

BID PACKAGE

For

SWEETWATER CREEK REACH 3 STREAM & FLOODPLAIN RESTORATION

OFFERS MUST BE RECEIVED BY August 26, 2019 AT 12:00 PM LOCAL TIME
Bid Opening will be August 26, 2019 at 12:00 PM Local time

If sending offer via United States Postal Service:

**Nez Perce Tribe Fisheries
Attn: Travis House
P. O. Box 365
Lapwai, ID 83540**

If hand delivering or using any other carrier (Fed Ex or UPS):

**Nez Perce Tribe Fisheries – Watershed Division
Attn: Travis House
28764 Salmon Lane
Lapwai, ID 83540**

Questions: Please call Travis House at 208-621-4739
between 8 am and 4:30 pm. (Monday – Thursday)

**Incomplete Bid Packets will be disqualified.
Please read Sections XXVI & XXVII carefully.**

Sweetwater Creek Reach 3 Floodplain Restoration Construction Solicitation/Contract

THE NEZ PERCE TRIBE And To Be Determined

This solicitation and subsequent contract is entered into between the Nez Perce Tribe, PO Box 365, Lapwai, ID 83540, hereinafter referred to as the “Tribe”, and To Be Determined (Contractor name and address), hereinafter referred to as “Contractor”. The Tribe contemplates award of a firm, fixed price contract resulting from this solicitation.

This contract and all subsequent subcontracts shall be subject to Title 9 of the Nez Perce Tribal Code, Tribal Employment Rights Act (TERO).

BACKGROUND

The Project, referred to as the Sweetwater Creek Reach 3 Floodplain Restoration Project, is located on the Nez Perce Tribe Indian Reservation in Nez Perce County, Idaho, upstream from Sweetwater, Idaho along Webb Road, adjacent to Sweetwater Creek. Sweetwater Creek, a tributary to Lapwai Creek, is the stream of interest for the Project. The goal of this project is to restore salmonid habitat and stream processes in Sweetwater Creek. This will be accomplished by improving Sweetwater Creek’s floodplain function, natural stream function, and native plant communities.

Currently at the Project site Sweetwater Creek has been straightened/channelized and pushed to the far side of the floodplain with push up berms put in place which prevents the creek from accessing the floodplain. This has resulted in a lack of instream complexity, a component necessary for all life stages of salmonids.

The Nez Perce Tribe Department of Fisheries Management Watershed Division (Tribe) will be implementing this project during the 2019 field season with Bonneville Power Administration (BPA), Idaho Office of Species Conservation (IOSC), and NPT Snake River Basin Adjudication (SRBA) funds. The Tribe is seeking construction services from a qualified construction firm to complete the Sweetwater Creek Reach 3 Stream & Floodplain Restoration Project.

LOCATION

To reach the project area from Lapwai, Idaho, follow US 95 South approximately 3.5 miles to Webb Road. Turn west on Webb Road and continue approximately 1.5 miles. The project location is on Sweetwater Creek between Cardinal Lane and Woodpecker Lane. See Site Map page 21.

The implementation reach on Sweetwater Creek lies on Tribal Trust Units 348 and 349.

INFORMATION CONCERNING RFP AND PROJECT

All correspondence pertaining to this contract, including submittal of invoices should be directed to:

Travis House
Nez Perce Tribe
Department of Fisheries Resource Management – Watershed Division
PO Box 365
Lapwai, ID 83501

Phone: (208) 621-4739

Email: thouse@nezperce.org

I. SERVICES

The Tribe hereby hires Contractor to provide the following services:

Construction of the Sweetwater Creek Reach 3 Stream & Floodplain Project:

This restoration project is comprised of 4 main components. They are:

1. Excavation of mainstem Sweetwater Creek channel / river re-construction
2. Removal of invasive weeds (Himalayan Blackberry)
3. Floodplain grading and construction
4. Construction of instream habitat structures

Incorporated into this construction contract are 8 major documents providing construction contract direction. They are as follows (as attachments):

1. Schedule of Bid Items
2. Construction Plan Sheet Set prepared by Alta Science and Engineering
3. Construction Special Provisions prepared by Alta Science and Engineering
4. Bonneville Power Administration Applicable Contract Clauses
5. Water Management Plan
6. Idaho Workers' Compensation Forms
7. Wage Rate Decision No. ID20190070, dated 06/21/2019
8. Additional Contract Clauses

II. PRICE RANGE

The cost estimate for the project is between \$250,000 - \$375,000.

III. TERM

Prewrite Conference

Prior to commencement of work, the Tribe will arrange a meeting with the Contractor to discuss the contract terms and work performance requirements. In addition, at this meeting such things as work progress schedule and turbidity/erosion control plans shall be developed and established in writing.

Project Commencement

Commencement of work/services shall begin upon date of final signatures / notice to proceed and will be completed to satisfaction of the Tribe’s Contracting Officer (CO) by 12/30/2019. This contract shall become effective upon being executed by both parties. It shall remain in force and effective until 12/30/2019 unless negated by inclement weather or amended for a longer or completed in a shorter time. The completion date is based on the assumption that the successful offeror will receive the 1st notice to proceed by August 30, 2019. The completion date may be extended by the number of calendar days after the above date that the Contractor receives the notice to proceed, except to the extent that the delay in issuance of the notice to proceed results from the failure of the Contractor to execute the contract and give the required performance and payment bonds within the time specified in the offer.

Phase of Work	Delivery Date
Proposal Due Date	8/26/2019
Anticipated Contractor Selection Date	8/26/2019
Anticipated Contract Start Date	9/02/2019
Prewrite Meeting *Field review/in-person meeting required	9/09/2019
Anticipated Project Start Date	9/16/2019
Project Completion Date	12/30/2019

NOTE: In-stream work window of August 1- October 31 applies to all work being done within live water, including re-watering of new channel.

IV. GENERAL REQUIREMENTS

The contractor shall provide all labor, supervision, equipment, tools, supplies and materials (except those furnished by the Tribe) necessary to complete the project in accordance with the specifications and drawings. This includes but is not limited to the mobilization and procurement of equipment or materials from on or off-site sources, preparation of materials, placement of materials including mulch, erosion and sediment control measures and structures, broadcast seeding in disturbed areas, and clump planting of vegetation. Payment for work shall be made under the pay items included in the Schedules of Bid Items. All other work and materials will be considered incidental to and included in the payment for items shown.

Equipment Requirements

Prior to the start of any work, all equipment to be used on this project shall be power washed clean of soil and plant parts. The cleaning of equipment will occur off the project site. All heavy equipment will be inspected by the Tribal Contracting Officer and/or Inspector prior to entering the project site.

Before and periodically during performance, construction equipment will be inspected to assure it is clean with no leakage of oil, fuel, or hydraulic fluid.

A track mounted hydraulic excavator in good operating condition with a “thumb” is required for this project. It is anticipated that an excavator of a size equivalent to or greater than a CAT 320 will be required to perform work under this contract. Contractor’s hydraulic excavator will be approved by the CO and should be described in the submitted technical proposal.

A dump truck (10 cubic yard or equivalent) in good operating condition is required for this project. Contractor’s dump truck will be approved by the CO and should be described in the submitted technical proposal.

Loss, Damage, or Destruction

Equipment furnished with operator. The Tribe shall not be liable for loss, damage, or destruction of equipment furnished under this contract except for such loss, damage, or destruction resulting from the negligent or wrongful act(s) of Tribal employee(s) while acting within the scope of their employment.

All claims arising under this clause will be submitted to the Contracting Officer.

Barricades, Warning Signs, and Other Devices

The Contractor shall provide, erect, and maintain all necessary barricades, suitable and sufficient lights, danger signals, signs, and other traffic control devices, and shall take all necessary precautions for the protection of the work and safety of the public. Roads closed to traffic shall be protected by effective barricades, and obstructions shall be illuminated during the hours of darkness. Suitable warning signs shall be provided to properly control and direct traffic.

The Contractor shall erect warning signs in advance to any place on the project where operations may interfere with the use of the road or trail by traffic and at all intermediate points where the new work crosses or coincides with an existing road or trail. All road barricades, warning signs, lights, temporary signals, flagmen and pilot car operators and equipment, and other protective devices, except for special devices, shall conform with Part VI of the Manual on Uniform Traffic Control Devices for Streets and Highways, published by the Federal Highway Administration and applicable safety codes.

Incidental Pay Items

The intent of the contract is to provide for the complete construction of the project described in the contract. Unless otherwise provided, the Contractor shall furnish all labor, materials, equipment, tools, transportation, and supplies and perform all work required to complete the project in accordance with drawings, specifications, and provisions of the contract. Payment for contract work will be made only for and under those pay items included in the Schedule of Bid Items. All other work and materials will

be considered as incidental to and included in the payment for items shown.

Methods of Measurement

One of the following methods of measurement for determining final payment is DESIGNATED IN THE SCHEDULE OF BID ITEMS for each PAY ITEMS.

