

<b>SOLICITATION, OFFER, AND AWARD</b> <i>(Construction, Alteration, or Repair)</i>		1. Solicitation No. WC133F-11-RB-0004	2. Type of Solicitation <input checked="" type="checkbox"/> Sealed Bid (IFB) <input type="checkbox"/> Negotiated (RFP)	3. Date Issued May 17, 2011	Page of Pages 1 of 50
IMPORTANT – The “offer” section on the reverse must be fully completed by offeror.					
4. Contract No.		5. Requisition/Purchase Request No. NFFKHC30-11-00285		6. Project No. 131450	
7. Issued By U.S. DEPT OF COMMERCE/NOAA EASTERN ACQUISITION DIVISION-KC 601 EAST 12TH STREET, RM. 1756 KANSAS CITY, MO 64106		Code AJ830023		8. Address Offer to U.S. DEPT OF COMMERCE/NOAA EASTERN ACQUISITION DIVISION-KC 601 EAST 12TH STREET, RM. 1756 KANSAS CITY, MO 64106	
Code AJ830023		Code AJ830023			
9. For Information Call:		A. Name PAMELA L. STICHWEH (ID PS1)		B. Telephone No. <i>(Include area code) (No Collect Calls)</i> 816-426-2067 Pamela.L.Stichweh@noaa.gov	
<b>SOLICITATION</b>					
<b>NOTE: In sealed bid solicitation “offer” and “offeror” mean “bid” and “bidder”</b>					

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS: *(Title, Identifying No., Date)*

**Dredging and Construction for BA38 Pelican Island Barataria Barrier Shoreline Restoration Project, Gulf of Mexico, Louisiana IAW The Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA).**

**NAICS: 237990 - Other Heavy and Civil Engineering Construction**

**Small Business Size Standard - \$20 Million for Dredging**

**Magnitude of Construction Project: >\$10,000,000.00**

**Unrestricted Full and Open Competition**

11. The Contractor shall begin performance within 10 calendar days and complete it within \* calendar days after receiving the  
 award,  notice to proceed. This performance period is  mandatory  negotiable. ( See \*See Sec F.2. 52-11-10.)

12A. The Contractor must furnish any required performance and payment bonds?  
*(If “YES”, indicate within how many calendar days after award in item 12B.)*  
 Yes  No

12B. Calendar Days  
10

13. Additional Solicitation Requirements:

- A. Sealed offers in original and 3 copies to perform the work required are due at the place specified in Item 8 by 01:00 PM CDT (hour) local time June 17, 2011 (date). If this is a sealed bid solicitation, offers must be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror’s name and address, the solicitation number, and the date and time offers are due.
- B. An offer guarantee  is  is not required.
- C. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.
- D. Offers providing less than 90 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

**OFFER (Must be fully completed by offeror)**

14. Name and Address of Offeror (Include ZIP Code)	15. Telephone No. (Include are code)
Code _____ Facility Code _____	15. Remittance Address (Include on it different than Item 14)

17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this is accepted by the Government in writing within \_\_\_\_\_ calendar days after the date offers are due. (Insert any number equal to or greater than the minimum requirement stated in Item 13D. Failure to insert any number means the offeror accepts the minimum.

<b>AMOUNTS</b>	
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18. The offeror agrees to furnish any required performance and payment bonds.

**19. ACKNOWLEDGEMENT OF AMENDMENTS**  
(The offeror acknowledges receipt of amendment to the solicitation - give number and data of each)

AMENDMENT No.										
DATE										

20A NAME, TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or Print)	20B. SIGNATURE	20c. OFFER DATE
--	----------------	-----------------

**AWARD (to be completed by Government)**

21. ITEM(S) ACCEPTED

22. Amount \$	23. Accounting and Appropriation Data
---------------	---------------------------------------

24. Submit Invoices to Address shown above (4 copies unless otherwise specified)	Item	25. Other Than full and open competition pursuant to <input type="checkbox"/> 10 U.S.C. 2304(c) ( ) <input type="checkbox"/> 41 U.S.C 253 (c) ( )
--	------	--

26. Administered by	Payment will be made by
---------------------	-------------------------

**CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE**

<input type="checkbox"/> 28. NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ copies to issuing office) Contractor agrees to furnish and deliver all items or perform all work, requisition stated in this contract. The rights and obligation s of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and(c) the clauses, representations certifications, and specifications incorporated by reference in or attached to this contract.	<input type="checkbox"/> 29. AWARD (Contractor is not required to sign this document.) Your offer on this solicitation, is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.
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30A. Name and Title of Contractor or Person authorized	31A. Name of Contracting Officer (Type or Print)
--	--

30b. Signature	30C. Date	31B. United States of America	31C. Award Date
		By	

**Supplies or Services and Prices/Costs**

Item No.	Supplies/Services	Quantity	Unit	Unit Price	Amount
0001	<p>See Attached</p> <p><b>DREDGING</b>  Dredging and Construction for BA38 Pelican Island  Barataria Barrier Shoreline Restoration Project,  Gulf of Mexico, Louisiana in accordance with the  project Specifications and Drawings (See Section J)</p>	1	JB	<p align="right">____ Total Base ____  ____ Schedule ____</p>	
	Base Schedule			<p align="right">_ Total Option 0003A</p>	
	Option 0003A			<p align="right">_ Total Option 0003B</p>	
	Option 0003B			<p align="right">__ Grand Total __</p>	
	<p>DELIVERY DATE: 12/31/2012  SHIP TO:  NOAA/NMFS/OFFICE OF HABITAT  CONSERVATION  1315 EAST WEST HIGHWAY  14TH FLOOR  SILVER SPRING, MD 20910</p>				

Table of Contents

	Page
SECTION B - .....	8
B.1 SOLICITATION INFORMATION H:\NOAAPS1\Pelican\Pelican - Sec B - Solicitation Information Cover Page.doc.....	8
B.2 BID SCHEDULE H:\NOAAPS1\Pelican\Pelican - Sec B - Alternative Bid Schedules.doc .....	9
SECTION E - INSPECTION AND ACCEPTANCE.....	12
E.1 52.246-12 INSPECTION OF CONSTRUCTION (AUG 1996) .....	12
E.2 1352.246-70 PLACE OF ACCEPTANCE (APR 2010).....	12
SECTION F - DELIVERIES OR PERFORMANCE .....	13
F.1 52.242-14 SUSPENSION OF WORK (APR 1984) .....	13
F.2 52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984).....	13
F.3 52.211-12 LIQUIDATED DAMAGES--CONSTRUCTION (SEP 2000) .....	13
F.4 SCHEDULE OF DELIVERABLES W:\Pelican\Pelican - Sec F - Deliverables.doc .....	13
F.5 1352.270-70 PERIOD OF PERFORMANCE (APR 2010).....	17
SECTION G - CONTRACT ADMINISTRATION DATA .....	18
G.1 1352.201-70 CONTRACTING OFFICER'S AUTHORITY (APR 2010).....	18
G.2 1352.201-72 CONTRACTING OFFICER'S REPRESENTATIVE (COR) (APR 2010) .....	18
G.3 SUBMITTAL OF INVOICES.....	18
SECTION H - SPECIAL CONTRACT REQUIREMENTS .....	19
H.1 1352.208-70 RESTRICTIONS ON PRINTING AND DUPLICATING (APR 2010) .....	19
H.2 1352.209-72 RESTRICTIONS AGAINST DISCLOSURE (APR 2010).....	19
H.3 1352.209-73 COMPLIANCE WITH THE LAWS (APR 2010).....	19
H.4 1352.209-74 ORGANIZATIONAL CONFLICT OF INTEREST (APR 2010).....	19
H.5 1352.237-75 KEY PERSONNEL (APR 2010).....	19
SECTION I - CONTRACT CLAUSES.....	20
I.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998) .....	20
I.2 52.202-1 DEFINITIONS (JUL 2004) .....	20
I.3 52.203-3 GRATUITIES (APR 1984).....	20
I.4 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984) .....	20
I.5 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006).....	20
I.6 52.203-7 ANTI-KICKBACK PROCEDURES (OCT 2010).....	20
I.7 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997) .....	20
I.8 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997) .....	20
I.9 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010).....	20
I.10 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000).....	20
I.11 52.204-7 CENTRAL CONTRACTOR REGISTRATION (APR 2008) .....	20
I.12 52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (JUL 2010).....	20
I.13 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (DEC 2010).....	20
I.14 52.209-8 {52.209-8} [RESERVED] .....	20
I.15 52.210-1 MARKET RESEARCH (APR 2011).....	20
I.16 52.211-18 VARIATION IN ESTIMATED QUANTITY (APR 1984) .....	20
I.17 52.214-26 AUDIT AND RECORDS--SEALED BIDDING (OCT 2010) .....	21
I.18 52.214-27 PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA-- MODIFICATIONS-- SEALED BIDDING (OCT 2010).....	21
I.19 52.214-28 SUBCONTRACTOR COST OR PRICING DATA--MODIFICATIONS--SEALED BIDDING (OCT 2010).....	21
I.20 52.214-29 ORDER OF PRECEDENCE--SEALED BIDDING (JAN 1986) .....	21
I.21 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (JAN 2011) .....	21
I.22 52.219-9 I SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2011)--ALTERNATE I (OCT 2001).....	21
I.23 52.219-16 LIQUIDATED DAMAGES--SUBCONTRACTING PLAN (JAN 1999).....	21
I.24 52.222-3 CONVICT LABOR (JUN 2003).....	21
I.25 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT--OVERTIME COMPENSATION (JUL 2005).....	21
I.26 52.222-6 DAVIS-BACON ACT (JUL 2005).....	21

