



Invitation for Bid NO.  
W912HP-04-B-0002

US Army Corps  
of Engineers  
Charleston District

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**Dike Construction  
at  
Clouter Creek Disposal Area  
(North Cell)  
Berkeley County  
South Carolina**

U. S. Army Engineer District, Charleston  
Corps of Engineers  
69A Hagood Avenue  
Charleston, South Carolina 29403-5107

**Construction Solicitation  
and Specifications**

**100% HUBZONE SET-ASIDE**

TABLE OF CONTENTS

<u>SECTION</u>	<u>TITLE</u>
00010	SOLICITATION, OFFER AND AWARD (SF 1442) BIDDING SCHEDULE
00100	INSTRUCTIONS, CONDITIONS AND NOTICES TO BIDDERS
00600	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF BIDDERS
00700	CONTRACT CLAUSES
00800	SPECIAL CONTRACT REQUIREMENTS

DIVISION 1 - GENERAL REQUIREMENTS

01100	GENERAL
01312	QUALITY CONTROL SYSTEM (CQS)
01330	SUBMITTAL PROCEDURES
01351	SAFETY REQUIREMENTS
01451	CONTRACTOR QUALITY CONTROL

DIVISION 2 - SITE WORK

02245	DIKE CONSTRUCTION
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ATTACHMENTS

<b>SOLICITATION, OFFER, AND AWARD</b> <i>(Construction, Alteration, or Repair)</i>	1. SOLICITATION NO. W912HP-04-B-0002	2. TYPE OF SOLICITATION <input checked="" type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED 13-Feb-2004	PAGE OF PAGES 1 OF 36
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**IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.**

4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO. W81D4A-3338-0992	6. PROJECT NO.
7. ISSUED BY CONTRACTING DIVISION 69-A HAGOOD AVE CHARLESTON SC 29403-5107  TEL: 843-329-8084 FAX: 843-329-2320	CODE W912HP	8. ADDRESS OFFER TO <i>(If Other Than Item 7)</i> CODE  <b>See Item 7</b>  TEL: FAX:
9. FOR INFORMATION CALL:	A. NAME KATHALEEN+ A EDENBOROUGH	B. TELEPHONE NO. <i>(Include area code) (NO COLLECT CALLS)</i> 843-329-8096

**SOLICITATION**

**NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".**

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS *(Title, identifying no., date):*

This acquisition is 100% set-aside for HUBZone businesses.

Work consists of furnishing all plant, equipment, labor, transportation, supplies, and materials and performing all operations in connection with construction and/or repair of dikes, berms, ramps and drainage ditches, installation and/or repair of spillway systems, and appurtenant items at the Clouter Creek Disposal Area, Berkeley County, SC. The site is only accessible by water.

Magnitude of the work is \$500,000 to \$1,000,000.

Note: To form a bid, bidders are required to sign one copy provided on the Solicitation, Offer, and Award form. The bidding schedule (Section 00010) and Representations and Certifications (Section 00600) need only be submitted in the original.

11. The Contractor shall begin performance within 14 calendar days and complete it within 210 calendar days after receiving  award,  notice to proceed. This performance period is  mandatory,  negotiable. *(See Section 0700 \_\_\_\_\_.)*

12 A. 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 0 copies to perform the work required are due at the place specified in Item 8 by 02:00 PM *(hour)* local time 15 Mar 2004 *(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 60 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

**SOLICITATION, OFFER, AND AWARD (Continued)**

*(Construction, Alteration, or Repair)*

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

14. NAME AND ADDRESS OF OFFEROR <i>(Include ZIP Code)</i>		15. TELEPHONE NO. <i>(Include area code)</i>
CODE		16. REMITTANCE ADDRESS <i>(Include only if different than Item 14)</i>
FACILITY CODE		<b>See Item 14</b>

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 offer 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 requirements stated in Item 13D. Failure to insert any number means the offeror accepts the minimum in Item 13D.)*

AMOUNTS	SEE SCHEDULE OF PRICES
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18. The offeror agrees to furnish any required performance and payment bonds.

