre-award request to the Office of Federal Contract Compliance Program (FCCP) for the prospective contractor. Offeror will complete the information requested below for this purpose. Upon award, MCCS will provide the contractor with "Equal Opportunity Is the Law" poster. Contractor and subcontractors (if any) shall post these posters in a conspicuous place.

**K-11.1** Contractor shall list their name, address, and telephone number and the name, address, and telephone number of any corporate affiliate at which work is to be performed:

a. \_\_\_\_\_

b. \_\_\_\_\_

c. \_\_\_\_\_

**K-11.2** Name, address, and telephone number of each proposed first-tier subcontractor with a proposed subcontract estimated at \$1 million or more.

a. \_\_\_\_\_

b. \_\_\_\_\_

c. \_\_\_\_\_

**K-11.3.** Information as to whether the contractor and first-tier subcontractors have previously held any Government contracts or subcontracts.

**K-11.4** Place or places of contract performance and first-tier subcontracts estimated at \$1 million or more, if known.

**K-11.5** The estimated dollar amount of the contract and each first-tier subcontract, if known.

**K-12 LOCATION OF CONTRACTOR'S FACILITIES.** The contractor shall furnish the following information:

**K-12.1** Name(s) and Location(s) of principal producing facilities of items to be furnished.

\_\_\_\_\_  
(Name) (Street) (City,State,Zip Code)

\_\_\_\_\_  
(Name) (Street) (City,State,Zip Code)

**K-12.2** Name(s) and Location(s) of principal warehouse facilities for items to be furnished if different than Section K-10.1 above.

\_\_\_\_\_  
(Name) (Street) (City,State,Zip Code)

\_\_\_\_\_  
(Name) (Street) (City,State,Zip Code)

**K-12.3** Name(s) and Location(s) of the firm(s) or person(s) owning or operating the facility in Section K-10.1 above, if other than the offeror.

\_\_\_\_\_  
(Name) (Street) (City,State,Zip Code)

\_\_\_\_\_  
(Name) (State) (City,State,Zip Code)

**K-13 CERTIFICATION:** Read carefully, then complete the information requested below.

"I certify that the information provided is true and may be relied upon in determining my responsibility. If the information is incorrect, incomplete, or misleading, I understand and agree that sufficient basis exists to determine me non-responsible for the performance of the contract, or, if the contract has been awarded, to terminate the contract for cause based upon fraud or misrepresentation at its inception.

I certify that the equipment described by me in the contract requirements will be provided by me without substitution, unless the prior approval of the Contracting Officer modifying the contract requirement is obtained.

I certify that the wages and fringe benefits specified by the current Wage Rate Determination issued by the US Department of Labor for the service and location identified in the contract have been considered in the preparation of my proposal. If awarded the contract, compensation to employees performing the contract will fully comply with the current Wage Rate Determination and all other requirements of the Service Contract Act and applicable regulations and laws.

I certify that (a) my proposal or any change to my proposal is made without consultation, communication, or agreement for the purpose of restricting competition or manipulating awards; (b) my proposal has not been and will not be disclosed to of Offerors or potential Offerors prior to award; and (c) I have not used another Offeror's proprietary information to prepare my offer.

I certify that, to the best of my knowledge and belief, all of my statements are true, correct, complete, and made in good faith. A false statement on any part of this form may be considered a violation if US Code, Title 18, Section 1001, which carries criminal penalties."