(a) Designed Quantities (DQ). These quantities denote the final number of units to be paid for under the terms of the contract. They are based upon the original design data available prior to advertisement of the project. Original design data include the preliminary survey information, design assumptions, calculations, drawings, and the presentation in the contract. Changes in the number of units DESIGNATED IN THE SCHEDULE OF ITEMS may be authorized under any of the following conditions:

- i. Changes in the Work authorized by the CO.
- ii. A determination by the CO that errors exist in the original design that cause a PAY ITEM quantity to change by 15 percent or more.
- iii. A written request by the contractor submitted to the CO showing evidence of errors in the original design that cause the quantity of a PAY ITEM to change by 15 percent or more. The evidence must be verifiable and consist of calculations drawings, or other data that show how the designed quantity is in error.

(b) Actual Quantities (AQ). These quantities are determined from measurements of completed work.

(c) Lump Sum Quantities (LSQ). These quantities denote one complete unit of work as required by or described in the contract, including necessary materials, equipment, and labor to complete the job.

Mobilization

(a) This work consists of moving personnel, equipment, material, and incidentals to the project and performing all work necessary before beginning work at the project site. Mobilization includes the obtaining of permits, insurance, and bonds.

(b) Payments for mobilization include the obtaining of permits, insurance, and bonds.

- i. Bond premiums will be reimbursed after receipt of the evidence of payment.
- ii. When 5 percent of the original contract amount is earned from other bid items, 50 percent of the mobilization item, or 5 percent of the original contract amount, whichever is less, will be paid.
- iii. When 10 percent of the original contract amount is earned from other bid items, 100 percent of the mobilization item, or 10 percent of the original contract amount, whichever is less, will be paid.
- iv. Any portion of mobilization item in excess of 10 percent of the original contract amount will be paid after final acceptance.

The Tribe reserves the right to cancel in part or entirely this request if it is in the best interest of the Tribe to do so.

V. INSPECTION

Definition. "Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.

The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Tribe. All work shall be conducted under the general direction of the Contracting Officer and is subject to Tribal inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

Tribe inspections and tests are for the sole benefit of the Tribe and do not--

- (1) Relieve the Contractor of responsibility for providing adequate quality control measures;
- (2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;
- (3) Constitute or imply acceptance; or
- (4) Affect the continuing rights of the Tribe after acceptance of the completed work under sections XIII, XIV, XVII, and/or XXIII.

The presence or absence of a Tribal inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer's written authorization.

The Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Tribe may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The Tribe shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract. The Tribe has the sole discretion to accept or reject the work performed.

The Contractor shall, without charge, replace or correct work found by the Tribe not to conform to contract requirements, unless in the public interest the Tribe consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

If the Contractor does not promptly replace or correct rejected work, the Tribe may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor or (2) terminate for default the Contractor's right to proceed.

If, before acceptance of the entire work, the Tribe decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

Unless otherwise specified in the contract, the Tribe shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Tribe's rights under any warranty or guarantee.

VI. COMPENSATION

The Tribe shall compensate Contractor an amount not to exceed To Be Determined (Fixed Price). Payments for the expenses associated with fulfilling of the terms and conditions of this contract will be made within 45 days of receipt of invoices. The contract cost shall be based on a monthly invoice submitted for the work completed.

The Tribe will make payment based upon completion of work by Contractor and acceptance by the Contracting Officer. Proof of work completed shall be evidenced by the Contracting Officer's signature on submitted invoice.

Idaho Worker's Compensation Law

Prior to award of any contract subject to Idaho Workers' Compensation Laws, the Contractor must provide a completed State of Idaho Certificate of Verification of Workers' Compensation Insurance form to the Tribe. This form will be submitted to the Idaho Industrial Commission by the Tribe in order to assure that the Contractor in line for award has the required worker's compensation coverage or is exempt from the requirement for coverage.

A copy of the State of Idaho Certificate of Verification of Workers' Compensation Insurance form has been provided for use (as an attachment) and shall be completed and submitted as part of the offer.

This certificate of verification shall be fully executed by the Contractor and signed by the Industrial Commission Compliance Officer prior to issuance of the Notice to Proceed.

Wage Rate Requirements (Construction) Statute

If this is a contract in excess of \$2,000, the Wage Rate Requirements (Construction) statute requires the Contractor to pay certain minimum wages and benefits to employees working under this contract. These required minimum wages are stated in the attached Wage Rate Decision (pages 35-39). **Pursuant to Executive Order 13658, the minimum hourly wage rate required to be paid to workers performing on, or in connection with, contracts and subcontracts subject to FAR Subpart 22.19, is at least \$10.10 per hour beginning January 1, 2015, and beginning January 1, 2016, and annually thereafter, an amount determined by the Secretary of Labor. See FAR Subpart 22.19.**

The Wage Rate Decision is a part of this solicitation and any resulting contract.

A wage rate for an Excavator Operator shall be conformed after award in accordance with FAR 52.222-6 Construction Wage Rate Requirements (MAY 2014) and direction provided in the subject Wage Decision. The most recent wage rate approved by the Department of Labor for this classification was \$28.60 per hour rate with \$11.85 fringe benefits (conformed 11/10/15).

VII. TECHNICAL ASSISTANCE

The Tribe will designate a Contracting Officer (CO) as well as designate a representative, hereinafter referred to as the Contracting Officer's Representative (COR), who will provide on-the-ground administration for the Tribe. The COR will be designated in writing and a copy of the designation will be furnished to the Contractor before or at the prework conference. **The Contractor is cautioned to read the COR designation because certain authority under the contract is reserved solely for the Contracting Officer.** The term "Contracting Officer" as used throughout the Specifications, shall be interpreted to include the Contracting Officer's designated representative(s) acting within the limits of their delegation of authority.

In addition to Tribal oversight, personnel from Alta Science and Engineering have been secured to provide assistance with construction staking and construction oversight. While on site, Alta Science and Engineering personnel will help the construction contractor understand the overall intent of the design in an advisory capacity as well as take photographs and notes of construction and describe observations. Alta Science and Engineering personnel will not direct construction contractors in any way and are not responsible for job site safety or compliance with permit conditions.

VIII. KEY PERSONNEL

The key personnel specified in the Offeror's Technical Proposal are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other programs, the Contractor shall notify the Contracting Officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the contract. No diversion shall be made by the Contractor without the written consent of the Contracting Officer: Provided that the Contracting Officer may ratify in writing such diversion and such ratification shall constitute the consent of the Contracting Officer required by this clause. The contract may be amended from time to time during the course of the contract to either add or delete personnel, as appropriate.

IX. INDEPENDENT CONTRACTOR

Both parties agree that Contractor will act as an independent contractor in the performance of its duties under this contract. Contractor shall be responsible for payment of all applicable taxes including federal, state, and local taxes arising from its activities under this contract. Contractor is also responsible for obtaining all necessary federal or local permits in order to perform such work. The Tribe assumes no responsibility for damages to property of Contractor or employee injuries.

X. INDEMNIFICATION

The Contractor by signing this contract represents that he has obtained the necessary licenses and insurance and other coverage to perform the duties of the contract lawfully. Contractor agrees to indemnify and hold the Tribe and Tribal staff harmless from and against any and all liability and expense from suits and costs to the extent arising from the negligent acts, errors or omissions or willful misconduct of Contractor in the performance of this Agreement. For claims arising from Contractor's professional services, Contractor's defense obligation under this indemnity paragraph shall include only the reimbursement of reasonable defense costs to the extent of Contractor's actual, proportional indemnity obligation hereunder.

XI. LIMITATION OF REMEDIES

Contractor's aggregate liability responsibility to the Tribe, including that of Contractor's subsidiaries and affiliates, officers, directors, employees, agents and sub-consultants, is limited to \$1,000,000.00 or the amount of Contractor's fee under this Agreement, whichever is greater. This limitation of remedy applies to all lawsuits, claims or actions, whether identified as arising in tort, contract or other legal theory, related to Contractor's services under this Agreement and any continuation or extension of Contractor's services.

XII. PERFORMANCE, PAYMENT AND BID BONDS – CONSTRUCTION

Definition. "Original contract price" means the award price of the contract; or, for requirements contracts, the price payable for the estimated total quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

Amount of required bonds. Unless the resulting contract price is \$100,000 or less, the successful offeror shall furnish performance and payment bonds to the Contracting Officer as follows:

(1) *Bid Bonds.* A bid guarantee is required from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified. (See Bid Guarantee provision, page 48)

(2) *Performance bonds (Standard Form 25).* The penal amount of performance bonds at the time of contract award shall be 100 percent of the original contract price.

(3) *Payment Bonds (Standard Form 25-A).* The penal amount of payment bonds at the time of contract award shall be 100 percent of the original contract price.

(4) *Additional bond protection.*

(i) The Tribe may require additional performance and payment bond protection if the contract price is increased. The increase in protection generally will equal 100 percent of the increase in contract price.

(ii) The Tribe may secure the additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

Furnishing executed bonds. The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within the time period specified by the Contracting Officer, but in any event, before starting work.

Surety or other security for bonds. The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the *Federal Register* or may be obtained from the:

U.S. Department of Treasury
Financial Management Service

Surety Bond Branch
3700 East West Highway, Room 6F01
Hyattsville, MD 20782
Or via the internet at <http://www.fms.treas.gov/e570/>

Notice of subcontractor waiver of protection. Any waiver of the right to sue on the payment bond is void unless it is in writing, signed by the person whose right is waived, and executed after such person has first furnished labor or material for use in the performance of the contract.