**19. ACKNOWLEDGMENT OF AMENDMENTS**

*(The offeror acknowledges receipt of amendments to the solicitation -- give number and date of each)*

AMENDMENT NO.										
DATE										

20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER <i>(Type or print)</i>	20B. SIGNATURE	20C. OFFER DATE
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**AWARD (To be completed by Government)**

21. ITEMS ACCEPTED:

22. AMOUNT	23. ACCOUNTING AND APPROPRIATION DATA
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24. SUBMIT INVOICES TO ADDRESS SHOWN IN <i>(4 copies unless otherwise specified)</i>	<b>ITEM</b>	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)
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26. ADMINISTERED BY	CODE	27. PAYMENT WILL BE MADE BY:	CODE
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**CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE**

<input type="checkbox"/> <b>28. NEGOTIATED AGREEMENT</b> <i>(Contractor is required to sign this document and return _____ copies to issuing office.)</i> Contractor agrees to furnish and deliver all items or perform all work, requisitions identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations 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 or incorporated by reference in or attached to this contract.	<input type="checkbox"/> <b>29. AWARD</b> <i>(Contractor is not required to sign this document.)</i> Your offer on this solicitation, is hereby accepted as to the items listed. This award commutes 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 TO SIGN <i>(Type or print)</i>		31A. NAME OF CONTRACTING OFFICER <i>(Type or print)</i>	
30B. SIGNATURE	30C. DATE	TEL:	EMAIL:
		31B. UNITED STATES OF AMERICA BY	31C. AWARD DATE

Section 00010 - Solicitation Contract Form

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	Mobilization and Demobilization FFP PURCHASE REQUEST NUMBER: W81D4A-3338-0992	1	Lump Sum		

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NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002	Site Work FFP Includes drainage, clearing, borrow prep., etc.	1	Lump Sum		

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NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0003	Raise Dikes and Berms (earthwork) FFP	1	Lump Sum		

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NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0004	Fabricate/Install Spillway Riser Extens. FFP 4x4x4 Spillway Riser Extension	1	Each		

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NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0005	Fabricate/Install Spillway Riser Ext. FFP 4x8x4 Spillway Riser Extension	2	Each		

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NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0006	Rebuild/Reset Wooden Walkway FFP	4	Each		

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NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0007	Agricultural Limestone FFP	16	Net Ton (2,000 LB)		

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NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0008	Grassing FFP	16	Acre		

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NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0009	Surveying FFP	1	Lump Sum		

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NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0010	Utility Vehicle for Gov't Use FFP	1	Each		
NET AMT					
TOTAL CONTRACT PRICE (ALL ITEMS)					

**INSPECTION AND ACCEPTANCE TERMS**

Supplies/services will be inspected/accepted at:

CLIN	INSPECT AT	INSPECT BY	ACCEPT AT	ACCEPT BY
0001	Destination	N/A	Destination	N/A
0002	Destination	N/A	Destination	N/A
0003	Destination	N/A	Destination	N/A
0004	Destination	N/A	Destination	N/A
0005	Destination	N/A	Destination	N/A
0006	Destination	N/A	Destination	N/A
0007	Destination	N/A	Destination	N/A
0008	Destination	N/A	Destination	N/A
0009	Destination	N/A	Destination	N/A
0010	Destination	N/A	Destination	N/A

**DELIVERY INFORMATION**

CLIN	DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	UIC
0001	03-MAY-2004	1	U.S. ARMY CORPS OF ENGINEERS, CHARLESTON KEVIN D. WIDNER LOW COUNTRY RESIDENT OFFICE 431 MEETING STREET CHARLESTON SC 29403 843-329-2339 FOB: N/A	W912HP

0002	03-MAY-2004	1	(SAME AS PREVIOUS LOCATION) FOB: N/A	W912HP
0003	03-MAY-2004	1	(SAME AS PREVIOUS LOCATION) FOB: N/A	W912HP
0004	03-MAY-2004	1	(SAME AS PREVIOUS LOCATION) FOB: N/A	W912HP
0005	03-MAY-2004	2	(SAME AS PREVIOUS LOCATION) FOB: N/A	W912HP
0006	03-MAY-2004	4	(SAME AS PREVIOUS LOCATION) FOB: N/A	W912HP
0007	03-MAY-2004	16	(SAME AS PREVIOUS LOCATION) FOB: N/A	W912HP
0008	03-MAY-2004	16	(SAME AS PREVIOUS LOCATION) FOB: N/A	W912HP
0009	03-MAY-2004	1	(SAME AS PREVIOUS LOCATION) FOB: N/A	W912HP
0010	03-MAY-2004	1	(SAME AS PREVIOUS LOCATION) FOB: N/A	W912HP

## Section 00100 - Bidding Schedule/Instructions to Bidders

NOTE TO BIDDERS:

All bidders are advised materially unbalanced bids may be rejected as non-responsive. See Section 0100, FAR 52.214-19, Contract Award – Sealed Bidding – Construction.