Table of Contents

	Page
I.27 52.222-7 WITHHOLDING OF FUNDS (FEB 1988) .....	21
I.28 52.222-9 APPRENTICES AND TRAINEES (JUL 2005) .....	21
I.29 52.222-10 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988) .....	21
I.30 52.222-11 SUBCONTRACTS (LABOR STANDARDS) (JUL 2005) .....	21
I.31 52.222-12 CONTRACT TERMINATION--DEBARMENT (FEB 1988) .....	21
I.32 52.222-13 COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS (FEB 1988) .....	21
I.33 52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1988) .....	21
I.34 52.222-15 CERTIFICATION OF ELIGIBILITY (FEB 1988) .....	21
I.35 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999) .....	21
I.36 52.222-26 EQUAL OPPORTUNITY (MAR 2007) .....	22
I.37 52.222-27 AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (FEB 1999) .....	22
I.38 52.222-35 EQUAL OPPORTUNITY FOR VETERANS. [SEP 2010] .....	22
I.39 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (OCT 2010) .....	22
I.40 52.222-37 EMPLOYMENT REPORTS VETERANS (SEP 2010) .....	22
I.41 52.222-50 COMBATING TRAFFICKING IN PERSONS (FEB 2009) .....	22
I.42 52.223-2 AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS (DEC 2007) .....	22
I.43 52.223-6 DRUG-FREE WORKPLACE (MAY 2001) .....	22
I.44 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (AUG 2003) .....	22
I.45 52.223-17 AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (MAY 2008) .....	22
I.46 52.223-18 CONTRACTOR POLICY TO BAN TEXT MESSAGING WHILE DRIVING (SEP 2010) .....	22
I.47 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008) .....	22
I.48 52.227-1 AUTHORIZATION AND CONSENT (DEC 2007) .....	22
I.49 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007) .....	22
I.50 52.227-4 PATENT INDEMNITY--CONSTRUCTION CONTRACTS (DEC 2007) .....	22
I.51 52.228-2 ADDITIONAL BOND SECURITY (OCT 1997) .....	22
I.52 52.228-12 PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS (OCT 1995) .....	22
I.53 52.228-15 PERFORMANCE AND PAYMENT BONDS--CONSTRUCTION (OCT 2010) .....	22
I.54 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (APR 2003) .....	23
I.55 52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (SEP 2002) .....	23
I.56 52.232-17 INTEREST (OCT 2010) .....	23
I.57 52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986) .....	23
I.58 52.232-27 PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (OCT 2008) .....	23
I.59 52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER--CENTRAL CONTRACTOR REGISTRATION (OCT 2003) .....	23
I.60 52.233-1 DISPUTES (JUL 2002) .....	23
I.61 52.233-3 PROTEST AFTER AWARD (AUG 1996) .....	23
I.62 52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004) .....	23
I.63 52.236-2 DIFFERING SITE CONDITIONS (APR 1984) .....	23
I.64 52.236-3 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984) .....	23
I.65 52.236-5 MATERIAL AND WORKMANSHIP (APR 1984) .....	23
I.66 52.236-6 SUPERINTENDENCE BY THE CONTRACTOR (APR 1984) .....	23
I.67 52.236-7 PERMITS AND RESPONSIBILITIES (NOV 1991) .....	23
I.68 52.236-8 OTHER CONTRACTS (APR 1984) .....	23
I.69 52.236-9 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984) .....	23
I.70 52.236-10 OPERATIONS AND STORAGE AREAS (APR 1984) .....	23
I.71 52.236-11 USE AND POSSESSION PRIOR TO COMPLETION (APR 1984) .....	23
I.72 52.236-12 CLEANING UP (APR 1984) .....	23
I.73 52.236-13 I ACCIDENT PREVENTION (NOV 1991)--ALTERNATE I (NOV 1991) .....	23
I.74 52.236-15 SCHEDULES FOR CONSTRUCTION CONTRACTS (APR 1984) .....	24
I.75 52.236-17 LAYOUT OF WORK (APR 1984) .....	24
I.76 52.236-21 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997) .....	24
I.77 52.236-26 PRECONSTRUCTION CONFERENCE (FEB 1995) .....	24

**Table of Contents**

	<b>Page</b>
I.78 52.242-13 BANKRUPTCY (JUL 1995) .....	24
I.79 52.243-4 CHANGES (JUN 2007) .....	24
I.80 52.244-2 SUBCONTRACTS (OCT 2010) .....	24
I.81 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2010) .....	24
I.82 52.246-21 WARRANTY OF CONSTRUCTION (MAR 1994) .....	24
I.83 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (FEB 2006) .....	24
I.84 52.248-3 VALUE ENGINEERING--CONSTRUCTION (OCT 2010) .....	24
I.85 52.249-2 I TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (MAY 2004)-- ALTERNATE I (SEP 1996) .....	24
I.86 52.249-10 DEFAULT (FIXED-PRICE CONSTRUCTION) (APR 1984) .....	24
I.87 52.253-1 COMPUTER GENERATED FORMS (JAN 1991) .....	24
I.88 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (APR 2010) .....	24
I.89 52.203-14 DISPLAY OF HOTLINE POSTER(S) (DEC 2007) .....	27
I.90 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REPRESENTATION (APR 2009) .....	27
I.91 52.222-8 PAYROLLS AND BASIC H:\NOAAPS1\Saipan- Laolao Bay Road\52.222-8 Payrolls and Basic Records (DEVIATION)(OCTOBER 2009).doc .....	28
I.92 52.225-11 BUY AMERICAN ACT--CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (SEP 2010) .....	30
I.93 52.228-1 BID GUARANTEE (SEP 1996) .....	33
I.94 52.228-11 PLEDGES OF ASSETS (SEP 2009) .....	34
I.95 52.228-14 IRREVOCABLE LETTER OF CREDIT (DEC 1999) .....	34
I.96 52.236-1 PERFORMANCE OF WORK BY THE CONTRACTOR (APR 1984) .....	38
I.97 52.236-4 PHYSICAL DATA (APR 1984) .....	38
I.98 52.236-16 I QUANTITY SURVEYS (APR 1984)--ALTERNATE I (APR 1984) .....	38
I.99 52.217-7 OPTION FOR INCREASED QUANTITY-SEPARATELY PRICED LINE ITEM (MAR 1989) .....	38
I.100 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984) .....	38
SECTION J - LIST OF ATTACHMENTS .....	39
J.1 LIST OF ATTACHMENTS H:\NOAAPS1\Pelican\Pelican - Sec J - List of Attachments - Rev 1.doc .....	39
SECTION K - REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS .....	40
K.1 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2011) .....	40
K.2 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (JAN 2011) .....	42
SECTION L - INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS .....	44
L.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998) .....	44
L.2 52.211-1 AVAILABILITY OF SPECIFICATIONS LISTED IN THE GSA INDEX OF FEDERAL SPECIFICATIONS, STANDARDS AND COMMERCIAL ITEM DESCRIPTIONS, FPMR PART 101-29 (AUG 1998) .....	44
L.3 52.214-3 AMENDMENTS TO INVITATIONS FOR BIDS (DEC 1989) .....	44
L.4 52.214-4 FALSE STATEMENTS IN BIDS (APR 1984) .....	44
L.5 52.214-5 SUBMISSION OF BIDS (MAR 1997) .....	44
L.6 52.214-6 EXPLANATION TO PROSPECTIVE BIDDERS (APR 1984) .....	44
L.7 52.214-7 LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS (NOV 1999) .....	44
L.8 BID SUBMISSION H:\NOAAPS1\Pelican\Pelican Sec L - Bid Submission.doc .....	44
L.9 52.214-12 PREPARATION OF BIDS (APR 1984) .....	45
L.10 52.214-19 CONTRACT AWARD--SEALED BIDDING--CONSTRUCTION (AUG 1996) .....	45
L.11 1352.242-70 POSTAWARD CONFERENCE (APR 2010) .....	45
L.12 52.214-15 PERIOD FOR ACCEPTANCE OF BIDS (APR 1984) .....	45
L.13 52.214-18 PREPARATION OF BIDS--CONSTRUCTION (APR 1984) .....	45
L.14 1352.215-72 INQUIRIES (APR 2010) .....	45
L.15 52.216-1 TYPE OF CONTRACT (APR 1984) .....	46
L.16 52.222-5 DAVIS-BACON ACT -- SECONDARY SITE OF THE WORK (JUL 2005) .....	46
L.17 52.222-23 NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY FOR CONSTRUCTION (FEB 1999) .....	46
L.18 52.225-12 NOTICE OF BUY AMERICAN ACT REQUIREMENT--CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (FEB 2009) .....	47
L.19 52.233-2 SERVICE OF PROTEST (SEP 2006) .....	48
L.20 1352.233-70 AGENCY PROTESTS (APR 2010) .....	48
L.21 1352.233-71 GAO AND COURT OF FEDERAL CLAIMS PROTESTS (APR 2010) .....	48

**Table of Contents**

	<b>Page</b>
L.22 52.236-27 SITE VISIT (CONSTRUCTION) (FEB 1995).....	49
L.23 1352.270-71 PRE-BID / PRE-PROPOSAL CONFERENCE AND SITE VISIT (APR 2010).....	49
SECTION M - EVALUATION FACTORS FOR AWARD .....	50
M.1 52.217-4 EVALUATION OF OPTIONS EXERCISED AT TIME OF CONTRACT AWARD (JUN 1988).....	50
M.2 EVALUATION OF BIDS INFORMATION H:\NOAAPS1\Pelican\Pelican - Sec M - Evaluation.doc.....	50

SECTION B

B.1 SOLICITATION INFORMATION

U.S. DEPARTMENT OF COMMERCE  
CENTRAL REGION ACQUISITION DIVISION

SOLICITATION INFORMATION

SOLICITATION NO: WC133F-11-RB-0004

X  SEALED BID (IFB)            NEGOTIATED (RFP)            QUOTATION (RFQ)

DATE ISSUED: May 16, 2011 CLOSING DATE/TIME: June 16, 2011/1:00 PM (CDT)

Pre-Bid Conference - See Section L.23; Site Visit for Information - See Section L.22; Bid Submission Requirements - See Section L.8

THIS PROCUREMENT IS FOR: Dredging and Construction for BA38 Pelican Island Barataria Barrier Shoreline Restoration Project, Gulf of Mexico, Louisiana.

THIS PROCUREMENT IS:

X  Unrestricted OR Set-Aside for    8 (a) OR      Small Business OR      Labor Surplus Area Concerns

Small Business Size Standard applicable to this procurement is \$20,000,000.00 (for Dredging) (Average annual receipts for preceding 3 fiscal years) and the applicable North American Industry Classification System Code (NAICS) code is 237990.

-----CAUTION-----

**BEFORE SIGNING AND MAILING THIS BID**, please take note of the following, as failure to perform any one of these actions may cause your offer to be rejected.