XIII. WARRANTIES

Contractor warrants that all Contractor and Contractor's employees will be properly certified to perform work outlined in contract/bid and that all laws, licenses and other requirements to perform said work will be complied with by Contractor. Contractor agrees to warrant and remedy any activities/work, without cost to the Tribe. The Tribe shall notify Contractor of such discrepancies within one year of Contractor's completion of work under this contract. Otherwise such warranty expires.

XIV. TERO COMPLIANCE

The Contractor shall comply with the Tribal Employment Rights Office. Native American preference related to contracting and subcontracting for this project is required in accordance with the Nez Perce Tribal Code (NPTC) Title 9, §§ 9-1-1 through 9-4-5. Bidders shall comply with Title 9 and applicable federal and state laws and guidelines, to give preference to Indians in hiring, promotions, training and all other aspects of employment. All contractors with a contract of \$15,000 or more shall pay a one-time fee of 3.5% of the total amount of the contract which shall be included in the base bid and paid to the Tribal Employment Rights Office (TERO). In addition, all contractors, subcontractors and employers must have an approved, written compliance plan approved by the TERO Office prior to commencement of project activities. For more information, please contact the TERO Office at (208) 843-7363.

XV. STANDARD OF CARE

Contractor shall perform its work according to U.S. standards with that degree of care and skill ordinarily employed by others practicing at the same time and under similar conditions. Further, Contractor shall comply with all applicable laws, licenses and other requirements to perform said work to the extent required by the aforementioned standard of care and that are in effect during the term of this Agreement. Contractor agrees to remedy any activities/work not meeting the aforementioned standard, without cost to the Tribe. The Tribe shall notify contractor of such discrepancies within one year of Contractor's completion of work under this contract.

XVI. NOTICES

All notices, requests for changes to contract/bid agreement, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresses:

If to the Tribe:

Nez Perce Tribe
Dept. of Fisheries Resource Management
Watershed Division
PO Box 365
Lapwai, Idaho 83540
Attention: Travis House

If to the Contractor:

To Be Determined

XVII. FORUM & CHOICE OF LAW

The forum for any dispute concerning this contract shall be the Nez Perce Tribal Court. This contract shall be constructed in accordance with the laws of the Nez Perce Tribe as applicable. In the absence of such laws, the laws of the State of Idaho may be utilized as guidelines by the trier of fact. Mediation shall be a condition precedent to any other dispute remedy between the parties.

XVIII. MEDIATION

In the event that a dispute arises between the parties to this Contract, the parties agree to make good faith efforts to resolve the dispute informally. If such efforts fail, the parties agree to participate in at least four hours of mediation.

XIX. ASSIGNMENT OF INTEREST

Neither party shall assign any claims, rights or interests under this contract without the prior written permission of the other party.

XX. PROPERTY

Upon receipt of all amounts owing under this Agreement, all information, proposals, papers, or materials developed by the Contractor in connection with the performance of services under this contract shall become the property of the Tribe, and the Contractor shall turn over such information, proposals, papers, or materials to the Tribe with the final billing, or sooner upon request. Any modification to such information, proposals, papers, or materials or reuse for purpose outside the scope of this Agreement by the Tribe or others without prior written permission of Contractor shall be at user's sole risk and without liability to Contractor, and the Tribe shall defend, indemnify, and hold Contractor harmless from any claims, losses, or damages arising from such modification or reuse.

XXI. SOVEREIGN IMMUNITY

The Nez Perce Tribe hereby agrees to waive its sovereign immunity from suit for the sole and limited purpose of enforcement of the terms of this contract, provided, however, that this waiver is limited to the recovery of no more than the total amount of the Contract; and the payment of any amount shall not be paid with real property belonging to the Nez Perce Tribe. This waiver does not extend to the award of punitive or exemplary damages of any kind, nor does this waiver extend to the payment of attorney's fees. This waiver is expressly limited to the adjudication of mediation under this Contract as enforced by the Nez Perce Tribal Court.

XXII. NOTICE OF PROHIBITION OF MECHANIC'S LIEN RIGHTS

The Nez Perce Tribe categorically forbids liens of any kind, whether in law or in equity, on Tribally-owned property.

XXIII. TERMINATION FOR CONVENIENCE

This contract may be terminated by the Contractor or Nez Perce Tribe Executive Committee (NPTEC) without cause, upon 30 days written notice, or sooner if the parties agree.

This contract shall terminate if Tribal funds cease to be available and the Contractor shall be reimbursed for any services rendered to this date. If any provisions of this contract are held invalid, the remaining provision shall not be affected and shall remain in full force and effect. In the event of termination, Contractor shall be paid for services performed up to the date of termination.

XXIV. TERMINATION FOR DEFAULT (FIXED-PRICE CONSTRUCTION)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the Tribe may, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Tribe may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The

Contractor and its sureties shall be liable for any damage to the Tribe resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Tribe in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if—

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include—

- (i) Acts of God or of the public enemy,
- (ii) Acts of the Tribe in either its sovereign or contractual capacity,
- (iii) Acts of another Contractor in the performance of a contract with the Government,
- (iv) Fires,
- (v) Floods,
- (vi) Epidemics,
- (vii) Quarantine restrictions,
- (viii) Strikes,
- (ix) Freight embargoes,
- (x) Unusually severe weather, or
- (xi) Delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Tribe.

The rights and remedies of the Tribe in this clause are in addition to any other rights and remedies provided by law or under this contract.

XXV. AMENDMENTS

This contract may be amended in writing at any time by mutual consent of the parties involved and signed by each of them. If such changes cause an increase or decrease in the cost of, or the time required for the performance of any part of the work under the contract, a mutually satisfactory adjustments shall be made in the price or delivery schedule.

XXVI. INSTRUCTIONS FOR THE PREPARATION OF TECHNICAL & BUSINESS PROPOSALS

The technical proposal will be used to make an evaluation and arrive at a determination as to whether the proposal will meet the requirements of the Tribe. Therefore, the technical proposal must present sufficient information to reflect a thorough understanding of the requirements and a detailed description of the techniques, procedures and program for achieving the objectives of the specifications/statement of work. Proposals which merely paraphrase the requirements of the Tribe's specifications/statement of work, or use such phrases as "will comply" or "standard techniques will be employed" will be considered unacceptable and will not be considered further. **NOTE: To assist in the evaluation, you should number your responses to correspond with the criterion being addressed.**

Proposals submitted in response to this solicitation shall be furnished in the following format with the numbers of copies as specified below.

(1) - The proposal must include a technical proposal and price proposal. Each of the parts shall be separate and complete so that evaluation of one may be accomplished independently from evaluation of the other. The technical proposal must not contain reference to cost; however, resource information (such as data concerning crews to be employed on the project, materials, subcontracts, etc.) must be contained in the technical proposal so that the contractor's understanding of the statement of work may be evaluated.

(2) - The Tribe will evaluate proposals in accordance with the evaluation criteria set forth below in Section XXVII.

(3) - Offerors shall submit their proposal(s) in the following format and the quantities specified:

(a) 1 copy of the completed, signed offer/price proposal (Bid Schedule of the solicitation package, including a completed State of Idaho Certification of Verification of Worker's Compensation Insurance form and an original bid bond).

(b) 1 copy of the technical proposal.

(4) – Required Bid Bond (see Bid Guarantee provision, page 48)

Amendments To Proposals:

Any changes to a proposal made by the offeror after its initial submittal shall be accomplished by replacement pages. Changes from the original page shall be indicated on the outside margin by vertical lines adjacent to the change. The offeror shall include the date of the amendment on the lower right corner of the changed pages.

XXVII. EVALUATION CRITERIA

(a) Technical Evaluation Factors: Technical Proposals are required for the evaluation of offers. Contractors must submit the required information to be considered for contract award. Commitments made in the offeror's technical proposal will be incorporated into the awarded contract. The following factors shall be used for evaluation. These factors are approximately equal in importance.

(b): Certified Indian Owned businesses registered with the Nez Perce Tribe will be given preference. Please note if you are a registered CIB (Certified Indian Owned Business) with the Nez Perce Tribe.

1. Past Performance. List and briefly describe all previous contracts of similar scope and/or size awarded to your firm within the last 3 years. Past performance will be evaluated in terms of quality of services; timeliness of performance; management and business relations with previous customers; customer satisfaction; cost control; oversight of project including subcontractors, and suppliers; and compliance with contract requirements, labor, and safety standards. Those offerors with no history of past performance will not be evaluated favorably or unfavorably for this criterion.

For each project include:

- Location of the project
- Type of work performed
- Date the work was completed
- Size of the project including dollar value
- On-Site Supervisor/Lead Equipment Operator(s)/Key Personnel utilized
- Current client contact information (include telephone numbers)
- If problems were encountered, describe them and any corrective actions taken to prevent a recurrence.

2. Technical Approach and Proposed Schedule. Describe your plan to efficiently accomplish the work. Identify work crews and equipment to be devoted to this project, as well as the schedule for their assignment. Address all significant elements (eg., channel re-construction, floodplain material excavation, preservation and salvage activities), and work related to improving and maintaining access to the project site. Describe how you will address meeting turbidity criteria and project phasing to keep or minimize disturbance in fish passage.

- ✓ Specifically address the size and specifications of the hydraulic excavator, dozer and dump truck to be supplied. Type and size of equipment to be used (specifically address the size and specifications of the hydraulic excavator, dozer and dump truck to be supplied for the hourly equipment rental)
- ✓ Identify the proposed On-Site Supervisor/Lead Equipment Operator(s)/other Key Personnel and their duties on site.