**COMPLETE BUSINESS NAME & ADDRESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NAME & TITLE OF OFFEROR:**

\_\_\_\_\_  
Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **SECTION L SOLICITATION INSTRUCTIONS AND CONDITIONS (Nonappropriated Funds)**

### **L-1 DEFINITIONS.** As used herein:

a. The term "solicitation" means an invitation for bids (IFB) when using sealed bidding and a request for proposal (RFP) when an acquisition is negotiated.

b. The term "offer" means "bid" when sealed bidding is used and "proposal" when an acquisition is negotiated.

c. The "NAFI" means Nonappropriated Fund Instrumentality and in this document means the same as "MCCS". "MCCS" is an entity consisting of the Marine Corps Exchange; Morale, Welfare and Recreation; Military Personnel Readiness; and Family Readiness Programs.

d. The term "Primary Vendor" indicates that sixty percent (60%) of the total installed contracted machines will be from and carry products of that vendor

e. The term "Secondary Vendor" indicates that forty percent (40%) of the total installed contracted machines will be from and carry products of that vendor.

f. The term "soft drink" means a commercially prepared, canned or bottled, dispensed, nonalcoholic beverage, usually carbonated, consisting of water (soda water), flavoring, caffeine, and a sweet syrup or artificial sweetener. For this contract, the term will include teas, fruit juices, "Energy Drinks", isotonic drinks, and coffees.

### **L-2 PREPARATION OF OFFERS**

a. Offerors are expected to examine all requirements of this solicitation. Failure to do so will be at the offeror's risk.

b. **Cost of Preparation and Submission of Proposals.** This invitation to submit a proposal does not commit MCCS to pay any costs incurred in the submission of a proposal or in making any studies for the preparation thereof.

c. Each offeror shall furnish the information required by the solicitation. The offeror shall sign the offer and print or type its name on Section B and each continuation sheet on which it makes entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of the agent's authority, unless the evidence has been previously furnished to the issuing office.

d. **Responsibility.** Before awarding any contract, the MCCS Contracting Officer must determine that a proposed Offeror is responsible. As used here, the term "responsible" means the Contracting Officer can reasonably expect satisfactory contract performance. **A proposed Offeror must have or be able to obtain: (1) adequate financial resources; (2) organization, experience, & technical skills needed; (3) production & facilities required; (4) a record of satisfactory performance; and (5) a satisfactory record of integrity.** A proposed Offeror must also be legally eligible and have sufficient capacity to perform as required, considering all business activities. The preceding information is needed to for this determination and will be treated as confidential. The Offeror must demonstrate responsibility to the full satisfaction of the Contracting Officer. **If the information is not provided or is incomplete, the Contracting Officer may not be able to find the Offeror responsible.** This information is to be provided in Enclosure 2 of the offer.

e. Taking into account all requirements of this contract and the pricing and product structure set in Section J-1, offeror will enter the compensation rate on Section B, page 2.

f. Offers for supplies or services other than those specified will not be considered unless authorized by the solicitation.

**L-3 EXPLANATION TO PROSPECTIVE OFFERORS (FEB 1987)**. Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers. It is strongly recommended that all questions be faxed to (760) 830-8732 or mailed using express service/next day to the issuing office, see Section D-2.2. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

**L-4 ACKNOWLEDGMENT OF AMENDMENTS TO SOLICITATIONS (FEB 1987)**. Offerors shall acknowledge receipt of any amendment to this solicitation (a) by signing and returning the amendment; (b) by identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer; or (c) by letter or telegram. MCCS must receive the acknowledgment by the time specified for receipt of offers.

**L-5 SUBMISSION OF OFFERS (FEB 1987)**

a. Offers and modifications thereof shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation and (2) showing the time specified for receipt, the solicitation number, and the name and address of the offeror.