## CLAUSES INCORPORATED BY REFERENCE

52.214-3	Amendments To Invitations For Bids	DEC 1989
52.214-4	False Statements In Bids	APR 1984
52.214-5	Submission Of Bids	MAR 1997
52.214-6	Explanation To Prospective Bidders	APR 1984
52.214-7	Late Submissions, Modifications, and Withdrawals of Bids	NOV 1999
52.214-18	Preparation of Bids-Construction	APR 1984
52.214-19	Contract Award-Sealed Bidding-Construction	AUG 1996
52.214-34	Submission Of Offers In The English Language	APR 1991
52.214-35	Submission Of Offers In U.S. Currency	APR 1991
52.232-13	Notice Of Progress Payments	APR 1984
52.232-38	Submission of Electronic Funds Transfer Information with Offer	MAY 1999
52.236-27	Site Visit (Construction)	FEB 1995

## CLAUSES INCORPORATED BY FULL TEXT

## 52.203-4002 CONTRACTOR STANDARDS OF CONDUCT

a. Government contractors must conduct themselves with the highest degree of integrity and honesty. Contractors should have standards of conduct and internal control systems that--

- (1) Are suitable to the size of the company and the extent of their involvement in Government contracting,
- (2) Promote such standards,
- (3) Facilitate timely discovery and disclosure of improper conduct in connection with Government contracts, and
- (4) Ensure corrective measures are promptly instituted and carried out.

b. A contractor's system of management controls should provide for--

- (1) A written code of business ethics and conduct and an ethics training program for all employees;
- (2) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with standards of conduct and the special requirement of Government contracting;
- (3) A mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports;
- (4) Internal and/or external audits, as appropriate;

- (5) Disciplinary action for improper conduct;
  - (6) Timely reporting to appropriate Government officials of any suspected or possible violation of law in connection with Government contracts or any other irregularities in connection with such contracts; and
  - (7) Full cooperation with any Government agencies responsible for either investigation or corrective actions.
- c. Contractors who are awarded a DoD contract of \$5 million or more must display DoD Hotline Posters prepared by the DoD Office of the Inspector General unless-
- (1) The contract will be performed in a foreign country; or
  - (2) The contractor has established an internal reporting mechanism and program, as described in paragraph (b) of this section.

(End of Paragraph)

#### 52.209-4004                    PREAWARD INFORMATION

Each offeror shall, upon request of the Contracting Officer, furnish a statement of whether he is now or ever has been engaged in any work similar to that covered by the specifications herein, the dollar value thereof, the year in which such work was performed, and the manner of its execution, and give such other information as will tend to show the offeror's ability to prosecute the required work. The "such other information" referred to above shall include but is not limited to the following:

- (a) The name and address of the office or firm under which such similar work was performed, a point of contact and phone number.
- (b) A list of key personnel available for the instant project and their qualifications.
- (c) A copy of offeror's latest financial statement, including the names of banks or other financial institutions with which the offeror conducts business. If the financial statement is more than 60 days old, a certificate should be attached stating that the financial condition is substantially the same, or if not the same, the changes that have taken place. Such statement will be treated as confidential.
- (d) A list of present commitments, including the dollar value thereof, and name of office under which the work is being performed.

(End of paragraph)

#### 52.209-4006                    PLANT AND EQUIPMENT SCHEDULE

Each bidder/offeror shall submit by attachment to his bid/offer a properly executed Plant and Equipment Schedule (See Section 00600) listing thereon the plant available to the bidder/offeror and proposed for use on the work. If floating plant is required in the performance of this work, no bidder/offeror will be eligible for award whose floating plant at the time of award does not substantially meet the safety requirements of the Corps of Engineers and the contract and specifications, unless (1) such plant can be made to so conform within a reasonable time after award; and (2) the bidder/offeror will stipulate that the award is conditioned upon his making the plant to so comply within a reasonable time after award, all as determined by the Contracting Officer.