- ✓ Provide a production schedule that includes an overall time frame for the project as well as the time frames and sequencing of each work element included in the project.

The Tribe will assess the realism of proposed completion dates, given the resources to be devoted to the work. Acceptable proposals will show ability to complete the project within the time frames specified, or sooner. In addition, the Tribe will assess the strengths, weaknesses and risks of the technical approach as it relates to meeting the project specifications, restoring and improving fish habitat, minimizing stream turbidity during construction, and meeting the performance deadlines.

3. Experience in Similar Work – CONSTRUCTION FIRMS MUST HAVE A MINIMUM OF 3 YEARS EXPERIENCE IN SIMILAR WORK.

- Describe the experience of the prime contracting firm and any major subcontractors in performing similar work. We will assess the contractor's performance risk given the amount and type of similar work performed on previous projects. Specifically highlight experience performing stream rehabilitation projects including floodplain construction and construction surveying and staking.
- Identify the On-Site Supervisor, Lead Equipment Operators, and other Key Personnel, and for each, list their relevant licenses, certifications and experience performing the type of work to be done under this contract.
- Ratings for experience and qualifications will improve based on the number of similar, successfully completed projects and the type of education/knowledge held by the prime contracting firm, key personnel and major subcontractors.

4. Price. The completed Schedules of Items shall suffice for a price proposal. This criterion will (1) consider price reasonableness, and (2) be used to help determine the offeror's understanding of the work. The importance of price may become greater as the differences between technical proposals decreases. Where technical proposals are determined to be substantially equal, any cost/price advantage to the Tribe may control award.

***** The technical criteria, when combined, are greater than price in the award decision.**

Both parties agree to the provisions set forth herein as evidenced by the signatures of their authorized representatives below:

NEZ PERCE TRIBE

Shannon Wheeler, Chairman

Date

Chantel Eastman, Secretary

Date

Contractor

Date

Site Map



Attachments:

- 1. Schedule of Bid Items**
- 2. Construction Specifications (Alta Science and Engineering)**
- 3. Sweetwater Creek Reach 3 Special Provisions (Alta Science and Engineering)**
- 4. Bonneville Power Administration Applicable Contract Clauses**
- 5. Water Management Plan**
- 6. Idaho Workers' Compensation Forms**
- 7. Wage Rate Decision No. ID20190070, dated 06/21/2019**
- 8. Additional Contract Clauses**

Schedule of Bid Items

Contract: Sweetwater Creek Reach 3 Stream & Floodplain Restoration

BID ITEM	DESCRIPTION	EST. QUANTITY	METHOD OF MEASURE- MENT	UNITS	UNIT PRICE	TOTAL
1	Mobilization and Demobilization	1	Lump Sum	LS		
2	Stormwater BMPs	1	Lump Sum	LS		
3	Provide Water	1	Lump Sum	LS		
4	Temporary Access Routes	1	Lump Sum	LS		
5	Water Management	1	Lump Sum	LS		
6	Provide Logs and Slash					
6a	Provide Logs	355	Actual	EA		
6b	Provide and Place Slash	1	Lump Sum	LS		
7	Undesirable Vegetation Removal	17,000	Actual	SF		
8	Regrade Areas	17,800	Actual	SF		
9	New Channel Construction	1,500	Actual	LF		
10	Off-Channel Habitat	25,800	Design	SF		
11	Fill Areas	2,800	Design	BCY		
12	In-Stream Habitat Structures					
12a	Type 1 Habitat Structures	8	Actual	EA		
12b	Key Structures	13	Actual	EA		
13	Brush Fascine	320	Actual	LF		
14	Channel Diversion Structures	315	Design	BCY		
15	Ditch Plugs	540	Design	BCY		
16	Provide and Place Topsoil	400	Design	LCY		
17	System of Wood Placement	2,400	Actual	LF		
18	Debris Removal	60	Actual	TON		
20	Provide Rock/Soil Fill	1,500	Actual	TON		

Bonneville Power Administration Applicable Contract Clauses

This project is being funded partially through BPA funds secured by the Nez Perce Tribe. The Tribe is required by the BPA to apply the following contract clauses to all Tribal contracts / subcontracts. The word Government and Tribe shall be used interchangeably. The “Contractor” in these clauses refers to the Nez Perce Tribe. These clauses are incorporated into this solicitation/contract and must be complied with by the awarded construction firm.

EMPLOYMENT ELIGIBILITY VERIFICATION (10-18) (OCT 14) ([BPI 10.1.8.3](#))

(a) "Employee assigned to the contract," as used in this clause, means an employee who was hired after November 6, 1986, who is directly performing work, in the United States, under a contract that is required to include the clause as prescribed by 10.7.3. An employee is not considered to be directly performing work under a contract if the employee—

(1) Normally performs support work, such as indirect or overhead functions; and

(2) Does not perform any substantial duties applicable to the contract. (b) E-Verify enrollment

and verification requirements.

(1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at the time of the contract award, the Contractor shall:

(A) Enroll. Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;

(B) Verify all new employees. Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (a) (3) of this section); and

(C) Verify employees assigned to the contract. For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee's assignment to the contract, whichever date is later (but see paragraph (a)(4) of this section).

(2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of—

(A) All new employees.

(i) Enrolled 90 calendar days or more. The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract within 3 business days after the date of hire (but see paragraph (a)(3) of this section); or

(ii) Enrolled less than 90 calendar days. Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph)(3) of this section); or

(B) Employees assigned to the contract. For each employee assigned to the contract, the

Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (4) of this section).

(3) If the Contractor is an institution of higher education; a state or local government, or the government of a federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract. The Contractor shall follow the applicable verification requirements at (a)(1) or (a)(2), respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

(4) Option to verify employment eligibility of all employees. The Contractor may elect to verify all existing employees hired after November 6, 1986, rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986, within 180 calendar days of—

(A) Enrollment in the E-Verify program; or

(B) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).

(5) The Contractor shall comply, for the period of performance of this contract, with the requirement of the E-Verify program MOU.

(A) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a Department of Energy suspension or debarment official.

(B) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.

(c) Web site. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

(d) Individuals previously verified. The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee—

(1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;

- (2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or
 - (3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD) -12, Policy for a Common Identification Standard for Federal Employees and Contractors.
- (e) Subcontracts. The contractor shall include the requirements of this clause, including this paragraph (d) (appropriately modified for identification of the parties), in each subcontract that—
- (1) Is for:
 - (A) Services other than commercial services that are part of the purchase of a commercial-off-the-shelf (COTS) item, performed by the COTS provider and are normally provided for that COTS item; (B) Construction.
 - (2) Has a value of more than \$3,000; and
 - (3) Includes work performed in the United States.

SUBCONTRACTING WITH DEBARRED OR SUSPENDED ENTITIES (11-7) (JUL 13) (BPI 11.8.1; BPI 25.1.1)

- (a) “Commercially available off-the-shelf (COTS) item,” as used in this clause means any item of supply (including construction material) that is:
 - (1) A commercial item (as defined in BPI 1.8);
 - (2) Sold in substantial quantities in the commercial marketplace; and
 - (3) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace.
- (b) The Government suspends or debar Contractors to protect the Government’s interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract in excess of \$30,000 with a Contractor that is debarred, suspended, by any executive agency unless there is a compelling reason to do so.
- (c) The Contractor shall require each proposed subcontractor whose subcontract will exceed \$30,000, other than a subcontractor providing a commercially available off-theshelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended by the Federal Government.

- (d) The Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended (see www.sam.gov).
- (e) Subcontracts. Unless this is a contract for the acquisition of commercial items, the Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that exceed \$30,000 in value and is not a subcontract for commercially available off-the-shelf items

CONTRACTOR SAFETY AND HEALTH (15-12) (APR 14)([BPI 15.2.4.1](#))

- a) The Contractor shall furnish a place of employment that is free from recognized hazards that cause or have the potential to cause death or serious physical harm to employees; and shall comply with occupational safety and health standards promulgated under the Occupational Safety and Health Act of 1970 (Public Law 91-598). Contractor employees shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to their own actions and conduct.

(1) All construction contractors working on contracts in excess of \$100,000 shall comply with Department of

Labor Contract Work Hours and Safety Standards (40 U.S.C. § 3701 et seq.). (2) The Contractor shall comply with

- (i) National Fire Protection Association (NFPA) National Fire Codes for fire prevention and protection applicable to the work or facility being occupied or constructed;
- (ii) NFPA 70E, *Standard for Electrical Safety in the Workplace*;
- (iii) American Conference of Governmental Industrial Hygiene *Threshold Limit Values for Chemical Substances and Physical Agents* and Biological Exposure Indices; and,
- (iv) Any additional safety and health measures identified by the Contracting Officer.

This clause does not relieve the Contractor from complying with any additional specific or corporate safety and health requirements that it determines to be necessary to protect the safety and health of employees.