**L-5.1** Proposals will be submitted original and three copies, tabulated in the following format:

a. **Cover letter with enclosures**. A letter stating whether or not the proposed contract is acceptable and certification statement to include financial declaration, signed by the principle offeror with the following statement verbatim:

**“The undersigned solemnly declares and certifies that the enclosed financial statement is a full, true, and correct statement of the financial conditions as of the date indicated, and that there have been no material changes adversely affecting the financial condition except as set forth herein. Further, it is agreed and understood that at the sole option of MCCS, any information which is found to be incorrect, incomplete, or misleading as to any matter relied upon for in evaluation of proposals may constitute unqualified cause for termination of such contract.”**

Enclosure 1: Solicitation (RFP) and any Amendments to the Solicitation

Enclosure 2: **Financial and Technical Capability Data Form** with Financial Statement (certified) to determine financial responsibility (Section K)

Enclosure 3: Representations and Certifications (Section K)

Enclosure 4: Proposed Operations to include:

- Staffing Plan
- Management Plan
- Product Mix Plan
- Product/Machine Placement Plan
- Quality Control Program

- Other Value-Added Offerings
- Enclosure 5: Business Questionnaire (Section K)  
 Enclosure 6: Past Performance references  
 Enclosure 7: Price Quotation (Item Price List or Menu as appropriate)

b. **Electronic Offers.** Telegraphic or electronic mail offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic or electronic mail notice, if that notice is received by the time specified for receipt of offers.

c. **Faxes.** Faxed offers will not be considered unless authorized by the solicitation; however, offers may be modified by fax if received by the times specified for receipt of offers.

d. **Samples.** Item samples, if required, must be submitted within the time specified for receipt of offers. Unless otherwise specified in the solicitation, these samples shall be (1) submitted at no expense to MCCS and (2) returned at the sender's request and expense, unless they are destroyed during pre-award testing.

**L-6 FAILURE TO SUBMIT OFFER (FEB 1987)** Recipients of this solicitation not responding with an offer should not return this solicitation, unless it specifies otherwise. Instead, they should advise the issuing office by letter or postcard whether they want to receive future solicitations for similar requirements. If a recipient does not submit an offer and does not notify the issuing office that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

**L-7 LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF PROPOSALS (FEB 1987)**

a. Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it--

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(2) Was sent by mail (or telegram or fax if authorized) and it is determined by MCCS that the late receipt was due solely to mishandling by MCCS after receipt at the Government installation; or

(3) Is the only proposal received.

b. Any modification of a proposal or quotation, except a modification resulting from the Contracting Officer's request for "best and final" offer, is subject to the same conditions as in subparagraphs (a) (1) and (2) above.

c. A modification resulting from the Contracting Officer's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by MCCS after receipt at the Government installation.

d. The only acceptable evidence to establish the date of mailing of a late proposal or modification sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark on the wrapper or on the original receipt from the U.S. or Canadian Postal Service. If neither postmark shows a legible date, the proposal, quotation, or modification shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed

impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by the employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors or quoters should request the postal clerks to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

e. The only acceptable evidence to establish the time of receipt at the Government installation is the time/date stamp of that installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.

f. Notwithstanding paragraph (a) above, a late modification of an otherwise successful proposal that makes its terms more favorable to MCCS may be considered at any time it is received and may have been accepted.

g. Proposals may be withdrawn by written notice or telegram (including mailgram) or fax received at any time before award. Proposals may be withdrawn in person by an offeror or an authorized representative, if the representative's identity is made known and the representative signs a receipt for the proposal before award.

## **L-8 CONTRACT AWARD NEGOTIATED**

a. ***Invitation - Not an Offer.*** This invitation is not an offer and in no manner whatsoever obligates Marine Corps Community Services (MCCS) to procure or contract for any supplies or services.

b. MCCS will award a *Primary Vendor contract* resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be ***most advantageous*** to MCCS, concession fee and other factors, specified elsewhere in this solicitation, considered. MCCS will award a *Secondary Vendor contract* to the responsible offeror whose offer conforming to the solicitation will be the ***next most advantageous*** to MCCS, concession fee and other factors, specified elsewhere in this solicitation, considered.

c. MCCS may (1) reject any or all offers if such action is in the public interest, (2) accept other than the highest concession fee offered, and (3) waive informalities and minor irregularities in offers received.

d. MCCS may award Primary and Secondary Vendor contracts on the basis of initial offers received, without discussions. **Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint.**

e. MCCS may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the schedule, offers may be submitted for quantities less than those specified. MCCS reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the offer.

f. A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. Before the offer's specified expiration time, MCCS may accept an offer (or part of an offer, as provided in paragraph (d) above), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by MCCS.

g. Neither financial data submitted with an offer, nor representations concerning facilities or financing, will form a part of the resulting contract. However, if the resulting contract contains a clause providing for price reduction for defective cost of pricing data, the contract price will be subject to reduction if cost or pricing data furnished is incomplete, inaccurate, or not current.