(End of paragraph)

52.211-4002 AVAILABILITY OF OTHER CITED SPECIFICATIONS

Other specifications cited in this solicitation are available as indicated below:

(a) Engineering Manuals (EM's) are available for inspection and review on the website located [www.usace.army.mil/inet/usace-docs/](http://www.usace.army.mil/inet/usace-docs/).

(b) Commercial Specifications, Standards, and Descriptions. These specifications, standards, and descriptions are not available from Government sources. They may be obtained from the publishers.

(End of paragraph)

52.216-1 TYPE OF CONTRACT (APR 1984)

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

(End of clause)

52.219-4003 DISADVANTAGED BUSINESS SUBCONTRACTING

(a) The offeror's attention is directed to the contract clause entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns." Assistance in identifying small disadvantaged business firms may be obtained from:

SC Statewide Minority Business Center	<b>OR</b>	City of Charleston Minority Business Development Center
284 King Street		75 Calhoun Street
Charleston, SC 29401		Charleston, SC 29401
(843) 937-0011		(843) 973-7247

(b) Further information may be obtained from the Small and Disadvantaged Business Utilization Specialist for the Charleston District, U.S. Army Corps of Engineers, (Phone: 843-329-8088 (no collect calls)).

(End of paragraph)

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	Goals for female participation for each trade
30%	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.

(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 **Berkley County, SC**.

(End of provision)

(a) Definitions. 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" (Federal Acquisition Regulation (FAR) clause 52.225-9).

(b) Requests for determinations 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 the clause at FAR 52.225-9 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 material, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(3)(i) of the clause at FAR 52.225-9.

(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 not listed by the Government in this solicitation in paragraph (b)(2) of the clause at FAR 52.225-9, the offeror also may submit an alternate offer based on use of equivalent domestic 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 the clause at FAR 52.225-9 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 the clause at FAR 52.225-9 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested--

(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)

#### 52.229-4001 HARBOR MAINTENANCE FEE

(a) Offerors or bidders contemplating use of U.S. ports in the performance of contract work are subject to paying a harbor maintenance fee on cargo as authorized under Section 1402 of the Water Resources Development Act of 1986 (Public Law 99-662). Federal law establishes an ad valorem use fee on commercial cargo imported into or exported from various U.S. ports. The fee is 0.125 percent (.00125). Cargo to be used in performing work under contracts with the U.S. Government is not exempt from the fee, although certain exemptions do exist. Offerors or bidders are responsible for ensuring that the applicable fee and associated costs are

taken into consideration in the preparation of their offers or bids. Failure to pay the harbor maintenance fee may result in assessment of penalties by the Customs Service.

(b) The statute is at Title 26 U.S. Code sections 4461 and 4462. Department of Treasury Customs Service regulations implementing the statute, including a list of ports subject to the fee, are found at 19 CFR Section 24.24, Harbor Maintenance Fee. Additional information may be obtained from local U.S. Customs Service Offices or by writing to the Director, Budget Division, Office of Finance, Room 6328, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

(End of paragraph)

52.233-2 SERVICE OF PROTEST (AUG 1996)

53 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 Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from

US Army Corps of Engineers  
Charleston District  
Contracting Division  
69-A Hagood Ave  
Charleston, SC 29403

(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)

52.236-4060 Inspection Of Site

(a) Government personnel will not be available to accompany prospective bidders to the site.

(b) Transportation : N/A

(c) Additional information:

(Note that a site visit is not a prebid conference. Any questions should be addressed to the name/address/phone number listed on the Standard Form 1442 [page 00010-1])

(End of paragraph)

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):

<http://www.arnet.gov/far>

(End of provision)

#### 52.252-5 AUTHORIZED DEVIATIONS IN PROVISIONS (APR 1984)

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

54 The use in this solicitation of any \_\_\_\_\_ (48 CFR Chapter \_\_\_\_\_) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of provision)

## Section 00600 - Representations &amp; Certifications

## CLAUSES INCORPORATED BY REFERENCE

52.203-11	Certification And Disclosure Regarding Payments To Influence Certain Federal Transactions	APR 1991
52.222-38	Compliance With Veterans' Employment Reporting Requirements	DEC 2001
252.209-7001	Disclosure of Ownership or Control by the Government of a Terrorist Country	MAR 1998
252.225-7031	Secondary Arab Boycott Of Israel	APR 2003
252.247-7022	Representation Of Extent Of Transportation Of Supplies By Sea	AUG 1992

## CLAUSES INCORPORATED BY FULL TEXT

## 52.203-4011 COMPLETION AND SUBMISSION OF OMB STANDARD FORM-LLL

For your convenience, an OMB standard form LLL, Disclosure of Lobbying Activities, is enclosed as an attachment with this solicitation.