- (b) The Contractor bears sole responsibility for ensuring that all contractor's workers performing contract work possess the necessary knowledge and skills to perform the work correctly and safely. The Contractor shall make any training and certification records necessary to demonstrate compliance with this requirement available for review upon request by BPA.
- (c) The Contractor shall hold BPA and any other owners of the site of work harmless from any and all suits, actions, and claims for injuries to or death of persons arising from any act or omission of the Contractor, its subcontractors, or any employee of the Contractor or subcontractors, in any way related to the work under this contract.
- (d) The Contractor shall immediately notify the Contracting Officer (CO), the Contracting Officer's Technical Representative (COTR), and the Safety Office by telephone at (360) 418-2397 of any death, injury, occupational disease or near miss arising from or incident to performance of work

under this contract.

- (1) The BPA Safety Office business hours are 7:00 AM to 4:00 PM Pacific Time. If the Safety Office Officials are not available to take the phone call the contractor shall leave a voicemail that includes the details of the event, and the Contractor's contact information. The Contractor shall periodically repeat the phone call to the Safety Office until the Contractor is able to speak directly with a BPA Safety Official.
- (2) The Contractor shall follow up each phone call notification with an email to SafetyNotification@BPA.gov immediately for any fatality or within 24 hours for non-fatal events.
- (3) The Contractor shall complete BPA form 6410.15e Contractor's Report of Personal Injury, Illness, or Property Damage Accident and submit the form to the CO, COTR, and Safety Office within five (5) working days of such an occurrence. The Contractor shall include photographs and witness statements with the report.
- (4) In the case of a Near Miss Incident that does not involve injury, illness, or property damage, the Contractor shall complete BPA Form 6410.18e Contractor's Report of Incident/Near Miss and submit the form to the CO, COTR, and Safety Office within five (5) working days of such an occurrence. The Contractor shall include photographs and witness statements with the report.

(e) Notification of Imminent Danger and Workers Right to Decline Work

- (1) All workers, including contractors and BPA employees, are responsible for identifying and notifying other workers in the affected area of imminent danger at the site of work. Imminent danger is any condition or practice that poses a danger that could reasonably be expected to cause death or severe physical hardship before the imminence of such danger could be eliminated through normal procedures.
- (2) A contract worker has the right to ask, without reprisal, their onsite management and other workers to review safe work procedures and consider other alternatives before proceeding with a work procedure. Reprisal means any action taken against an employee in response to, or in revenge for, the employee having raised, in good faith, reasonable concerns about a safety and health aspect of the work required by the contract.
- (3) A contract worker has the right to decline to perform tasks, without reprisal, that will endanger the safety and health of themselves or of other workers.

- (4) The Contractor shall establish procedures that allow workers to cease or decline work that may threaten the safety and health of the worker or other workers.
- (f) BPA encourages all contractor workers to raise safety and health concerns as a way to identify and control safety hazards. The Contractor shall develop and communicate a formal procedure for submittal, resolution, and communication of resolution and corrective action to the worker submitting the concern. The procedure shall 1.) encourage workers to identify safety and health concerns directly to their supervisor and employer using the employer's reporting process; and 2.) inform workers that they may raise safety concerns to BPA or the State OSHA. Workers may notify the Safety Office at (360) 418-2397 if the employer's work process does not resolve the worker's safety and health concern. BPA may coordinate the response to a contractor worker's health and safety concerns with the State OSHA when necessary to facilitate resolution.
- (g) BPA employees may direct the contractor to stop a work activity due to safety and health concerns. The BPA employee shall notify the Contractor orally with written confirmation, and request immediate initiation of corrective action. After receipt of the notice the Contractor shall immediately take corrective action to eliminate or mitigate the safety and health concern. When a BPA employee stops a work activity due to a safety and health concern the Contractor shall immediately notify the CO, provide a description of the event, and identify the BPA employee that halted the work activity. The Contractor shall not resume the stopped work activity until authorization to resume work is issued by a BPA Safety Official. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule when BPA stops a work activity due to safety and health concerns that occurred under the Contractor's control.
- (h) The Contractor shall keep a record of total monthly labor hours worked at the site of work. The Contractor shall include a separate calculation of the monthly total labor hours for each subcontractor in the contractor's monthly data. Upon request by the CO, COTR or BPA Safety Office, the Contractor shall provide the total labor hours for a completed month to BPA no later than the 15th calendar day of the following month. The requestor shall identify the required reporting format and procedures.
- (i) The Contractor shall include this clause, including paragraph (i) in subcontracts. The Contractor may make appropriate changes in the designation of the parties to reflect the prime contractor--subcontractor arrangement. The Contractor is responsible for enforcing subcontractor compliance with this clause.

Water Management Plan

1. The Contractor will pre-wash the newly excavated channel before re-watering. Turbid wash water will be detained and pumped to the floodplain, rather than discharging to fish-bearing waters.
2. Prepare new channel for water by installing seine at upstream end to prevent fish from moving downstream into new channel until 2/3 of total stream flow is available in that channel. Starting in the early morning, introduce 1/3 of the flow into the new channel over a period of 1-2 hours.
3. Perform monitoring according to HIP III standards (see construction plan sheets 7.5-7.8).
 - a. If turbidity exceeds 10% of background, modify the activity to reduce turbidity. In this case, this might mean decreasing the amount of flow entering the new channel and/or correcting any other issues that are causing turbidity (for example – correct a bank that is sloughing, install or correct a BMP, etc.)
 - b. Monitor every 2 hours as long as the in stream activity is occurring.
 - c. If exceedances occur for more than 2 monitoring intervals in a row (4 hours), then the activity must stop until turbidity reaches background levels. This means that the contractor may have to plug off water supply to the new meander until turbidity is within acceptable levels.
 - d. Once turbidity meets the standard, move on to the next watering stage
4. Prepare to introduce the second 1/3 of the flow (up to a total of 66%) to the new channel by installing seine at upstream end of old channel in order to prevent fish from moving into a partially dewatered channel. Introduce the second 1/3 of the flow over the next 1-2 hours. Salvage fish from the old channel at this time, so that the old channel is fish-free before dropping below 1/3 of the flow. {Note that fish will be temporarily blocked from moving downstream into either channel until 2/3 of the flow has been transitioned to the new channel. This blockage to downstream fish passage is expected to persist for roughly 12 to 14 hours, but fish will still be able to volitionally move out of the channel in the downstream direction.}
5. Perform monitoring as in #2 above.
6. After the second 1/3 of flow is introduced over 2 hours, and if turbidity criteria are met, then remove seine nets from the new channel and allow fish to move downstream into that channel.
7. Introduce the final 1/3 of flow. Once 100% of the flow is in the new channel, plug/pull nets from old channel.

STATE OF IDAHO CERTIFICATE OF VERIFICATION
OF WORKERS' COMPENSATION INSURANCE

Read thoroughly before completing form.

WHAT ARE THE WORKERS' COMPENSATION REQUIREMENTS?

The Idaho Workers' Compensation Law requires that employers who hire one or more, either full or part-time employees, to perform work in the State of Idaho, carry workers' compensation insurance unless specifically exempted. *Failure to comply could result in monetary penalties as well as an injunction to prohibit the employer from operating the business. Failure to carry workers' compensation insurance for employees is a misdemeanor under Idaho Law.*

WHO MUST COMPLETE THIS FORM?

Any person, partnership, limited liability company, corporation or firm who is bidding on a contract for the United States Department of Agriculture/Forest Service (USFS) for work that is within the State of Idaho and who has been notified by the USFS that he/she/it has been selected for a USFS contract.

WHEN MUST THE FORM BE COMPLETED?

The form must be completed and forwarded to one of the Industrial Commission offices when you are notified by the USFS that you have been selected for a USFS contract. The approval of the Industrial Commission is required prior to the final award.

ADDITIONAL COMMENTS:

Failure to complete any part of the form that is applicable to your operations could result in a delay in processing.

If any of the work is to be performed by sub-contractors, each sub-contractor must obtain and complete a Certificate of Verification of Workers' Compensation insurance.

If your business is a partnership, limited liability company or corporation, each partner/member/corporate officer must sign the form where designated.

You must submit a separate verification form for each contract awarded.

ONCE THE BIDDER HAS COMPLETED AND SIGNED THE FORM, FAX, MAIL, OR DELIVER IT TO THE APPROPRIATE INDUSTRIAL COMMISSION OFFICE. IF YOU HAVE ANY QUESTIONS, CONTACT A COMPLIANCE REPRESENTATIVE AT ANY OF THE FOLLOWING OFFICES:

North Idaho

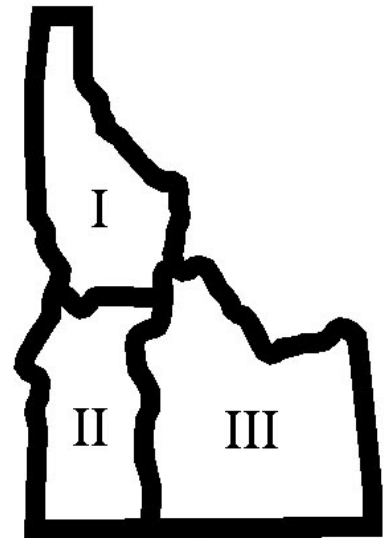
1221 Ironwood Street, Suite 100
COEUR D'ALENE ID 83814
(208) 769-1565 or FAX (208) 769-1465