**L-9 LABOR INFORMATION**. General information regarding the requirements of the Walsh-Healey Public Contracts Act (41 U.S.C. 35-45), the Contract Work Hours Standards Act (40 U.S.C. 327-330), and the Service Contract Act of 1965 (41 U.S.C. 351-357) may be obtained from the Department of Labor, Washington, DC. 20210, or from an regional office of that agency. Request for information should include the solicitation number, the name and address of the issuing agency, and a description of the supplies or services.

**L-10 ORDER OF PRECEDENCE (FEB 1987)**. Any inconsistency in this solicitation shall be resolved by giving precedence in the following order: (a) the Schedule (excluding the specifications); (b) representations and other instructions; (c) contract clauses; (d) other documents, exhibits, and attachments; and (e) the specifications.

**L-11 SITE VISIT (FEB 1986)**. See section C-6.5.

**L-12 TYPE OF CONTRACT (FEB 1987)**. MCCS contemplates award of a negotiated service contract from this solicitation.

**L-13 PROPOSED FEE**. The proposed concession fee shall be entered in Section B on the line in the right column titled "Compensation %".

**L-14 PROPOSAL SUBMISSION**. Submit the proposal by completing Sections A, B, and K with plans and technical requirements.

**L-15 OFFEROR'S QUALIFICATIONS**. By submission of a response to this solicitation, the offeror is certifying that he has sufficiently trained personnel to perform the work required. In addition to the minimum standards for responsible contractors, the following additional standards will apply: to the extent that a prospective contractor proposed to perform the contract by subcontracting, acceptable evidence of his "ability to obtain" experience and pertinent skills shall be a commitment or explicit arrangement which must be in existence prior to being awarded a contract under this solicitation.

#### **L-16 WHERE AND WHEN TO SUBMIT PROPOSALS**

**L-16.1 Proposals shall be received not later than 2:00 PM Pacific Time Friday, 9 July 2010.** The proposal package shall consist of original and three copies of the documents mentioned in paragraph L-14 above.

**L-16.2** Mark the outside of the sealed proposal package(s) in the lower left-hand corner, as follows:

**PROPOSAL - DO NOT OPEN**  
**Solicitation Number TWM-09-R-0005**  
**Closing Date/Time: 9 July 2010 2:00 PM**

**MARKED: QUOTATION FOR FURNISHING, MAINTAINING AND SERVICING  
CARBONATED & NON-CARBONATED DRINK VENDING SERVICES**

**L-16.3** Mail or hand deliver your properly marked and sealed proposal package to the following address. To ensure delivery and safeguarding of contents, submission by registered mail is preferred.

Marine Corps Community Services  
ATTN: Contracting Officer  
MCAGCC Box 788150 BLDG 1533  
Twentynine Palms, CA 92278

**L-17 LATE PROPOSALS.** M CCS reserves the right to consider proposals or modifications received late, but before award is made, should such action be to M CCS's advantage.

**L-18 WITHDRAWAL.** You may withdraw your proposal by written notice, telegram, electronic mail, or fax received at any time prior to award.

**L-19 NO PROPOSAL.** If you do not want to submit a proposal, do not return the solicitation or proposal. However, please send a letter, electronic mail, or postcard advising if interested in receiving future solicitations for this type of service.

**L-20 INCURRING COST.** M CCS is not liable for any costs incurred by offerors submitting proposals in response to this solicitation.