1. **AMENDMENTS:** Have you acknowledged receipt of ALL amendments? If in doubt as to the number of amendments issued, please contact Pam Stichweh at 816-426-2067.
2. **SEALED BIDS:** Sealed envelopes containing bids shall be marked to show the offeror's name and address, the solicitation number, amendments received, and the date and time bids are due.
3. **AMENDED BID PAGES:** If any of the Amendments furnished amended proposal pages, the amended bid pages must be used in submitting your bid.
4. **BID GUARANTEE:** See Section I - FAR Clause 52.228-1 for requirements.
5. **LATE BIDS:** See FAR Clause 52.214-7 Late Submissions, Modifications, and withdrawals of Bids (Nov 1999) for information regarding the disposition of late bids. It is the bidder's responsibility to submit bids prior to date and time established for receipt of bids.
6. **FACSIMILE BIDS OR MODIFICATIONS: WILL NOT be considered.**
7. **HAND-DELIVERED BIDS:** If bids are hand-delivered, you must be aware of security requirements in effect in the Federal Building. A valid picture ID is required in addition to electronic screening. You must be escorted to our office. Call 816-426-2067 for escort. No additional time will be allowed due to delay in processing through building security.



**SECTION B**

8. **SALES TAX:** Contractors are reminded that certain states exempt material purchased for, or use in, Government construction projects from the application of sales tax or use tax. The contractor bidder should satisfy itself as to the application of such taxes to this project.
  
9. **Small Business Subcontracting Plan - Reference FAR 52.219-9 Alternate I - Small Business Subcontracting Plan** - The Apparent successful bidder, if considered to be a large business concern or also known as other-than-small business concern, shall submit an acceptable subcontracting plan prior to award of the contract. The Contracting Officer will make a written request for the plan to the apparent successful bidder.

**SECTION B**

**B.2 BID SCHEDULE**

<b>BID SCHEDULE FOR PELICAN ISLAND RESTORATION (BA-38-1)</b>					
<b>BASE</b>					
<b>Item</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Amount</b>
0001	Mobilization	1	LS		
0002	Performance and Payment Bonds	1	LS		
0003	Dune and Beach Fill	Estimated 1,400,000	c.y.		
0004	Marsh Fill	Estimated 1,600,000	c.y.		
0005	Primary Dikes	Estimated 15,000	l.f.		
0006	Sand Fencing	Estimated 13,900	l.f.		
0007	Settlement Plates	9	unit		
0008	Jetty Extension Foundation	19,630	s.f.		
0009	Jetty Extension Armor Stone	10,620	ton		
0010	Pre-Construction Survey	1	LS		
0011	As-Built Survey	1	LS		
0012	Sea Turtle Relocation Trawling	20	days		
	<b>TOTAL BASE SCHEDULE</b> Note: Transfer this amount to the appropriate line on the "Supplies or Services and Prices/Costs" page of the SF1442.				
	<b>Overhead % for Modifications</b>				_____ %
	<b>Profit % for Modifications</b>				_____ %

<b>BID SCHEDULE FOR PELICAN ISLAND RESTORATION (BA-38-1)</b>					
<b>OPTIONAL ITEMS 0003A-0003B</b>					
Listed in order of Priority					
<b>Item</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Amount *See Note</b>
OPTION 0003A	Dune and Beach Fill	250,000 Estimated	c.y.		
OPTION 0003B	Dune and Beach Fill	500,000 Estimated	c.y.		
	Note: *Transfer these amounts to the appropriate line on the "Supplies or Services and Prices/Costs" page of the SF1442.				

## SECTION B

### NOTES:

- (1) Contractor is not authorized to exceed the stated estimated quantities and shall notify the Contracting Officer's Representative when 95% of the volume is placed for items 0003 and if applicable 0003A - 0003B. FAR Clause 52.211-18 Variation in Estimated Quantities applies only to estimated quantities for items 0003 through 0006 and items 0008, 0009, and 0012 of the base bid schedule and Optional items 0003A and 0003B if exercised.
- (2) Bidders must bid on both Base and Optional items on the "Supplies and Services and Prices/Costs" page of the SF1442 and must complete all bid schedules in Section B.3. **Failure to do so shall render the bid non-responsive.** See Provision 52.214-18 (Section L).
- (3) See Section L.8 for Bid Submission Information.
- (4) Failure to complete and return all required submissions from this solicitation could render your bid non-responsive.
- (5) The bid guarantee amount shall be based on the contractor's total bid for the base bid schedule and options (See 52.228-1 in Section I.)

### VARIATIONS IN ESTIMATED QUANTITIES - SUBDIVIDED ITEMS

This variation in estimated quantities clause - subdivided items is applicable only to Item Nos. 0003 and 0003A-0003B.

- (1) Variation from the estimated quantity in the actual work performed under any second or subsequent sub-item or elimination of all work under such a second or subsequent sub-item will not be the basis for an adjustment in contract unit price.
- (2) Where the actual quantity of work performed for item No.0003 and 0003A-B or combination thereof depending on award of options is less than 85% of the quantity of the first sub-item listed under such item, the contractor will be paid at the contract unit price for that sub-item for the actual quantity of work performed and, in addition, an equitable adjustment shall be made in accordance with the clause FAR 52.212-11, Variation in Estimated Quantities.
- (3) If the actual quantity of work performed under Item No. 0003 and 0003A-B or combination thereof depending on award of options exceeds 115% or is less than 85% of the total estimated quantity of the sub-item under that item and/or if the quantity of the work performed under the second sub-item or any subsequent sub-item under Item No. 0003A - 0003B exceeds 115% or is less than 85% of the estimated quantity of any such sub-item, and if such variation causes an increase or a decrease in the time required for performance of this contract the contract completion time will be adjusted in accordance with the clause.

Should additional quantities over the base bid quantity for line item 0003 not be required (i.e. options 0003A - 0003B or any combination) the option(s), if awarded, will be deleted by modification at the discretion of the Government. The Contractor shall not be paid for work not performed.

**SECTION E**  
**INSPECTION AND ACCEPTANCE**

**E.1 52.246-12 INSPECTION OF CONSTRUCTION (AUG 1996)**

(Reference 46.312)

**E.2 1352.246-70 PLACE OF ACCEPTANCE (APR 2010)**

(a) The Contracting Officer or the duly authorized representative will accept supplies and services to be provided under this contract. (b) The place of acceptance will be:

In accordance with General Conditions paragraph 2. Construction Observation.

(End of clause)

**SECTION F  
DELIVERIES OR PERFORMANCE**

**F.1 52.242-14 SUSPENSION OF WORK (APR 1984)**

(Reference 42.1305)

**F.2 52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984)**

The Contractor shall be required to

(a) commence work under this contract within ten (10) calendar days after the date the Contractor receives the notice to proceed,

(b) prosecute the work diligently, and

(c) complete the entire work ready for use not later than Base Bid - 430 calendar days from date of receipt of written Notice To Proceed (NTP). Option 0003A - 25 additional calendar days added to base bid; Option 0003B - 50 additional calendar days added to base bid. The time stated for completion shall include final cleanup of the premises.

(End of Clause)

**F.3 52.211-12 LIQUIDATED DAMAGES--CONSTRUCTION (SEP 2000)**

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of \$1,974.00 (amount is the same for base bid or combination of base bid and any exercised options) for each calendar day of delay until the work is completed or accepted.

(b) If the Government terminates the Contractor's right to proceed, liquidated damages will continue to accrue until the work is completed. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

(End of Clause)

**F.4 SCHEDULE OF DELIVERABLES**

The following is a schedule of deliverables, including administrative deliverables, required during the period of performance of this contract:

See Specification - General Conditions, paragraph 34, Technical Provisions, paragraph 43, and Environmental Protection Provisions, paragraph 16 for technical deliverables as applicable to this contract.

See Section B Pricing Schedule and Section F, 52.211-10 Commencement, Prosecution and Completion of Work.

The following clauses/provisions contain language that requires the submission of information and/or deliverables in reference to the resulting contract if applicable.

52.203-7 -- Anti-Kickback Procedures. (JUL 1995)	(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
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**SECTION F  
DELIVERIES OR PERFORMANCE**

<p>52.203-13 -- Contractor Code of Business Ethics and Conduct (APR 2010)</p>	<p>See Full Text of Clause in Section I for instructions. Due: During contract performance.</p>
<p>52.204-10 - Reporting Executive Compensation and First-Tier Subcontract Awards (JUL 2010)</p>	<p>(b) Section 2(d) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires the Contractor to report information on subcontract awards. The law requires all reported information be made public, therefore, the Contractor is responsible for notifying its subcontractors that the required information will be made public.</p> <p>(c) (1) Unless otherwise directed by the contracting officer, by the end of the month following the month of award of a first-tier subcontract with a value of \$25,000 or more, (and any modifications to these subcontracts that change previously reported data), the Contractor shall report the following information at <a href="http://www.fsrs.gov">http://www.fsrs.gov</a> for each first-tier subcontract.</p> <p>See clause for specific requirements.</p>
<p>52.219-9 Alt I Small Business Subcontracting Plan</p>	<p>Subcontracting Plan submission and approval prior to award of contract. Semi-annual reports must be submitted. See clause language for specific requirements.</p>
<p>52.219-28 -- Post Award Small Business Program Representation (APR 2009)</p>	<p>Applicable to Small Business concerns if selected as Prime contractor. See Full Text of Clause in Section I for instructions. Due: If Required.</p>
<p>52.222-6 -- Davis-Bacon Act. (JUL 2005)</p>	<p>(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. Due: As required</p>
<p>52.222-8 Payrolls and Basic Records (DEVIATION) (OCTOBER 2009)</p>	<p>(b) (1) The Contractor shall submit weekly for each week in which contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a) (3) (1), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required</p>

**SECTION F**  
**DELIVERIES OR PERFORMANCE**

weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. The Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Contracting Officer, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Contractor to require a subcontractor to provide addresses and social security numbers to the prime Contractor for its own records, without weekly submission to the Contracting Officer.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify—

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph (b) (2) of this clause.

(4) The falsification of any of the certifications in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(c ) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the

**SECTION F  
DELIVERIES OR PERFORMANCE**

	<p>Contracting Office may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.</p>
52.222-37 -- Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans.	(b) The Contractor shall report the above items by completing the Form VETS-100, entitled "Federal Contractor Veterans' Employment Report (VETS-100 Report)." Due: On a yearly basis.
52.223-14, Toxic Chemical Release Reporting.	See clause for reporting by July 1 as indicated in the clause.
SF 1442, 52.228-1 and 52.228-15	Bid Guarantee, Performance and Payment Bond. Bid bond must be submitted with bid. Performance and Payment Bonds within 10 calendar days after contract award.
52.236-13 Alt I - Accident Prevention - Alt I (NOV 1991)	Requires the contractor to submit a proposed accident prevention plan before commencing work.
52.236-15 - Schedules for Construction Contracts	<p>(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.</p> <p>See clause for all details.</p>
52.236-16 Alt I - Quantity Surveys - Alt I (APR 1984)	(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.