Southwest Idaho

317 Main Street
P O BOX 83720, BOISE ID 83720-0041
(208) 334-6032 or 1-800-950-2110
or FAX (208) 334-5145

Southeast Idaho

1070 Hilline, Suite 300
POCATELLO ID 83201
(208) 236-6366 or FAX (208) 236-6040



**STATE OF IDAHO
CERTIFICATE OF VERIFICATION
OF WORKERS' COMPENSATION INSURANCE**

FOR I.C. USE ONLY

IC#

Received

Date: _____

1. Contractor's Name: _____

2. Business Name: _____

3. Contractor's Federal Identification Number: _____

4. Contactor's Business Address: _____
Street, Box # City, State Zip

5. Contractor's Business Telephone Number: _____

6. Contractor's Home Address: _____
Street, Box # City, State Zip

7. Name of Supervisor in charge of project: _____

8. Supervisor's Business Address: _____
Street, Box # City, State Zip

9. Supervisor's Business Telephone: _____

10. Supervisor's Home Address: _____
Street, Box # City, State Zip

11. Classification of Business

- (a) Corporation (List names, addresses & telephone numbers of corporate officers and directors, and percent of ownership.)
- (b) Partnership/Limited Liability Company (List partner/member names, addresses & telephone numbers, and percent of ownership.)
- (c) Sole Proprietorship
- (d) Other – Please explain

Description of Project:

12. Contract #: _____ Estimated Start Date: **July 15, 2015**

13. Location of Work: **in the vicinity of Elk City, Idaho**

14. Description of Work: **Newsome Creek Reach 2 Floodplain Restoration/Dredge Material Removal**

15. Forest Service District Office Overseeing Contract: **Nez Perce-Clearwater NFs, Grangeville Office**

16. **DO YOU HAVE WORKERS' COMPENSATION INSURANCE?** Yes No

17. Workers' Compensation Insurance Company

Name of Carrier: _____

Policy # _____ Effective Date _____

Name of Agent _____ Tel. # _____

Address _____
Street, Box City, State Zip

Extraterritorial Coverage # _____

State _____ Date Approved _____ Expiration Date _____

18. If Contractor is a **sole proprietorship/partnership/limited liability company**, will workers other than the proprietor or partners/members be performing any of the work to be done under this contract?

Yes No

If yes, state the approximate number of such workers and, if known, their names, permanent addresses, telephone numbers, and date of hire. (Attach additional pages, if needed.)

19. If Contractor is a **corporation**, will workers who are not officers and 10% shareholders and directors of the corporation be performing any of the work to be done under this contract?

Yes No

If yes, state the approximate number of such workers and, if known, their names, permanent addresses, Telephone numbers, and date of hire. (Attach additional pages, if needed.)

20. Do you intend to use any sub-contractors to assist you in the performance of this contract?

Note: All sub-contractors used on this contract must also submit a Certificate of Verification of Workers' Compensation Insurance for approval prior to commencing work in this contract.

Yes No

If yes, state their names, business names, permanent addresses and telephone numbers.

21. Based upon my knowledge of the work to be performed under the contract specified on page 1 and upon my knowledge of work practices, methods and technologies to be applied during this contract, I estimate that workers are necessary to do the work in the time prescribed, assuming average production rates and conditions.

22. I certify that the above information is true and correct to the best of my knowledge and belief.

Further, I agree to inform the Industrial Commission Compliance Officer if there is any change in the above Information during the time this contract is in effect.

Type or Print Contractor's Name

By: _____

Signature

Date: _____

23. If the business is a partnership, limited liability company or corporation, this document requires the signature of **all** of the partners/members/corporate officers. (Attach additional pages if necessary.)

Partner/member/Corp. Off.	Title	% of Ownership	Date _____
Partner/member/Corp. Off.	Title	% of Ownership	Date _____
Partner/member/Corp. Off.	Title	% of Ownership	Date _____
Partner/member/Corp. Off.	Title	% of Ownership	Date _____

CONTRACTOR – DO NOT WRITE BELOW THIS LINE

Based solely upon the assertions above set forth, and without warranty of continued compliance, the Idaho Industrial Commission finds that Contractor:

- Currently carries workers' compensation insurance as required by state law.
- Has a current extraterritorial on file from the State of _____ which covers only _____ based employees while working temporarily in the State of Idaho. Extraterritorial coverage expires _____.
- Is not required to provide workers' compensation insurance because:
 - Is a partnership/limited liability company/sole proprietor which employs no workers other than the partners/members/sole proprietor and will not employ any other workers under this contract.
 - Is a corporation which employs no workers other than individuals who are corporate officers, directors and 10% shareholders and will not employ any other workers under this contract.
 - Other (Specify):

(By making the above finding, the Commission does not warrant continued compliance.)

- Has not obtained the required workers' compensation insurance.

Industrial Commission Compliance Officer

Date _____

Contract/Solicitation# _____

Superseded General Decision Number: ID20180070

State: Idaho

Construction Type: Heavy

HEAVY CONSTRUCTION, Including water and sewer line construction and heavy construction projects on treatment plants and industrial (power plants, manufacturing plants, processing plants, etc.) sites

County: Nez Perce County in Idaho.

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.60 for calendar year 2019 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.60 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2019. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/04/2019
1	06/07/2019
2	06/21/2019

ENGI0370-039 06/01/2018

	Rates	Fringes
POWER EQUIPMENT OPERATOR:		
Scrapers (all),		
Grader/Blade		
GROUP 6.....	\$ 29.04	15.95

ZONE PAY:

ZONE CENTERS: SPOKANE, PASCO, LEWISTON
ZONE 1: 0-45 Miles: Free
ZONE 2: 45 Miles & Over: \$2.00

LABO0238-034 06/01/2018

	Rates	Fringes
LABORER (MASON TENDER-Cement/Concrete).....	\$ 26.84	12.35

PLAS0072-003 06/01/2018

BENEWAH, BONNER, BOUNDARY, CLEARWATER, IDAHO (NORTH OF THE 46TH
PARALLEL), KOOTENAI, LATAH, LEWIS AND NEZ PERCE AND SHOSHONE
COUNTIES

ZONE 1:

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER....	\$ 29.07	14.13

Zone Differential (Add to Zone 1 rate): Zone 2 - \$2.00

BASE POINTS: Spokane, Pasco, Lewiston, Wenatchee

Zone 1: 0-45 radius miles from the main post office

Zone 2: Over 45 radius miles from the main post office

* PLUM0044-016 06/01/2018

	Rates	Fringes
PLUMBER Zone 1.....	\$ 39.46	18.24

TEAM0690-002 06/01/2019

	Rates	Fringes
TRUCK DRIVER (DUMP) 6 yds and under.....	\$ 26.68	17.40
over 6 yds.....	\$ 27.12	17.40

SUID2010-063 08/08/2012

	Rates	Fringes
CARPENTER (Form Work Only).....	\$ 22.42	9.10
CARPENTER, Excludes Form Work....	\$ 26.06	11.26
ELECTRICIAN.....	\$ 25.11	13.83
LABORER: Common or General.....	\$ 18.04	6.60
LABORER: Grade Checker.....	\$ 21.76	9.81

OPERATOR: Loader (Front End)....\$ 22.58	6.51
OPERATOR: Backhoe/Excavator/Trackhoe.....\$ 20.24	0.54
TRUCK DRIVER: Water Truck.....\$ 21.00	13.42

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number,

005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

ADDITIONAL CONTRACT CLAUSES INCORPORATED INTO CONTRACT – AWARDED CONTRACTOR MUST ABIDE BY THE FOLLOWING CLAUSES:

THE WORD GOVERNMENT AND TRIBE SHALL BE USED INTERCHANGEABLY. THESE CLAUSES ARE INCORPORATED INTO THIS SOLICITATION/CONTRACT AND MUST BE COMPLIED WITH BY THE AWARDED CONSTRUCTION FIRM.

DEFINITIONS (NOV 2013)

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

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

ANTI-KICKBACK PROCEDURES (MAY 2014)

(a) *Definitions.*

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

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

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

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

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

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

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

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

(b) [41 U.S.C. chapter 87](#), Kickbacks, prohibits any person from—

- (1) Providing or attempting to provide or offering to provide any kickback;
- (2) Soliciting, accepting, or attempting to accept any kickback; or
- (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

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

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

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

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under

subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including paragraph (c)(5) but excepting paragraph (c)(1), in all subcontracts under this contract which exceed \$150,000.

CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (MAY 2014)

(a) If the Government receives information that a contractor or a person has violated [41 U.S.C. 2102-2104](#), Restrictions on Obtaining and Disclosing Certain Information, the Government may—

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which—

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct violates [41 U.S.C. 2102](#) for the purpose of either—

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct punishable under [41 U.S.C. 2105\(a\)](#).

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

VARIATION IN ESTIMATED QUANTITY (APR 1984)

If the quantity of a unit-priced item in this contract is an estimated quantity and the actual quantity of the unit-priced item varies more than 15 percent above or below the estimated quantity, an equitable adjustment in the contract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 115 percent or below 85 percent of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Contractor may request, in writing, an extension of time, to be received by the Contracting Officer within 10 days from the beginning of the delay, or within such further period as may be granted by the Contracting Officer before the date of final settlement of the contract. Upon the receipt of a written request for an extension, the Contracting Officer shall ascertain the facts and make an adjustment for extending the completion date as, in the judgement of the Contracting Officer, is justified.