It must be completed and submitted as a part of the Representations and Certifications when conditions described in subparagraph (b)(2) of FAR 52.203-11, CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS, exist.

(End of paragraph)

## 52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (DEC 2001)

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that-

(i) The Offeror and/or any of its Principals-

(A) Are ( ) are not ( ) presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have ( ) have not ( ), within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are ( ) are not ( ) presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) The Offeror has ( ) has not ( ), within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.



Number	Type	Capacity	Manufacturer	Age & Condition	Location

\*NOTE: Provide separate table for each type of equipment such as excavation, pile driving, concrete plant, material handling, etc. Use separate line for each major item. Use additional page if necessary.

NOTE FOR DREDGING:

1. In preparing the above tabulation, the bidder shall insert the following information under the appropriate heading, using a separate line for each major item. Use additional pages if necessary.

a. Number. For dredges, give identifying number and name.

b. Type. Under this heading, give description as follows:

For bucket and hopper dredges, show bucket capacity in cubic yards, horsepower of hoist engine, type of power, and number of swings per hour; for pipeline dredges, show inside diameter of discharge pipe, horsepower of pump engine, and type of power.

c. Capacity. Under this heading, state the estimated capacity of the plant in cubic yards per month when working materials similar to those which it is anticipated will be encountered in performance of work.

2. The following statement will be executed by all bidders: The plant ( ) will, ( ) will not, have the facilities for furnishing the meals required by the "Accommodations and Meals for Inspectors" paragraph of the contract.

(End of schedule)

52.209-4002 CERTIFICATE OF AUTHORITY TO BIND CORPORATION

Offeror, if a corporation, shall cause the following certificate to be executed under its corporate seal. The same officer shall not sign both the offer and this certificate.

CERTIFICATE

I, \_\_\_\_\_,  
(Name)

\_\_\_\_\_ of the corporation named as Offeror  
(Title)

herein, certify that \_\_\_\_\_, who  
(Name of person who signed offer)

signed this offer on behalf of the corporation (Offeror), was then

\_\_\_\_\_ of said corporation, and that said

offer was duly signed for and on behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

\_\_\_\_\_  
 (Signature)  
 (CORPORATE  
 SEAL)

\_\_\_\_\_  
 (Typed Name)

(End of paragraph)

52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS (APR 2002) - ALTERNATE I (APR 2002)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is ( ) (insert NAICS code).

(2) The small business size standard is ( ) (insert size standard).

(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) Representations. (1) The offeror represents as part of its offer that it ( ) is, ( ) is not a small business concern.

(2) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents, for general statistical purposes, that it ( ) is, ( ) is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents as part of its offer that it ( ) is, ( ) is not a women-owned small business concern.

(4) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents as part of its offer that it ( ) is, ( ) is not a veteran-owned small business concern.

(5) (Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.) The offeror represents as part of its offer that it ( ) is, ( ) is not a service-disabled veteran-owned small business concern.

(6) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, as part of its offer, that--

(i) It ( ) is, ( ) is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

(ii) It ( ) is, ( ) is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are

participating in the joint venture. (The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture:\_\_\_\_\_.) Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(7) (Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision.) The offeror shall check the category in which its ownership falls:

\_\_\_\_ Black American.

\_\_\_\_ Hispanic American.

\_\_\_\_ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

\_\_\_\_ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

\_\_\_\_ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

\_\_\_\_ Individual/concern, other than one of the preceding.

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

Service-disabled veteran-owned small business concern--

(1) Means a small business concern--

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"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 (a) of this provision.

Veteran-owned small business concern means a small business concern--

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern," means a small business concern --

(1) That is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; or

(2) Whose management and daily business operations are controlled by one or more women.

(d) Notice.

(1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall--

(i) Be punished by imposition of fine, imprisonment, or both;

(ii) Be subject to administrative remedies, including suspension and debarment; and

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

(End of provision)

52.219-2 EQUAL LOW BIDS. (OCT 1995)

(a) This provision applies to small business concerns only.