**SECTION F  
DELIVERIES OR PERFORMANCE**

<p>52.236-21 Specifications and Drawings for Construction (FEB 1997)</p>	<p>(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.</p>
<p>1352.209-72 - Restrictions Against Disclosures (MARCH 2000)</p>	<p>a. ... The Contractor agrees to immediately notify the Contracting Officer in writing in the event that the Contractor determines or has reason to suspect a breach of this requirement.</p>
<p>See General Conditions, Technical Provisions and Environmental Protection Provisions for a listing of all required deliverables.</p>	<p>Please see General Conditions paragraph 34-Schedule of Deliverables, Technical Provisions paragraph 43-Schedule of Deliverables and Environmental Protection Provisions paragraph 16-Schedule of Deliverables for more information in regards to the deliverables that are required for this project.</p>

**F.5 1352.270-70 PERIOD OF PERFORMANCE (APR 2010)**

(a) The base period of performance of this contract is from Notice To Proceed through as determined by the selected bid. Base Bid - 430 calendar days from date of receipt of written Notice To Proceed (NTP). Option 0003A - 25 additional calendar days added to base bid; Option 0003B - 50 additional calendar days added to base bid. The total period of performance if base and all options are exercised is 505 calendar days. If an option is exercised, the period of performance shall be extended through the end of that option period.

(b) The options may be exercised at time of award or within 365 days of contract award.

(c) The notice requirements for unilateral exercise of option periods are set out in FAR 52.217-9.

(End of clause)

**SECTION G**  
**CONTRACT ADMINISTRATION DATA**

**G.1 1352.201-70 CONTRACTING OFFICER'S AUTHORITY (APR 2010)**

(Reference 1301.602-170)

**G.2 1352.201-72 CONTRACTING OFFICER'S REPRESENTATIVE (COR) (APR 2010)**

(a) To be determined at contract award.-- is hereby designated as the Contracting Officer's Representative (COR). The COR may be changed at any time by the Government without prior notice to the contractor by a unilateral modification to the contract. The COR is located at:

To be determined at contract award.

(b) The responsibilities and limitations of the COR are as follows:

(1) The COR is responsible for the technical aspects of the contract and serves as technical liaison with the contractor. The COR is also responsible for the final inspection and acceptance of all deliverables and such other responsibilities as may be specified in the contract.

(2) The COR is not authorized to make any commitments or otherwise obligate the Government or authorize any changes which affect the contract price, terms or conditions. Any contractor request for changes shall be referred to the Contracting Officer directly or through the COR. No such changes shall be made without the express written prior authorization of the Contracting Officer. The Contracting Officer may designate assistant or alternate COR(s) to act for the COR by naming such assistant/alternate(s) in writing and transmitting a copy of such designation to the contractor.

(End of clause)

**G.3 SUBMITTAL OF INVOICES**

The Contractor shall prepare and submit an invoice to the Contracting Officer's Representative with a copy to the contracting Officer. All payment shall be submitted by the 10<sup>th</sup> day of the subsequent month.

To constitute a proper invoice, it must include the items listed in paragraphs (1) through (6) of this section. If the invoice does not comply with these requirements, it will be returned within 7 days after the date the designated office received the invoice with a statement of the reasons why it is not a proper invoice.

- 1) Name and address of the contractor;
- 2) Contractors are strongly encouraged to assign a sequential invoice number system;
- 3) Invoice date (Contractors are encouraged to date invoices as close to date of mailing as possible);
- 4) Contract or Purchase Order Number and line item;
- 5) Description of services performed;
- 6) Name, title, phone number and mailing address of person to be notified in the event of a defective invoice.

See General Conditions, Paragraph 4 - Measurement and Payment for additional information and instructions.

**SECTION H  
SPECIAL CONTRACT REQUIREMENTS**

**H.1 1352.208-70 RESTRICTIONS ON PRINTING AND DUPLICATING (APR 2010)**  
(Reference 1308.802-70)

**H.2 1352.209-72 RESTRICTIONS AGAINST DISCLOSURE (APR 2010)**  
(Reference 1309.507-2)

**H.3 1352.209-73 COMPLIANCE WITH THE LAWS (APR 2010)**  
(Reference 1309.507-2)

**H.4 1352.209-74 ORGANIZATIONAL CONFLICT OF INTEREST (APR 2010)**  
(Reference 1309.507-2)

**H.5 1352.237-75 KEY PERSONNEL (APR 2010)**

(a) The contractor shall assign to this contract the following key personnel:

Program Manager: \_\_\_\_\_

Project Manager: \_\_\_\_\_

Site Superintendent: \_\_\_\_\_

Safety/Quality Control Manager: \_\_\_\_\_

Contract Manager: \_\_\_\_\_

(b) The contractor shall obtain the consent of the Contracting Officer prior to making key personnel substitutions. Replacements for key personnel must possess qualifications equal to or exceeding the qualifications of the personnel being replaced, unless an exception is approved by the Contracting Officer.

(c) Requests for changes in key personnel shall be submitted to the Contracting Officer at least 15 working days prior to making any permanent substitutions. The request should contain a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. The Contracting Officer will notify the contractor within 10 working days after receipt of all required information of the decision on substitutions. The contract will be modified to reflect any approved changes.

(End of Clause)

**SECTION I  
CONTRACT CLAUSES**

**I.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<https://www.acquisition.gov> and <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=b1110228a0947e36df514c65c3606567&rgn=div5&view=text&node=48:5.0.6.47.44&idno=48>

(End of Clause)

**I.2 52.202-1 DEFINITIONS (JUL 2004)**

(Reference 2.201)

**I.3 52.203-3 GRATUITIES (APR 1984)**

(Reference 3.202)

**I.4 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)**

(Reference 3.404)

**I.5 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006)**

(Reference 3.503-2)

**I.6 52.203-7 ANTI-KICKBACK PROCEDURES (OCT 2010)**

(Reference 3.502-3)

**I.7 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)**

(Reference 3.104-9)

**I.8 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)**

(Reference 3.104-9)

**I.9 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010)**

(Reference 3.808)

**I.10 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)**

(Reference 4.303)

**I.11 52.204-7 CENTRAL CONTRACTOR REGISTRATION (APR 2008)**

(Reference 4.1105)

**I.12 52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (JUL 2010)**

(Reference 4.1401)

**I.13 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (DEC 2010)**

(Reference 9.409)

**I.14 52.209-8 {52.209-8} [RESERVED]**

(Reference)

**I.15 52.210-1 MARKET RESEARCH (APR 2011)**

(Reference 10.003)

**I.16 52.211-18 VARIATION IN ESTIMATED QUANTITY (APR 1984)**

**WC133F-11-RB-0004**

**SECTION I  
CONTRACT CLAUSES**

(Reference 11.703)

**I.17 52.214-26 AUDIT AND RECORDS--SEALED BIDDING (OCT 2010)**

(Reference 14.201-7)

**I.18 52.214-27 PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA--  
MODIFICATIONS-- SEALED BIDDING (OCT 2010)**

(Reference 14.201-7)

**I.19 52.214-28 SUBCONTRACTOR COST OR PRICING DATA--MODIFICATIONS--SEALED  
BIDDING (OCT 2010)**

(Reference 14.201-7)

**I.20 52.214-29 ORDER OF PRECEDENCE--SEALED BIDDING (JAN 1986)**

(Reference 14.201-7)

**I.21 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (JAN 2011)**

(Reference 19.708)

**I.22 52.219-9 I SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2011)--ALTERNATE I  
(OCT 2001)**

(Reference 19.708)

**I.23 52.219-16 LIQUIDATED DAMAGES--SUBCONTRACTING PLAN (JAN 1999)**

(Reference 19.708)

**I.24 52.222-3 CONVICT LABOR (JUN 2003)**

(Reference 22.202)

**I.25 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT--OVERTIME  
COMPENSATION (JUL 2005)**

(Reference 22.305)

**I.26 52.222-6 DAVIS-BACON ACT (JUL 2005)**

(Reference 22.407)

**I.27 52.222-7 WITHHOLDING OF FUNDS (FEB 1988)**

(Reference 22.407)

**I.28 52.222-9 APPRENTICES AND TRAINEES (JUL 2005)**

(Reference 22.407)

**I.29 52.222-10 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)**

(Reference 22.407)

**I.30 52.222-11 SUBCONTRACTS (LABOR STANDARDS) (JUL 2005)**

(Reference 22.407)

**I.31 52.222-12 CONTRACT TERMINATION--DEBARMENT (FEB 1988)**

(Reference 22.407)

**I.32 52.222-13 COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS (FEB  
1988)**

(Reference 22.407)

**I.33 52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)**

(Reference 22.407)

**I.34 52.222-15 CERTIFICATION OF ELIGIBILITY (FEB 1988)**

(Reference 22.407)

**WC133F-11-RB-0004**

SECTION I  
CONTRACT CLAUSES

- I.35 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)**  
(Reference 22.810)
- I.36 52.222-26 EQUAL OPPORTUNITY (MAR 2007)**  
(Reference 22.810)
- I.37 52.222-27 AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (FEB 1999)**  
(Reference 22.810)
- I.38 52.222-35 EQUAL OPPORTUNITY FOR VETERANS. [SEP 2010]**  
(Reference 22.1310)
- I.39 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (OCT 2010)**  
(Reference 22.1408)
- I.40 52.222-37 EMPLOYMENT REPORTS VETERANS (SEP 2010)**  
(Reference 22.1310)
- I.41 52.222-50 COMBATING TRAFFICKING IN PERSONS (FEB 2009)**  
(Reference 22.1705)
- I.42 52.223-2 AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS (DEC 2007)**  
(Reference 23.406)
- I.43 52.223-6 DRUG-FREE WORKPLACE (MAY 2001)**  
(Reference 23.505)
- I.44 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)**  
(Reference 23.906)
- I.45 52.223-17 AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (MAY 2008)**  
(Reference 23.406)
- I.46 52.223-18 CONTRACTOR POLICY TO BAN TEXT MESSAGING WHILE DRIVING (SEP 2010)**  
(Reference 23.1105)
- I.47 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)**  
(Reference 25.1103)
- I.48 52.227-1 AUTHORIZATION AND CONSENT (DEC 2007)**  
(Reference 27.201-2)
- I.49 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007)**  
(Reference 27.201-2)
- I.50 52.227-4 PATENT INDEMNITY--CONSTRUCTION CONTRACTS (DEC 2007)**  
(Reference 27.201-2)
- I.51 52.228-2 ADDITIONAL BOND SECURITY (OCT 1997)**  
(Reference 28.106-4)
- I.52 52.228-12 PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS (OCT 1995)**  
(Reference 28.106-4)
- I.53 52.228-15 PERFORMANCE AND PAYMENT BONDS--CONSTRUCTION (OCT 2010)**  
(Reference 28.102-3)