FALSE STATEMENTS IN BIDS (APR 1984)

Bidders must provide full, accurate, and complete information as required by this solicitation and its attachments. The penalty for making false statements in bids is prescribed in [18 U.S.C. 1001](#).

LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS (NOV 1999)

(a) Bidders are responsible for submitting bids, and any modifications or withdrawals, so as to reach the Government office designated in the invitation for bids (IFB) by the time specified in the IFB. If no time is specified in the IFB, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that bids are due.

(b)(1) Any bid, modification, or withdrawal received at the Government office designated in the IFB after the exact time specified for receipt of bids is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late bid would not unduly delay the acquisition; and—

(i) If it was transmitted through an electronic commerce method authorized by the IFB, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of bids; or

(ii) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of bids and was under the Government's control prior to the time set for receipt of bids.

(2) However, a late modification of an otherwise successful bid that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(c) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the bid wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(d) If an emergency or unanticipated event interrupts normal Government processes so that bids cannot be received at the Government office designated for receipt of bids by the exact time specified in the IFB and urgent Government requirements preclude amendment of the IFB, the time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(e) Bids may be withdrawn by written notice received at any time before the exact time set for receipt of bids. If the IFB authorizes facsimile bids, bids may be withdrawn via facsimile received at any time before the exact time set for receipt of bids, subject to the conditions specified in the provision at [52.214-31](#), Facsimile Bids. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

CONVICT LABOR (JUNE 2003)

(a) Except as provided in paragraph (b) of this clause, the Contractor shall not employ in the performance of this contract any person undergoing a sentence of imprisonment imposed by any court of a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.

(b) The Contractor is not prohibited from employing persons—

(1) On parole or probation to work at paid employment during the term of their sentence;

(2) Who have been pardoned or who have served their terms; or

(3) Confined for violation of the laws of any of the States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if—

(i) The worker is paid or is in an approved work training program on a voluntary basis;

(ii) Representatives of local union central bodies or similar labor union organizations have been consulted;

(iii) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services;

(iv) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

(End of clause)

CONTRACT WORK HOURS AND SAFETY STANDARDS—OVERTIME COMPENSATION (MAY 2014)

(a) *Overtime requirements.* No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation [22.300](#)) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) *Violation; liability for unpaid wages; liquidated damages.* The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and

subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards statute (found at [40 U.S.C. chapter 37](#)).

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards statute

(d) Payrolls and basic records.

(1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Construction Wage Rate Requirements statute.

(2) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

(e) *Subcontracts.* The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts that may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

(End of clause)

CONSTRUCTION WAGE RATE REQUIREMENTS (MAY 2014)

(a) Definition.—“Site of the work”—

(1) Means—

(i) *The primary site of the work.* The physical place or places where the construction called for in the contract will remain when work on it is completed; and

(ii) *The secondary site of the work, if any.* Any other site where a significant portion of the building or work is constructed, provided that such site is—

(A) Located in the United States; and

(B) Established specifically for the performance of the contract or project;

(2) Except as provided in paragraph (3) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided—

(i) They are dedicated exclusively, or nearly so, to performance of the contract or project; and

(ii) They are adjacent or virtually adjacent to the “primary site of the work” as defined in paragraph (a)(1)(i), or the “secondary site of the work” as defined in paragraph (a)(1)(ii) of this definition;

(3) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the “site of the work.” Such permanent, previously established facilities are not a part of the “site of the work” even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of a contract.

(b)(1) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, or as may be incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Any wage determination incorporated for a secondary site of the work shall be effective from the first day on which

work under the contract was performed at that site and shall be incorporated without any adjustment in contract price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work shall be paid in accordance with the wage determination applicable to the primary site of the work.

(2) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Construction Wage Rate Requirements statute on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (e) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

(3) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

(4) The wage determination (including any additional classifications and wage rates conformed under paragraph (c) of this clause) and the Construction Wage Rate Requirements (Davis-Bacon Act) poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers.

(c)(1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the construction industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the:

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
Washington, DC 20210

The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to paragraphs (c)(2) and (c)(3) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(d) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(e) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Construction Wage Rate Requirements statute have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

Also refer to Bonneville Power Administration Applicable Contract Clauses – Construction Wage Rate Requirements (10-7) (Oct 14) (BPI 10.3.2.3)

WITHHOLDING OF FUNDS (MAY 2014)

The Contracting Officer shall, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other federally assisted contract subject to prevailing wage requirements, which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(End of clause)

COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)

The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

(End of clause)

SUBCONTRACTS (LABOR STANDARDS) (MAY 2014)

(a) *Definition.* “Construction, alteration or repair,” as used in this clause, means all types of work done by laborers and mechanics employed by the construction Contractor or construction subcontractor on a particular building or work at the site thereof, including without limitation—

- (1) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;
- (2) Painting and decorating;
- (3) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work;
- (4) Transportation of materials and supplies between the site of the work within the meaning of paragraphs (a)(1)(i) and (ii) of the “site of the work” as defined in the FAR clause at [52.222-6](#), Construction Wage Rate Requirements of this contract, and a facility which is dedicated to the construction of the building or work and is deemed part of the site of the work within the meaning of paragraph (2) of the “site of the work” definition; and
- (5) Transportation of portions of the building or work between a secondary site where a significant portion of the building or work is constructed, which is part of the “site of the work” definition in paragraph (a)(1)(ii) of the FAR clause at [52.222-6](#), Construction Wage Rate Requirements, and the physical place or places where the building or work will remain (paragraph (a)(1)(i) of the FAR clause at [52.222-6](#), in the “site of the work” definition).

(b) The Contractor shall insert in any subcontracts for construction, alterations and repairs within the United States the clauses entitled—

- (1) Construction Wage Rate Requirements;
- (2) Contract Work Hours and Safety Standards-Overtime Compensation (if the clause is included in this contract);
- (3) Apprentices and Trainees;
- (4) Payrolls and Basic Records;
- (5) Compliance with Copeland Act Requirements;
- (6) Withholding of Funds;
- (7) Subcontracts (Labor Standards);
- (8) Contract Termination—Debarment;
- (9) Disputes Concerning Labor Standards;
- (10) Compliance with Construction Wage Rate Requirements and Related Regulations; and
- (11) Certification of Eligibility.

(c) The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor performing construction within the United States with all the contract clauses cited in paragraph (b).

(d)(1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed [Standard Form \(SF\) 1413](#), Statement and Acknowledgment, for each subcontract for construction within the United States, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (b) of this clause have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed [SF 1413](#) for such additional subcontract.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e) in all subcontracts for construction within the United States.

CONTRACT TERMINATION—DEBARMENT (MAY 2014)

A breach of the contract clauses entitled Construction Wage Rate Requirements, Contract Work Hours and Safety Standards-Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Construction Wage Rate Requirements and Related Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

(End of clause)

COMPLIANCE WITH CONSTRUCTION WAGE RATE REQUIREMENTS AND RELATED REGULATIONS (MAY 2014)

All rulings and interpretations of the Construction Wage Rate Requirements and related statutes contained in 29 CFR parts 1, 3, and 5 are hereby incorporated by reference in this contract.

DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)

The United States Department of Labor has set forth in 29 CFR parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(End of clause)

CERTIFICATION OF ELIGIBILITY (MAY 2014)

(a) By entering into this contract, the Contractor certifies that neither it nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)\(2\)](#) or 29 CFR 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)\(2\)](#) or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U.S. Criminal Code, [18 U.S.C. 1001](#).

(End of clause)

DRUG-FREE WORKPLACE (MAY 2001)

(a) *Definitions.* As used in this clause—

“Controlled substance” means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act ([21 U.S.C. 812](#)) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

“Conviction” means a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

“Criminal drug statute” means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

“Drug-free workplace” means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

“Employee” means an employee of a Contractor directly engaged in the performance of work under a Government contract. “Directly engaged” is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

“Individual” means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall—within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration—

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor’s workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about—

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor’s policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by paragraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by paragraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will—

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee’s conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of paragraphs (b)(1) through (b)(6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

(d) In addition to other remedies available to the Government, the Contractor’s failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR [23.506](#), render the Contractor subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.

AUTHORIZATION AND CONSENT (DEC 2007)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent—

(1) Embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract; or

(2) Used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a United States patent shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in all subcontracts that are expected to exceed the simplified acquisition threshold. However, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

BID GUARANTEE (SEPT 1996)

(a) Failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid.

(b) The bidder shall furnish a bid guarantee in the form of a firm commitment, e.g., bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds—

(1) To unsuccessful bidders as soon as practicable after the opening of bids; and

(2) To the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.

(c) The amount of the bid guarantee shall be 5 percent of the bid price.

(d) If the successful bidder, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or furnish executed bond(s) within 10 days after receipt of the forms by the bidder, the Contracting Officer may terminate the contract for default.

(e) In the event the contract is terminated for default, the bidder is liable for any cost of acquiring the work that exceeds the amount of its bid, and the bid guarantee is available to offset the difference.

(End of provision)

ADDITIONAL BOND SECURITY (OCT 1997)

The Contractor shall promptly furnish additional security required to protect the Government and persons supplying labor or materials under this contract if—

(a) Any surety upon any bond, or issuing financial institution for other security, furnished with this contract becomes unacceptable to the Government;

(b) Any surety fails to furnish reports on its financial condition as required by the Government;

(c) The contract price is increased so that the penal sum of any bond becomes inadequate in the opinion of the Contracting Officer; or

(d) An irrevocable letter of credit (ILC) used as security will expire before the end of the period of required security. If the Contractor does not furnish an acceptable extension or replacement ILC, or other acceptable substitute, at least 30 days before an ILC's scheduled expiration, the Contracting officer has the right to immediately draw on the ILC.