(b) The bidder's status as a labor surplus area (LSA) concern may affect entitlement to award in case of tie bids. If the bidder wishes to be considered for this priority, the bidder must identify, in the following space, the LSA in which the costs to be incurred on account of manufacturing or production (by the bidder or the first-tier subcontractors) amount to more than 50 percent of the contract price.

-----  
-----  
(c) Failure to identify the labor surplus area as specified in paragraph (b) of this provision will preclude the bidder from receiving priority consideration. If the bidder is awarded a contract as a result of receiving priority consideration under this provision and would not have otherwise received award, the bidder shall perform the contract or cause the contract to be performed in accordance with the obligations of an LSA concern.

52.219-4005 SUBCONTRACTING REPRESENTATION

(a) Part of the work included in this offer ( ) will, ( ) will not, be subcontracted. Subcontractor ( ) is, ( ) is not, a Small Business Concern as defined in the provision entitled SMALL BUSINESS CONCERN REPRESENTATION.

(b) Part of the work included in this offer ( ) will, ( ) will not, be subcontracted to a Small Disadvantaged Business Concern as defined in the provision entitled SMALL DISADVANTAGED BUSINESS CONCERN REPRESENTATION.

Name and Address of Subcontractor: \_\_\_\_\_

Estimated percentage of work to be subcontracted: \_\_\_\_\_

Type of work to be subcontracted: \_\_\_\_\_

(End of paragraph)

52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

The offeror represents that --

(a) ( ) It has, ( ) has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) ( ) It has, ( ) has not, filed all required compliance reports; and

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

(End of provision)

52.223-13 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

(a) Executive Order 13148, of April 21, 2000, Greening the Government through Leadership in Environmental Management, requires submission of this certification as a prerequisite for contract award.

(b) By signing this offer, the offeror certifies that--

(1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: (Check each block that is applicable.)

( ) (i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;

( ) (ii) The facility does not have 10 or more full-time employees as specified in section 313.(b)(1)(A) of EPCRA 42 U.S.C. 11023(b)(1)(A);

( ) (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

( ) (iv) The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:

(A) Major group code 10 (except 1011, 1081, and 1094.

(B) Major group code 12 (except 1241).

(C) Major group codes 20 through 39.

(D) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).

(E) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, et seq.), 5169, 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

( ) (v) The facility is not located within the United States or its outlying areas.

(End of clause)

#### 252.247-7022 REPRESENTATION OF EXTENT OF TRANSPORTATION BY SEA (AUG 1992)

(a) The Offeror shall indicate by checking the appropriate blank in paragraph (b) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term supplies is defined in the Transportation of Supplies by Sea clause of this solicitation.

(b) Representation. The Offeror represents that it:

\_\_\_\_ (1) Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

\_\_\_\_ (2) Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(c) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense FAR Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

(End of provision)

## Section 00700 - Contract Clauses

## CLAUSES INCORPORATED BY REFERENCE

52.202-1 Alt I	Definitions (Dec 2001) --Alternate I	MAY 2001
52.203-3	Gratuities	APR 1984
52.203-5	Covenant Against Contingent Fees	APR 1984
52.203-7	Anti-Kickback Procedures	JUL 1995
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	JAN 1997
52.203-10	Price Or Fee Adjustment For Illegal Or Improper Activity	JAN 1997
52.203-12	Limitation On Payments To Influence Certain Federal Transactions	JUN 2003
52.204-4	Printed or Copied Double-Sided on Recycled Paper	AUG 2000
52.204-7	Central Contractor Registration	OCT 2003
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	JUL 1995
52.214-26	Audit and Records--Sealed Bidding	OCT 1997
52.214-27	Price Reduction for Defective Cost or Pricing Data - Modifications - Sealed Bidding	OCT 1997
52.214-28	Subcontracting Cost Or Pricing Data--Modifications--Sealed Bidding	OCT 1997
52.214-29	Order Of Precedence--Sealed Bidding	JAN 1986
52.219-8	Utilization of Small Business Concerns	OCT 2000
52.219-14	Limitations On Subcontracting	DEC 1996
52.222-3	Convict Labor	JUN 2003
52.222-4	Contract Work Hours and Safety Standards Act - Overtime Compensation	SEP 2000
52.222-6	Davis Bacon Act	FEB 1995
52.222-7	Withholding of Funds	FEB 1988
52.222-8	Payrolls and Basic Records	FEB 1988
52.222-9	Apprentices and Trainees	FEB 1988
52.222-10	Compliance with Copeland Act Requirements	FEB 1988
52.222-11	Subcontracts (Labor Standards)	FEB 1988
52.222-12	Contract Termination-Debarment	FEB 1988
52.222-13	Compliance with Davis-Bacon and Related Act Regulations.	FEB 1988
52.222-14	Disputes Concerning Labor Standards	FEB 1988
52.222-15	Certification of Eligibility	FEB 1988
52.222-21	Prohibition Of Segregated Facilities	FEB 1999
52.222-26	Equal Opportunity	APR 2002
52.222-27	Affirmative Action Compliance Requirements for Construction	FEB 1999
52.222-35	Equal Opportunity For Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	DEC 2001
52.222-36	Affirmative Action For Workers With Disabilities	JUN 1998
52.222-37	Employment Reports On Special Disabled Veterans, Veterans Of The Vietnam Era, and Other Eligible Veterans	DEC 2001
52.223-6	Drug-Free Workplace	MAY 2001
52.223-14	Toxic Chemical Release Reporting	AUG 2003
52.226-1	Utilization Of Indian Organizations And Indian-Owned Economic Enterprises	JUN 2000
52.227-1	Authorization and Consent	JUL 1995