**WC133F-11-RB-0004**

SECTION I  
CONTRACT CLAUSES

- I.54 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (APR 2003)**  
(Reference 29.401-3)
- I.55 52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (SEP 2002)**  
(Reference 32.111)
- I.56 52.232-17 INTEREST (OCT 2010)**  
(Reference 32.611)
- I.57 52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)**  
(Reference 32.806)
- I.58 52.232-27 PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (OCT 2008)**  
(Reference 32.908)
- I.59 52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER--CENTRAL CONTRACTOR  
REGISTRATION (OCT 2003)**  
(Reference 32.1110)
- I.60 52.233-1 DISPUTES (JUL 2002)**  
(Reference 33.215)
- I.61 52.233-3 PROTEST AFTER AWARD (AUG 1996)**  
(Reference 33.106)
- I.62 52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)**  
(Reference 33.215)
- I.63 52.236-2 DIFFERING SITE CONDITIONS (APR 1984)**  
(Reference 36.502)
- I.64 52.236-3 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984)**  
(Reference 36.503)
- I.65 52.236-5 MATERIAL AND WORKMANSHIP (APR 1984)**  
(Reference 36.505)
- I.66 52.236-6 SUPERINTENDENCE BY THE CONTRACTOR (APR 1984)**  
(Reference 36.506)
- I.67 52.236-7 PERMITS AND RESPONSIBILITIES (NOV 1991)**  
(Reference 36.507)
- I.68 52.236-8 OTHER CONTRACTS (APR 1984)**  
(Reference 36.508)
- I.69 52.236-9 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT,  
UTILITIES, AND IMPROVEMENTS (APR 1984)**  
(Reference 36.509)
- I.70 52.236-10 OPERATIONS AND STORAGE AREAS (APR 1984)**  
(Reference 36.510)
- I.71 52.236-11 USE AND POSSESSION PRIOR TO COMPLETION (APR 1984)**  
(Reference 36.511)
- I.72 52.236-12 CLEANING UP (APR 1984)**  
(Reference 36.512)
- I.73 52.236-13 I ACCIDENT PREVENTION (NOV 1991)--ALTERNATE I (NOV 1991)**

WC133F-11-RB-0004

**SECTION I  
CONTRACT CLAUSES**

(Reference 36.513)

**I.74 52.236-15 SCHEDULES FOR CONSTRUCTION CONTRACTS (APR 1984)**

(Reference 36.515)

**I.75 52.236-17 LAYOUT OF WORK (APR 1984)**

(Reference 36.517)

**I.76 52.236-21 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997)**

(Reference 36.521)

**I.77 52.236-26 PRECONSTRUCTION CONFERENCE (FEB 1995)**

(Reference 36.522)

**I.78 52.242-13 BANKRUPTCY (JUL 1995)**

(Reference 42.903)

**I.79 52.243-4 CHANGES (JUN 2007)**

(Reference 43.205)

**I.80 52.244-2 SUBCONTRACTS (OCT 2010)**

(Reference 44.204)

**I.81 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2010)**

(Reference 44.403)

**I.82 52.246-21 WARRANTY OF CONSTRUCTION (MAR 1994)**

(Reference 46.710)

**I.83 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (FEB 2006)**

(Reference 47.507)

**I.84 52.248-3 VALUE ENGINEERING--CONSTRUCTION (OCT 2010)**

(Reference 48.202)

**I.85 52.249-2 I TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (MAY 2004)-- ALTERNATE I (SEP 1996)**

(Reference 49.502)

**I.86 52.249-10 DEFAULT (FIXED-PRICE CONSTRUCTION) (APR 1984)**

(Reference 49.504)

**I.87 52.253-1 COMPUTER GENERATED FORMS (JAN 1991)**

(Reference 53.111)

**I.88 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (APR 2010)**

(a) Definitions. As used in this clause--

"Agent" means any individual, including a director, an officer, an employee, or an independent Contractor, authorized to act on behalf of the organization.

"Full cooperation"--

(1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors' and investigators' request for documents and access to employees with information;

(2) Does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not require--

(i) A Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; or



**SECTION I**  
**CONTRACT CLAUSES**

(ii) Any officer, director, owner, or employee of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; and

(3) Does not restrict a Contractor from--

(i) Conducting an internal investigation; or

(ii) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

"Principal" means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

"Subcontract" means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

"Subcontractor" means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

"United States," means the 50 States, the District of Columbia, and outlying areas.

(b) Code of business ethics and conduct.

(1) Within 30 days after contract award, unless the Contracting Officer establishes a longer time period, the Contractor shall--

(i) Have a written code of business ethics and conduct; and

(ii) Make a copy of the code available to each employee engaged in performance of the contract.

(2) The Contractor shall--

(i) Exercise due diligence to prevent and detect criminal conduct; and

(ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3)

(i) The Contractor shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed--

(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(ii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor's disclosure as confidential where the information has been marked "confidential" or "proprietary" by the company. To the extent permitted by law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, 5 U.S.C. Section 552, without prior notification to the Contractor. The Government may transfer documents provided by the Contractor to any department or agency within the Executive Branch if the information relates to matters within the organization's jurisdiction.

(iii) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract.

(c) Business ethics awareness and compliance program and internal control system. This paragraph (c) does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract or if this contract is for the acquisition of a commercial item as defined at FAR 2.101. The Contractor shall establish the following within 90 days after contract award, unless the Contracting Officer establishes a longer time period:

(1) An ongoing business ethics awareness and compliance program.

**SECTION I**  
**CONTRACT CLAUSES**

(i) This program shall include reasonable steps to communicate periodically and in a practical manner the Contractor's standards and procedures and other aspects of the Contractor's business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.

(ii) The training conducted under this program shall be provided to the Contractor's principals and employees, and as appropriate, the Contractor's agents and subcontractors.

(2) An internal control system.

(i) The Contractor's internal control system shall--

(A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the Contractor's internal control system shall provide for the following:

(A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Contractor's code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and the special requirements of Government contracting, including--

(1) Monitoring and auditing to detect criminal conduct;

(2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and

(3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

(D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

(F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(1) If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation.

(2) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' contracting officers.

(3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.

(4) The Government will safeguard such disclosures in accordance with paragraph (b) (3) (ii) of this clause.

**SECTION I  
CONTRACT CLAUSES**

(G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.

(d) Subcontracts.

(1) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of \$5,000,000 and a performance period of more than 120 days.

(2) In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(End of clause)

**I.89 52.203-14 DISPLAY OF HOTLINE POSTER(S) (DEC 2007)**

(a) Definition.

"United States," as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) Display of fraud hotline poster(s). Except as provided in paragraph (c)--

(1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites--

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

(3) Any required posters may be obtained as follows:

Poster Info #1: Department of Commerce

Obtain From Info #1: <http://www.oig.doc.gov/Pages/Hotline.aspx>

Poster Info #2: Department of Commerce

Obtain From Info #2: N/A

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed \$5,000,000, except when the subcontract--

(1) Is for the acquisition of a commercial item; or

(2) Is performed entirely outside the United States.

(End of clause)

**I.90 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REPRESENTATION (APR 2009)**

(a) Definitions. As used in this clause--

Long-term contract means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause. Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given

**SECTION I  
CONTRACT CLAUSES**

to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts--

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at

<http://www.sba.gov/services/contractingopportunities/sizestandardstopics/>.

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the rerepresentation required by paragraph (b) of this clause by validating or updating all its representations in the Online Representations and Certifications Application and its data in the Central Contractor Registration, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update.

(f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

(g) If the Contractor does not have representations and certifications in ORCA, or does not have a representation in ORCA for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

The Contractor represents that it /\_/ is, /\_/ is not a small business concern under NAICS Code \_\_\_\_\_ assigned to contract number \_\_\_\_\_.

[The Contractor needs to sign and date and insert authorized signer's name and title].

(End of clause)

**I.91 52.222-8 PAYROLLS AND BASIC**

**52.222-8 Payrolls and Basic Records (DEVIATION) (OCTOBER 2009)**

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and

**SECTION I**  
**CONTRACT CLAUSES**

actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The Contractor shall submit weekly for each week in which contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(1), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. The Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Contracting Officer, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Contractor to require a subcontractor to provide addresses and social security numbers to the prime Contractor for its own records, without weekly submission to the Contracting Officer.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify-

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph (b)(2) of this clause.

(4) The falsification of any of the certifications in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting

**SECTION I  
CONTRACT CLAUSES**

Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the Contracting Office may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(End of Clause)

**I.92 52.225-11 BUY AMERICAN ACT--CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (SEP 2010)**

(a) Definitions. As used in this clause--

"Commercially available off-the-shelf (COTS) item"--

(1) Means any item of supply (including construction material) that is--

(i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) 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; and

(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.

"Caribbean Basin country construction material" means a construction material that--

(1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

"Component" means an article, material, or supply incorporated directly into a construction material.

"Construction material" means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

"Cost of components" means--

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

"Designated country" means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland,

**SECTION I**  
**CONTRACT CLAUSES**

Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, or United Kingdom);

(2) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago).

"Designated country construction material" means a construction material that is a WTO GPA country construction material, an FTA country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

"Domestic construction material" means--

(1) An unmanufactured construction material mined or produced in the United States;

(2) A construction material manufactured in the United States, if--

(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or

(ii) The construction material is a COTS item.

"Foreign construction material" means a construction material other than a domestic construction material.

"Free Trade Agreement country construction material" means a construction material that--

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.

"Least developed country construction material" means a construction material that--

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

"United States" means the 50 States, the District of Columbia, and outlying areas.

"WTO GPA country construction material" means a construction material that--

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) "Construction materials."

(1) This clause implements the Buy American Act (41 U.S.C. 10a-10d) by providing a preference for domestic construction material. In accordance with 41

**SECTION I**  
**CONTRACT CLAUSES**

U.S.C. 431, the component test of the Buy American Act is waived for construction material that is a COTS item (See FAR 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American Act restrictions are waived for designated county construction materials.