FEDERAL, STATE, AND LOCAL TAXES (STATE AND LOCAL ADJUSTMENTS (FEB 2013)

(a) As used in this clause—

“After-imposed tax” means any new or increased Federal, State, or local tax or duty, or tax that was excluded on the contract date but whose exclusion was later revoked or amount of exemption reduced during the contract period, other than an excepted tax, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date.

“After-relieved tax” means any amount of Federal, State, or local tax or duty, other than an excepted tax, that would otherwise have been payable on the transactions or property covered by this contract, but which the

Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

"All applicable Federal, State, and local taxes and duties" means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

"Contract date" means the effective date of this contract and, for any modification to this contract, the effective date of the modification.

"Excepted tax" means social security or other employment taxes, net income and franchise taxes, excess profits taxes, capital stock taxes, transportation taxes, unemployment compensation taxes, and property taxes. "Excepted tax" does not include gross income taxes levied on or measured by sales or receipts from sales, property taxes assessed on completed supplies covered by this contract, or any tax assessed on the Contractor's possession of, interest in, or use of property, title to which is in the Government.

"Local taxes" includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

(b)(1) Unless otherwise provided in this contract, the contract price includes all applicable Federal, State, and local taxes and duties, except as provided in subparagraph (b)(2)(i) of this clause.

(2) Taxes imposed under 26 U.S.C. 5000C may not be—

(i) Included in the contract price; nor

(ii) Reimbursed.

(c) The contract price shall be increased by the amount of any after-imposed tax, or of any tax or duty specifically excluded from the contract price by a term or condition of this contract that the Contractor is required to pay or bear, including any interest or penalty, if the Contractor states in writing that the contract price does not include any contingency for such tax and if liability for such tax, interest, or penalty was not incurred through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(d) The contract price shall be decreased by the amount of any after-relieved tax. The Government shall be entitled to interest received by the Contractor incident to a refund of taxes to the extent that such interest was earned after the Contractor was paid by the Government for such taxes. The Government shall be entitled to repayment of any penalty refunded to the Contractor to the extent that the penalty was paid by the Government.

(e) The contract price shall be decreased by the amount of any Federal, State, or local tax, other than an excepted tax, that was included in the contract price and that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to Federal, State, and local taxes and duties that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs. The contract price shall be equitably adjusted to cover the costs of action taken by the Contractor at the direction of the Contracting Officer, including any interest, penalty, and reasonable attorneys' fees.

(h) The Government shall furnish evidence appropriate to establish exemption from any Federal, State, or local tax when—

(1) The Contractor requests such exemption and states in writing that it applies to a tax excluded from the contract price; and

(2) A reasonable basis exists to sustain the exemption.

DISPUTES (MAY 2014)

(a) This contract is subject to Contract Disputes.

(b) All disputes arising under or relating to this contract shall be resolved in Tribal Court.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d)(1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 1 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Tribe against the Contractor shall be subject to a written decision by the Contracting Officer.

(2)(i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Tribe is liable; and that I am authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit with Tribal Court.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Tribe is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h) The Tribe shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984)

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984)

(a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Government, as well as from the drawings and specifications made a part

of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Government.

(b) The Government assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Government. Nor does the Government assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

MATERIAL AND WORKMANSHIP (APR 1984)

(a) All equipment, material, and articles incorporated into the work covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.

(b) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. When directed to do so, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

(c) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may require, in writing, that the Contractor remove from the work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

(End of clause)

SUPERINTENDENCE BY THE CONTRACTOR (APR 1984)

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the worksite a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

(End of clause)

PERMITS AND RESPONSIBILITIES (NOV 1991)

The Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

(End of clause)

OPERATIONS AND STORAGE AREAS (APR 1984)

(a) The Contractor shall confine all operations (including storage of materials) on Government premises to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the Government. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

(End of clause)

CLEANING UP (APR 1984)

The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the Government. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.

(End of clause)

ACCIDENT PREVENTION (NOV 1991)

(a) The Contractor shall provide and maintain work environments and procedures which will—

(1) Safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities;

(2) Avoid interruptions of Government operations and delays in project completion dates; and

(3) Control costs in the performance of this contract.

(b) For these purposes on contracts for construction or dismantling, demolition, or removal of improvements, the Contractor shall—

(1) Provide appropriate safety barricades, signs, and signal lights;

(2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and

(3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the purposes are taken.

(c) If this contract is for construction or dismantling, demolition or removal of improvements with any Department of Defense agency or component, the Contractor shall comply with all pertinent provisions of the latest version of U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, in effect on the date of the solicitation.

(d) Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Government personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this clause.

(e) The Contractor shall insert this clause, including this paragraph (e), with appropriate changes in the designation of the parties, in subcontracts.

(End of clause)

SCHEDULES FOR CONSTRUCTION CONTRACTS (APR 1984)

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the Government. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.

(End of clause)

QUANTITY SURVEYS (APR 1984)

(a) Quantity surveys shall be conducted, and the data derived from these surveys shall be used in computing the quantities of work performed and the actual construction completed and in place.

(b) The Government shall conduct the original and final surveys and make the computations based on them. The Contractor shall conduct the surveys for any periods for which progress payments are requested and shall make the computations based on these surveys. All surveys conducted by the Contractor shall be conducted under the direction of a representative of the Contracting Officer, unless the Contracting Officer waives this requirement in a specific instance.

(c) Promptly upon completing a survey, the Contractor shall furnish the originals of all field notes and all other records relating to the survey or to the layout of the work to the Contracting Officer, who shall use them as necessary to determine the amount of progress payments. The Contractor shall retain copies of all such material furnished to the Contracting Officer.

(End of clause)

LAYOUT OF WORK (APR 1984)

The Contractor shall lay out its work from Government established base lines and bench marks indicated on the drawings, and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work. The Contractor shall be responsible for executing the work to the lines and grades that may be established or indicated by the Contracting Officer. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Contracting Officer may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997)

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words "directed," "required," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the "direction," "requirement," "order," "designation," or "prescription," of the Contracting Officer is intended and similarly the words "approved," "acceptable," "satisfactory," or words of like import shall mean "approved by," or "acceptable to," or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(c) Where "as shown," "as indicated," "as detailed," or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed."

(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements, and (2) the installation (*i.e.*, fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail specific portions of the work required by the contract. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the Government's reasons therefor. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) of this clause.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor.

(End of clause)

PRECONSTRUCTION CONFERENCE (FEB 1995)

If the Contracting Officer decides to conduct a preconstruction conference, the successful offeror will be notified and will be required to attend. The Contracting Officer's notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

(End of clause)

PREPARATION OF PROPOSALS—CONSTRUCTION (OCT 1997)

(a) Proposals must be (1) submitted on the forms furnished by the Government or on copies of those forms; and (2) manually signed. The person signing a proposal must initial each erasure or change appearing on any proposal form.

(b) The proposal form may require offerors to submit proposed prices for one or more items on various bases, including—

- (1) Lump sum price;
- (2) Alternate prices;
- (3) Units of construction; or
- (4) Any combination of paragraphs (b)(1) through (b)(3) of this provision.

(c) If the solicitation requires submission of a proposal on all items, failure to do so may result in the proposal being rejected without further consideration. If a proposal on all items is not required, offerors should insert the words “no proposal” in the space provided for any item on which no price is submitted.

(d) Alternate proposals will not be considered unless this solicitation authorizes their submission.

(End of provision)

SITE VISIT (APR 1984)

Offerors or quoters are urged and expected to inspect the site where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site constitute grounds for a claim after contract award.

SUSPENSION OF WORK (APR 1984)

(a) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

(c) A claim under this clause shall not be allowed—

(1) For any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and

(2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

(End of clause)

STOP-WORK ORDER (AUG 1989)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor,

and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either—

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if—

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(End of clause)

CHANGES—FIXED PRICE (AUG 1987)

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

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

(2) Method of shipment or packing.

(3) Place of delivery.

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

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

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

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

ARCHAEOLOGICAL OR HISTORIC SITES (FEB 1988)

If a previously unidentified archaeological or historic site(s) is encountered, the Contractor shall discontinue work in the general area of the site(s) and notify the Contracting Officer immediately.

(End of clause)

CONTROL OF EROSION, SEDIMENTATION, AND POLLUTION (NOV 1996)

(a) Operations shall be scheduled and conducted to minimize erosion of soils and to prevent silting and muddying of streams, rivers, irrigation systems, and impoundments (lakes, reservoirs, etc.).

(b) Pollutants such as fuels, lubricants, bitumens, raw sewage, and other harmful materials shall not be discharged on the ground; into or nearby rivers, streams, or impoundments; or into natural or man-made channels. Wash water or waste from concrete or aggregate operations shall not be allowed to enter live streams prior to treatment by filtration, settling, or other means sufficient to reduce the sediment content to not more than that of the stream into which it is discharged.

(c) Mechanized equipment shall not be operated in flowing streams without written approval by the Contracting Officer.