**L-21 ANNOUNCEMENT OF AWARD.** It is anticipated that the successful proposer will be announced not later than 9 July 2010, with contracted operations to start as soon as possible.

## **SECTION M: EVALUATION FACTORS FOR AWARD**

### **M-1. AWARD**

a. Two awards will be made under this RFP to the responsive and responsible offerors submitting conforming and technically acceptable proposals which provide the best value to MCCS, based on the process and factors noted below. There will be a Primary Vendor award apportioning sixty percent (60%) of installed machines and a Secondary Vendor contract apportioning forty percent (40%) of the installed vending machines.

b. No award shall be made until the Contracting Officer makes an affirmative determination of responsibility. In the absence of information clearly indicating that the prospective bidder is responsible, the Contracting Officer shall make a determination of non-responsibility.

c. This procurement will be governed by DoD Instruction 4105.71 and MCO P7010.20. Potential Offerors are directed to the following web sites at which the regulations can be found: [www.js.pentagon.mil/whs/directives/corres/pdf/410571p.pdf](http://www.js.pentagon.mil/whs/directives/corres/pdf/410571p.pdf) and [www.usmc.mil/news/publications/Documents/MCO%20P7010.20.ddf](http://www.usmc.mil/news/publications/Documents/MCO%20P7010.20.ddf)

### **M-2. QUALIFICATIONS OF OFFERORS**

a. Proposals will not be considered unless submitted by persons or firms who, currently or within the preceding six (6) years, have successfully owned, operated, or managed in a full time capacity, for over twelve consecutive months a business identical or having similar technical and operational characteristics as the service solicited. The phrase “operated or managed” means the offeror has had a direct involvement in the day-to-day operation of the business to include responsibility for employment, supervision, scheduling, production/services, payroll and purchasing.

b. The Contracting Officer reserves the right to waive all or part of the qualification requirements.

### **M-3. EVALUATION FACTORS**

a. **Best Value.** Unless all proposals are rejected, award will be made to the responsive and responsible offeror whose proposal, conforming to the solicitation, is determined to provide the “best value”, all factors considered, including concession compensation and technical factors.

b. The “best value” criteria is defined as the proposal that is evaluated as the best concession compensation and with a most superior technical evaluation; however, in the event two or more competing proposals are assessed as substantially equal compensation, the proposal offering the most superior technical evaluation will be determinative. “Substantially equal” technical proposals are those which do not demonstrate any clear evidence of technical superiority relative to each other. Concession compensation is more important than technical factors.

**M-4. TECHNICAL EVALUATION.** All proposals received from responsible offerors will be evaluated based on the technical factors set forth below, which are of equal importance.

a. **Personnel and experience.** Provide a list showing the number of personnel currently employed, by job title experience, to be used to service the account for the Marine Corps Air Ground Combat Center. Include any specialized training or certificates they hold.

b. Management experience and capability. Provide a summary of company experience in operating this type of business, and in providing this type of service to other similar companies or government activities. Provide business references, with contact names and phone numbers, for any other contracts currently or previously held for this type of service.

c. Quality Control Program. The program should include QC for both products and machines, responsiveness to complaints, responsiveness to reports of outages, .

d. Product Mix. What products are to be included in the offered services, product rotation plan, product mix based on demographics, etc.

e. Vending Machine Technical Aspects. Provide specifics on the machines to be installed, the type of machines, technical aspects regarding bill validation, coinage accepted, energy consumption, ability to stand up to desert climates,

f. Logistics/stocking plan. Provide specifics on initial installation, restocking, warehousing, repairs, replacement, technology refreshes, etc.

g. Any other Value-Added Offerings. Other Value-Added Offerings can include marketing promotions, sponsorship of events, participation in sales promotions, etc.

h. Past performance. Satisfactory past performance on a similar contract will be an essential evaluation point.