(2) The Contractor shall use only domestic or designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

(3) The requirement in paragraph (b)(2) of this clause does not apply to information technology that is a commercial item or to the construction materials or components listed by the Government as follows:

None

(4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that--

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

(ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) "Request for determination of inapplicability of the Buy American Act."

(1)

(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including--

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American Act applies, use of foreign construction material is noncompliant with the Buy American Act.



**SECTION I  
CONTRACT CLAUSES**

(d) "Data." To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison			
Construction Material Description	Unit of Measure	Quantity	Price (Dollars)+
Item 1:			
Foreign construction material			
Domestic construction material			
Item 2:			
Foreign construction material			
Domestic construction material			

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[+ Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]

(End of Clause)

**I.93 52.228-1 BID GUARANTEE (SEP 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 twenty (20) percent of the bid price (base bid schedule including Options 0003A and 0003B) or \$3,000,000.00 (\$3 million) whichever is less - One (1) original SF24. Money orders, cashier's checks, or certified checks (if used) shall be payable to the "U.S. Department of Commerce, NOAA;"

(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.

**SECTION I  
CONTRACT CLAUSES**

(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)

**I.94 52.228-11 PLEDGES OF ASSETS (SEP 2009)**

(a) Offerors shall obtain from each person acting as an individual surety on a bid guarantee, a performance bond, or a payment bond--

(1) Pledge of assets; and

(2) Standard Form 28, Affidavit of Individual Surety.

(b) Pledges of assets from each person acting as an individual surety shall be in the form of--

(1) Evidence of an escrow account containing cash, certificates of deposit, commercial or Government securities, or other assets described in FAR 28.203-2 (except see 28.203-2(b)(2) with respect to Government securities held in book entry form) and/or;

(2) A recorded lien on real estate. The offeror will be required to provide--

(i) A mortgagee title insurance policy, in an insurance amount equal to the amount of the lien, or other evidence of title that is consistent with the requirements of Section 2 of the United States Department of Justice Title Standards at [http://www.usdoj.gov/enrd/2001\\_Title\\_Standards.html](http://www.usdoj.gov/enrd/2001_Title_Standards.html). This title evidence must show fee simple title vested in the surety along with any concurrent owners; whether any real estate taxes are due and payable; and any recorded encumbrances against the property, including the lien filed in favor of the Government as required by FAR 28.203-3(d);

(ii) Evidence of the amount due under any encumbrance shown in the evidence of title;

(iii) A copy of the current real estate tax assessment of the property or a current appraisal dated no earlier than 6 months prior to the date of the bond, prepared by a professional appraiser who certifies that the appraisal has been conducted in accordance with the generally accepted appraisal standards as reflected in the Uniform Standards of Professional Appraisal Practice, as promulgated by the Appraisal Foundation.

(End of Clause)

**I.95 52.228-14 IRREVOCABLE LETTER OF CREDIT (DEC 1999)**

(a) "Irrevocable letter of credit" (ILC), as used in this clause, means a written commitment by a federally insured financial institution to pay all or part of a stated amount of money, until the expiration date of the letter, upon presentation by the Government (the beneficiary) of a written demand therefor. Neither the financial institution nor the offeror/Contractor can revoke or condition the letter of credit.

(b) If the offeror intends to use an ILC in lieu of a bid bond, or to secure other types of bonds such as performance and payment bonds, the letter of credit and letter of confirmation formats in paragraphs (e) and (f) of this clause shall be used.

(c) The letter of credit shall be irrevocable, shall require presentation of no document other than a written demand and the ILC (including confirming letter, if any), shall be issued/confirmed by an acceptable federally insured financial institution as provided in paragraph (d) of this clause, and--

(1) If used as a bid guarantee, the ILC shall expire no earlier than 60 days after the close of the bid acceptance period;

(2) If used as an alternative to corporate or individual sureties as security for a performance or payment bond, the offeror/Contractor may submit an ILC with an initial expiration date estimated to cover the entire period for which financial security is required or may submit an ILC with an initial expiration date that is a minimum period of one year from the date of issuance. The ILC shall provide that, unless the issuer provides the beneficiary written

**SECTION I  
CONTRACT CLAUSES**

notice of non-renewal at least 60 days in advance of the current expiration date, the ILC is automatically extended without amendment for one year from the expiration date, or any future expiration date, until the period of required coverage is completed and the Contracting Officer provides the financial institution with a written statement waiving the right to payment. The period of required coverage shall be:

(i) For contracts subject to the Miller Act, the later of--

(A) One year following the expected date of final payment;

(B) For performance bonds only, until completion of any warranty period;

or

(C) For payment bonds only, until resolution of all claims filed against the payment bond during the one-year period following final payment.

(ii) For contracts not subject to the Miller Act, the later of--

(A) 90 days following final payment; or

(B) For performance bonds only, until completion of any warranty period.

(d) Only federally insured financial institutions rated investment grade or higher shall issue or confirm the ILC. The offeror/Contractor shall provide the Contracting Officer a credit rating that indicates the financial institution has the required rating(s) as of the date of issuance of the ILC. Unless the financial institution issuing the ILC had letter of credit business of at least \$25 million in the past year, ILCs over \$5 million must be confirmed by another acceptable financial institution that had letter of credit business of at least \$25 million in the past year.

(e) The following format shall be used by the issuing financial institution to create an ILC:

[Issuing Financial Institution's Letterhead or Name and Address]
Issue Date _____
Irrevocable Letter of Credit No. _____
Account party's name _____
Account party's address _____
For Solicitation No. WC133F-11-RB-0004
To: National Oceanic and Atmospheric Administration
Rm. 1756 601 E. 12th Street Kansas City, MO 64106

1. We hereby establish this irrevocable and transferable Letter of Credit in your favor for one or more drawings up to United States \$\_\_\_\_\_. This Letter of Credit is payable at \_\_\_\_\_ office at \_\_\_\_\_ and expires with our close of business on \_\_\_\_\_ or any automatically extended expiration date.
2. We hereby undertake to honor your or the transferee's sight draft(s) drawn on the issuing or, if any, the

**SECTION I  
CONTRACT CLAUSES**

confirming financial institution, for all or any part of this credit if presented with this Letter of Credit and confirmation, if any, at the office specified in paragraph 1 of this Letter of Credit on or before the expiration date or any automatically extended expiration date.

3. [This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.] It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for one year from the expiration date hereof, or any future expiration date, unless at least 60 days prior to any expiration date, we notify you or the transferee by registered mail, or other receipted means of delivery, that we elect not to consider this Letter of Credit renewed for any such additional period. At the time we notify you, we also agree to notify the account party (and confirming financial institution, if any) by the same means of delivery.
4. This Letter of Credit is transferable. Transfers and assignments of proceeds are to be effected without charge to either the beneficiary or the transferee/assignee of proceeds. Such transfer or assignment shall be only at the written direction of the Government (the beneficiary) in a form satisfactory to the issuing financial institution and the confirming financial institution, if any.
5. This Letter of Credit is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500, and to the extent not inconsistent therewith, to the laws of \_\_\_\_\_ [state of confirming financial institution, if any, otherwise state of issuing financial institution].
6. If this credit expires during an interruption of business of this financial institution as described in Article 17 of the UCP, the financial institution specifically agrees to effect payment if this credit is drawn against within 30 days after the resumption of our business.

Sincerely,

\_\_\_\_\_  
[Issuing financial institution]

(f) The following format shall be used by the financial institution to confirm an ILC:

_____
[Confirming Financial Institution's Letterhead or Name and Address]
(Date) _____
Our Letter of Credit Advice Number _____
Beneficiary: _____ [U.S. Government agency]
Issuing Financial Institution: _____

**SECTION I  
CONTRACT CLAUSES**

\_\_\_\_\_  
Issuing Financial Institution's LC No.: \_\_\_\_\_  
\_\_\_\_\_

Gentlemen:

1. We hereby confirm the above indicated Letter of Credit, the original of which is attached, issued by \_\_\_\_\_ [name of issuing financial institution] for drawings of up to United States dollars \_\_\_\_\_/U.S. \$\_\_\_\_\_ and expiring with our close of business on \_\_\_\_\_ [the expiration date], or any automatically extended expiration date.

2. Draft(s) drawn under the Letter of Credit and this Confirmation are payable at our office located at \_\_\_\_\_.

3. We hereby undertake to honor sight draft(s) drawn under and presented with the Letter of Credit and this Confirmation at our offices as specified herein.

4. [This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.] It is a condition of this confirmation that it be deemed automatically extended without amendment for one year from the expiration date hereof, or any automatically extended expiration date, unless:

(a) At least 60 days prior to any such expiration date, we shall notify the Contracting Officer, or the transferee and the issuing financial institution, by registered mail or other receipted means of delivery, that we elect not to consider this confirmation extended for any such additional period; or

(b) The issuing financial institution shall have exercised its right to notify you or the transferee, the account party, and ourselves, of its election not to extend the expiration date of the Letter of Credit.

5. This confirmation is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500, and to the extent not inconsistent therewith, to the laws of \_\_\_\_\_ [state of confirming financial institution].

6. If this confirmation expires during an interruption of business of this financial institution as described in Article 17 of the UCP, we specifically agree to effect payment if this credit is drawn against within 30 days after the resumption of our business.

Sincerely,

\_\_\_\_\_  
[Confirming financial institution]

(g) The following format shall be used by the Contracting Officer for a sight draft to draw on the Letter of Credit:

Sight Draft

\_\_\_\_\_  
[City, State]

(Date) \_\_\_\_\_

[Name and address of financial institution]

Pay to the order of \_\_\_\_\_ [Beneficiary Agency]

\_\_\_\_\_ the sum of United States \$\_\_\_\_\_. This draft is drawn under Irrevocable Letter of Credit No.

\_\_\_\_\_.

\_\_\_\_\_  
[Beneficiary Agency]

\_\_\_\_\_  
[By]

**SECTION I  
CONTRACT CLAUSES**

(End of Clause)

**I.96 52.236-1 PERFORMANCE OF WORK BY THE CONTRACTOR (APR 1984)**

The Contractor shall perform on the site, and with its own organization, work equivalent to at least twelve (12) percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

(End of Clause)

**I.97 52.236-4 PHYSICAL DATA (APR 1984)**

Data and information furnished or referred to below is for the Contractor's information. The Government shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor.

(a) The indications of physical conditions on the drawings and in the specifications are the result of the following site investigations: Sandy Point borrow area investigations were conducted in 2003; Empire borrow area investigations were conducted in 2002; on-shore geotechnical investigations were conducted in October 2003; fill site topographic and bathymetric surveys as depicted on the drawings were conducted in October 2010. These documents are included with the solicitation.

(End of Clause)

**I.98 52.236-16 I QUANTITY SURVEYS (APR 1984)--ALTERNATE I (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 Contractor shall conduct the original and final surveys and surveys for any periods for which progress payments are requested. All these surveys shall be conducted under the direction of a representative of the Contracting Officer, unless the Contracting Officer waives this requirement in a specific instance. The Government shall make such computations as are necessary to determine the quantities of work performed or finally in place. The Contractor shall make the computations based on the surveys for any periods for which progress payments are requested.

(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.

Applies to items 0003-0006, 0008-0009, and any exercised options of Bid Schedule on page 10. (End of Clause)

**I.99 52.217-7 OPTION FOR INCREASED QUANTITY - SEPARATELY PRICED LINE ITEM (MAR 1989)**

(Reference 17.208)

**I.100 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)**

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any COMMERCE ACQUISITION REGULATION 48 CFR 1352) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of Clause)

**SECTION J**  
**LIST OF ATTACHMENTS**

**J.1 LIST OF ATTACHMENTS**

**LIST OF DOCUMENTS, EXHIBITS, AND ATTACHMENTS**

**A.** Section C, Specifications, Drawings, and Appendices for the Construction Dredging for BA38 Pelican Island Barataria Barrier Shoreline Restoration Project, Gulf Of Mexico, Louisiana IAW the Coastal Wetlands Planning Protection and Restoration Act (CWPPRA).

To include:

- General Conditions
- Technical Provisions
- Environmental Protection Provisions
- Drawings

**B.** Department of Labor Wage Rate Determination, Number LA100015, dated 03/12/2010. See also:

<http://www.wdol.gov/wdol/scafiles/davisbacon/LA15.dvb>

**C.** Pre-Bid Meeting Location and Directions. See Section L, paragraph L.23 1352.270-71 PRE-BID/PRE-PROPOSAL CONFERENCE AND SITE VISIT for additional information

**D.** Bidder's Qualification Sheet. See requirements in Section L.8 under "Bid Submission".

**Form Information:**

Performance Bond (SF 25, Rev. 5-96), 2 pages, find at website: [www.fedforms.gov](http://www.fedforms.gov) and follow the links for GSA Standard (SF) and Optional (OF) Forms.

Payment Bond (SF-25A, Rev. 10-98), 2 pages, find at website: [www.fedforms.gov](http://www.fedforms.gov) and follow the links for GSA Standard (SF) and Optional (OF) Forms.

Bid Guarantee (SF24, Rev 10-98), 2 pages, find at website: [www.fedforms.gov](http://www.fedforms.gov) and follow the links for GSA Standard (SF) and Optional (OF) Forms.

**SECTION K  
REPRESENTATIONS, CERTIFICATIONS AND  
OTHER STATEMENTS OF OFFERORS**

**K.1 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2011)**

(a)

(1) The North American Industry Classification System (NAICS) code for this acquisition is 237990

(2) The small business size standard is \$20.0 Million for Dredging

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b)

(1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (d) of this provision applies.

(2) If the clause at 52.204-7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

(i) Paragraph (d) applies.

(ii) Paragraph (d) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(c)

(1) The following representations or certifications in ORCA are applicable to this solicitation as indicated:

(i) 52.203-2, Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless--

(A) The acquisition is to be made under the simplified acquisition procedures in Part 13;

(B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or

(C) The solicitation is for utility services for which rates are set by law or regulation.

(ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.

(iii) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the clause at 52.204-7, Central Contractor Registration.

(iv) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that--

(A) Are not set aside for small business concerns;

(B) Exceed the simplified acquisition threshold; and

(C) Are for contracts that will be performed in the United States or its outlying areas.

(v) 52.209-5, Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.

(vi) 52.214-14, Place of Performance-Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.

(vii) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.

(viii) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.



**SECTION K  
REPRESENTATIONS, CERTIFICATIONS AND  
OTHER STATEMENTS OF OFFERORS**

(A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.

(B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.

(ix) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.

(x) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.

(xi) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.

(xii) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.

(xiii) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA-designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

(xiv) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA-designated items.

(xv) 52.225-2, Buy American Act Certificate. This provision applies to solicitations containing the clause at 52.225-1.

(xvi) 52.225-4, Buy American Act-Free Trade Agreements-Israeli Trade Act Certificate. (Basic, Alternate I, and Alternate II) This provision applies to solicitations containing the clause at 52.225-3.

(A) If the acquisition value is less than \$25,000, the basic provision applies.

(B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.

(C) If the acquisition value is \$50,000 or more but is less than \$67,826, the provision with its Alternate II applies.

(xvii) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.

(xviii) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan-Certification. This provision applies to all solicitations.

(xix) 52.225-25, Prohibition on Engaging in Sanctioned Activities Relating to Iran-Certification. This provision applies to all solicitations.

(xx) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to--

(A) Solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions; and

(B) For DoD, NASA, and Coast Guard acquisitions, solicitations that contain the clause at 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.

(2) The following certifications are applicable as indicated by the Contracting Officer:

\_\_\_\_\_ (i) 52.219-22, Small Disadvantaged Business Status.

\_\_\_\_\_ (A) Basic.

\_\_\_\_\_ (B) Alternate I.

\_\_\_\_\_ (ii) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.

\_\_\_\_\_ (iii) 52.222-48, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification.

\_\_\_\_\_ (iv) 52.222-52 Exemption from Application of the Service Contract Act to Contracts for Certain Services-Certification.

\_\_\_\_\_ (v) 52.223-9, with its Alternate I, Estimate of Percentage of

**SECTION K  
 REPRESENTATIONS, CERTIFICATIONS AND  
 OTHER STATEMENTS OF OFFERORS**

Recovered Material Content for EPA-Designated Products  
 (Alternate I only).

\_\_\_\_\_ (vi) 52.223-13, Certification of Toxic Chemical Release  
 Reporting.

\_\_\_\_\_ (vii) 52.227-6, Royalty Information.

XX (A) Basic.

\_\_\_\_\_ (B) Alternate I.

\_\_\_\_\_ (viii) 52.227-15, Representation of Limited Rights Data and  
 Restricted Computer Software.

(d) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [offeror to insert changes, identifying change by clause number, title, date]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause #	Title	Date	Change

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

(End of Provision)

**K.2 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (JAN 2011)**

(a) Definitions. As used in this provision--

"Administrative proceeding" means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

"Federal contracts and grants with total value greater than \$10,000,000" means--

(1) The total value of all current, active contracts and grants, including all priced options; and

(2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

"Principal" means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

(b) The offeror [ ] has [ ] does not have current active Federal contracts and grants with total value greater than \$10,000,000.

**SECTION K  
REPRESENTATIONS, CERTIFICATIONS AND  
OTHER STATEMENTS OF OFFERORS**

(c) If the offeror checked "has" in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in--

(A) The payment of a monetary fine or penalty of \$5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the Central Contractor Registration database at <http://www.ccr.gov> (see 52.204-7).

(End of provision)

**SECTION L**  
**INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS**

**L.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)**

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

<https://www.acquisition.gov> and <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=b1110228a0947e36df514c65c3606567&rgn=div5&view=text&node=48:5.0.6.47.44&idno=48>

(End of Provision)

**L.2 52.211-1 AVAILABILITY OF SPECIFICATIONS LISTED IN THE GSA INDEX OF FEDERAL SPECIFICATIONS, STANDARDS AND COMMERCIAL ITEM DESCRIPTIONS, FPMR PART 101-29 (AUG 1998)**

(Reference 11.204)

**L.3 52.214-3 AMENDMENTS TO INVITATIONS FOR BIDS (DEC 1989)**

(Reference 14.201-6)

**L.4 52.214-4 FALSE STATEMENTS IN BIDS (APR 1984)**

(Reference 14.201-6)

**L.5 52.214-5 SUBMISSION OF BIDS (MAR 1997)**

(Reference 14.201-6)

**L.6 52.214-6 EXPLANATION TO PROSPECTIVE BIDDERS (APR 1984)**

(Reference 14.201-6)

**L.7 52.214-7 LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS (NOV 1999)**

(Reference 14.201-6)

**L.8 BID SUBMISSION**

At a minimum, offerors shall return the following documents:

- (a) Completed Standard Form 1442 (back) Solicitation, Offer and Award with block 14 through 20c on the form completed - Three (3) copies each having an original signature; Ensure DUNS number is included.
- (b) Section B - Bid Schedule - Completed - (All bid pages & page 3 of the SF1442 - Supplies or Services and Prices/Costs) One (1) Original;
- (c) Section K, Representations, Certifications, and Other Statements of Offerors - One (1) Original; Also submit: One (1) complete copy of the company's Representations and Certifications from ORCA. See Note below.
- (d) Standard Form 24, Bid Bond in the amount of twenty percent (20%) of the Base bid schedule including Options 0003A and 0003B or \$3,000,000 whichever is less - One (1) original SF24. Money orders, cashier's checks, or certified checks (if used) shall be payable to the "U.S. Department of Commerce, NOAA;" See Section J for form information.
- (e) Bidder's Qualification Sheet - See Section J for the form. For purposes of determining responsibility, offerors shall submit past performance information for five (5) recently completed contracts that are relevant to the current requirement in size and type of work. Information may be provided on the actual bidder's qualification sheet or on a document of similar format that contains all the required information.

**SECTION L**  
**INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS**

- (f) Dredge Capacity - For purposes of determining responsibility, offerors shall submit Size and Capacity of Dredge Equipment. See Specifications - General Conditions, paragraph 26.1 for requirements.
- (g) For purposes of determining responsibility, offerors shall submit American Bureau of Shipping (A.B.S.) and/or U. S. Coast Guard Certification for Open Ocean Operation of Dredge. See Specifications - General Conditions, paragraph 26.2 for requirements.

**NOTE: REPRESENTATION AND CERTIFICATION REQUIREMENTS**

Offerors are required to complete the Representations and Certifications via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov> which is a part of the Central Contractor Registration requirements, Reference K.1.

**L.9 52.214-12 PREPARATION OF BIDS (APR 1984)**

(Reference 14.201-6)

**L.10 52.214-19 CONTRACT AWARD--SEALED BIDDING--CONSTRUCTION (AUG 1996)**

(Reference 14.201-6)

**L.11 1352.242-70 POSTAWARD CONFERENCE (APR 2010)**

(Reference 1342.503-70)

**L.12 52.214-15 PERIOD FOR ACCEPTANCE OF BIDS (APR 1984)**

In compliance with the solicitation, the bidder agrees, if this bid is accepted within 90 calendar days from the date specified in the solicitation for receipt of bids, to furnish any or all items upon which prices are bid at the price set opposite each item, delivered at the designated point(s), within the time specified in the Schedule.

(End of Provision)

**L.13 52.214-18 PREPARATION OF BIDS--CONSTRUCTION (APR 1984)**

- (a) Bids 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 bid must initial each erasure or change appearing on any bid form.
- (b) The bid form may require bidders to submit bid prices for one or more items on various bases, including--
- (1) Lump sum bidding;
  - (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 bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words "no bid" in the space provided for any item on which no price is submitted.
- (d) Alternate bids will not be considered unless this solicitation authorizes their submission.

(End of Provision)

**L.14 1352.215-72 INQUIRIES (APR 2010)**

Offerors must submit all questions concerning this solicitation in writing to the Contracting Officer. Questions should be received no later than ten (10) calendar days after the issuance date of this solicitation. Any responses to questions will be made in writing, without identification of the questioner, and will be included in an amendment to the solicitation. Even if provided in other

**SECTION L**  
**INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS**

form, only the question responses included in the amendment to the solicitation will apply to the performance of the contract.

(End of clause)

**L.15 52.216-1 TYPE OF CONTRACT (APR 1984)**

The Government contemplates award of a fixed price contract resulting from this solicitation.

(End of Provision)

**L.16 52.222-5 DAVIS-BACON ACT -- SECONDARY SITE OF THE WORK (JUL 2005)**

(a)

(1) The offeror shall notify the Government if the offeror intends to perform work at any secondary site of the work, as defined in paragraph (a)(1)(ii) of the FAR clause at 52.222-6, Davis-Bacon Act, of this solicitation.

(2) If the offeror is unsure if a planned work site satisfies the criteria for a secondary site of the work, the offeror shall request a determination from the Contracting Officer.

(b)

(1) If the wage determination provided by the Government for work at the primary site of the work is not applicable to the secondary site of the work, the offeror shall request a wage determination from the Contracting Officer.

(2) The due date for receipt of offers will not be extended as a result of an offeror's request for a wage determination for a secondary site of the work.

(End of Provision)

**L.17 52.222-23 NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY FOR CONSTRUCTION (FEB 1999)**

(a) The offeror's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.

(b) The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

GOALS FOR MINORITY PARTICIPATION FOR EACH TRADE is as follows:

27.7%

GOALS FOR FEMALE PARTICIPATION FOR EACH TRADE is as follows:

6.9%

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the Federal Register in notice form, and these notices may be obtained from any Office of Federal Contract Compliance Programs office.

(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on

(1) its implementation of the Equal Opportunity clause,

(2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and

(3) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor, or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

**SECTION L**  
**INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS**

(d) The Contractor shall provide written notification to the Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, within 10 working days following award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the--

- (1) Name, address, and telephone number of the subcontractor;
- (2) Employer's identification number of the subcontractor;
- (3) Estimated dollar amount of the subcontract;
- (4) Estimated starting and completion dates of the subcontract; and
- (5) Geographical area in which the subcontract is to be performed.

(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is Plaquemines Parish, Gulf of Mexico, Louisiana.

(End of Provision)

**L.18 52.225-12 NOTICE OF BUY AMERICAN ACT REQUIREMENT--CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (FEB 2009)**

(a) "Definitions." "Commercially available off-the-shelf (COTS) item," "Construction material," "designated country construction material," "domestic construction material," and "foreign construction material," as used in this provision, are defined in the clause of this solicitation entitled "Buy American Act-Construction Materials Under Trade Agreements" (Federal Acquisition Regulation (FAR) clause 52.225-11).

(b) "Requests for determination of inapplicability." An offeror requesting a determination regarding the inapplicability of the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-11 in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) "Evaluation of offers."

(1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act, based on claimed unreasonable cost of domestic construction materials, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b) (4) (i) of FAR clause 52.225-11.

(2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on unreasonable cost.

(d) "Alternate offers."

(1) When an offer includes foreign construction material, other than designated country construction material, that is not listed by the Government in this solicitation in paragraph (b) (3) of FAR clause 52.225-11, the offeror also may submit an alternate offer based on use of equivalent domestic or designated country construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of FAR clause 52.225-11 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or designated country construction material, and the offeror shall be required to furnish such domestic or designated country construction material. An offer based on use of the foreign construction material for which an exception was requested--

**SECTION L**  
**INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS**

- (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or
- (ii) May be accepted if revised during negotiations.  
(End of Provision)

**L.19 52.233-2 SERVICE OF PROTEST (SEP 2006)**

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from Pamela L. Wittler-Stichweh, Contracting Officer, Rm 1756, 601 E. 12th Street, Kansas City, MO 64106

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.  
(End of Provision)

**L.20 1352.233-70 AGENCY PROTESTS (APR 2010)**

(a) An agency protest may be filed with either: (1) the contracting officer, or (2) at a level above the contracting officer, with the appropriate agency Protest Decision Authority. See 64 Fed. Reg. 16,651 (April 6, 1999)

(b) Agency protests filed with the Contracting Officer shall be sent to the following address: Contracting Officer, NOAA, 601 E. 12th Street, Rm 1756, Kansas City, MO 64106-2808.

(c) Agency protests filed with the agency Protest Decision Authority shall be sent to the following address: U.S. Department of Commerce

Office of the General Counsel  
Chief, Contract Law Division  
Room 5893  
Herbert C. Hoover Building  
14th Street and Constitution Avenue, N.W.  
Attn: Mark Langstein, Esquire  
Washington, D.C. 20230.  
FAX: (202) 482-5858

(d) A complete copy of all agency protests, including all attachments, shall be served upon the Contract Law Division of the Office of the General Counsel within one day of filing a protest with either the Contracting Officer or the Protest Decision Authority.

(e) Service upon the Contract Law Division shall be made as follows:

U.S. Department of Commerce  
Office of the General Counsel  
Chief, Contract Law Division  
Room 5893  
Herbert C. Hoover Building  
14th Street and Constitution Avenue, N.W.  
Washington, D.C. 20230.  
FAX: (202) 482-5858

(End of clause)

**L.21 1352.233-71 GAO AND COURT OF FEDERAL CLAIMS PROTESTS (APR 2010)**

(a) A protest may be filed with either the Government Accountability Office (GAO) or the Court of Federal Claims unless an agency protest has been filed.

(b) A complete copy of all GAO or Court of Federal Claims protests, including all attachments, shall be served upon (i) the Contracting Officer, and (ii) the Contract Law Division of the Office of the General Counsel, within one day of filing a protest with either GAO or the Court of Federal Claims.

(c) Service upon the Contract Law Division shall be made as follows:

U.S. Department of Commerce



**SECTION L**  
**INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS**

Office of the General Counsel  
Chief, Contract Law Division  
Room 5893  
Herbert C. Hoover Building  
14th Street and Constitution Avenue, N.W.  
Washington, D.C. 20230.  
FAX: (202) 482-5858

(End of clause)

**L.22 52.236-27 SITE VISIT (CONSTRUCTION) (FEB 1995)**

(a) The clauses at 52.236-2, Differing Site Conditions, and 52.236-3, Site Investigations and Conditions Affecting the Work, will be included in any contract awarded as a result of this solicitation. Accordingly, offerors or quoters are urged and expected to inspect the site where the work will be performed. Bidders are strongly encouraged to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of performance of the contract, to the extent such information is reasonably obtainable. In no event will a failure to inspect the site constitute grounds for a claim after award of the contract.

(b) No prior arrangements are required to visit the project site. It is located in the Gulf of Mexico, Louisiana and is accessible by the public. See Technical Provisions and Drawings for exact marine location of the project.

(End of Provision)

**L.23 1352.270-71 PRE-BID / PRE-PROPOSAL CONFERENCE AND SITE VISIT (APR 2010)**

(a) The Government is planning a pre-proposal conference, during which potential contractors may obtain a better understanding of the work required.

(b) Offerors are encouraged to submit all questions in writing in accordance with paragraph L.14 of this solicitation. Questions will be considered at any time prior to, or during, the conference; however, offerors will be asked to confirm verbal questions in writing. Subsequent to the conference, an amendment to the solicitation containing an abstract of the questions and the Government's answers, and a list of attendees, will be made publicly available.

(c) In order to facilitate conference preparations, contact the person identified in Block 9a on Standard Form 1442 of this solicitation to make arrangements for security processing for entry of attendees into the Government facility. Note: This Paragraph is not applicable to this solicitation.

(d) In no event shall failure to attend the pre-bid conference constitute grounds supporting a protest or contract claim.

(e) Offerors are cautioned that, notwithstanding any remarks, clarifications, or responses provided at the conference, all terms and conditions of the solicitation remain unchanged unless they are changed by written amendment. It is the responsibility of each offeror, prior to submitting a proposal, to seek clarification of any perceived ambiguity in the solicitation or created by an amendment of the solicitation.

(f) The pre-proposal conference will be held:

Date: June 3, 2011 See Attachment J.1.C for map and directions. \_

Time: 9:00 a.m. CDT

Location: University of New Orleans, Lakefront Campus  
Center for Energy Resources Management, Room 438  
2045 Lakeshore Drive, New Orleans, LA, 70122 \_

(g) During the conference, an opportunity to visit the site of the work, and, if applicable, inspect equipment on which maintenance or repairs are to be performed will be offered to attendees.

(h) Offerors are expected to satisfy themselves regarding all conditions that may affect the work required or the cost of contract performance. In no event shall failure to inspect the site and/or equipment constitute grounds for any protest or contract claim.

(End of clause)

**SECTION M**  
**EVALUATION FACTORS FOR AWARD**

**M.1 52.217-4 EVALUATION OF OPTIONS EXERCISED AT TIME OF CONTRACT AWARD (JUN 1988)**

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate the total price for the basic requirement together with any option(s) exercised at the time of award. Option(s) not exercised at time of award will be evaluated for fairness and reasonableness if a determination is made to exercise the option and may be exercised within 365 days of award.

(End of Provision)

**M.2 EVALUATION OF BIDS INFORMATION**

The Government intends to award a single contract from this solicitation. The Government will review all bids and award to a responsive and responsible contractor with the lowest priced bid including the base schedule and any optional items exercised at time of award.