52.227-2	Notice And Assistance Regarding Patent And Copyright Infringement	AUG 1996
52.228-1	Bid Guarantee	SEP 1996
52.228-5	Insurance - Work On A Government Installation	JAN 1997
52.228-11	Pledges Of Assets	FEB 1992
52.228-14	Irrevocable Letter of Credit	DEC 1999
52.228-15	Performance and Payment Bonds--Construction	JUL 2000
52.229-3	Federal, State And Local Taxes	APR 2003
52.232-5	Payments under Fixed-Price Construction Contracts	SEP 2002
52.232-17	Interest	JUN 1996
52.232-23 Alt I	Assignment of Claims (Jan 1986) - Alternate I	APR 1984
52.232-25	Prompt Payment	OCT 2003
52.232-27	Prompt Payment for Construction Contracts	OCT 2003
52.232-33	Payment by Electronic Funds Transfer--Central Contractor Registration	OCT 2003
52.233-1	Disputes	JUL 2002
52.233-3	Protest After Award	AUG 1996
52.236-2	Differing Site Conditions	APR 1984
52.236-3	Site Investigation and Conditions Affecting the Work	APR 1984
52.236-4	Physical Data	APR 1984
52.236-5	Material and Workmanship	APR 1984
52.236-6	Superintendence by the Contractor	APR 1984
52.236-7	Permits and Responsibilities	NOV 1991
52.236-8	Other Contracts	APR 1984
52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements	APR 1984
52.236-11	Use and Possession Prior to Completion	APR 1984
52.236-12	Cleaning Up	APR 1984
52.236-13 Alt I	Accident Prevention (Nov 1991) - Alternate I	NOV 1991
52.236-15	Schedules for Construction Contracts	APR 1984
52.236-26	Preconstruction Conference	FEB 1995
52.242-13	Bankruptcy	JUL 1995
52.242-14	Suspension of Work	APR 1984
52.243-4	Changes	AUG 1987
52.246-21	Warranty of Construction	MAR 1994
52.247-34	F.O.B. Destination	NOV 1991
52.248-3	Value Engineering-Construction	FEB 2000
52.249-2	Termination For Convenience Of The Government (Fixed-Price)	SEP 1996
52.249-2 Alt I	Termination for Convenience of the Government (Fixed-Price) (Sep 1996) - Alternate I	SEP 1996
52.249-10	Default (Fixed-Price Construction)	APR 1984
52.253-1	Computer Generated Forms	JAN 1991
252.203-7001	Prohibition On Persons Convicted of Fraud or Other Defense-Contract-Related Felonies	MAR 1999
252.204-7003	Control Of Government Personnel Work Product	APR 1992
252.204-7004 Alt A	Required Central Contractor Registration Alternate A	NOV 2003
252.205-7000	Provision Of Information To Cooperative Agreement Holders	DEC 1991
252.209-7000	Acquisition From Subcontractors Subject To On-Site Inspection Under The Intermediate Range Nuclear Forces (INF) Treaty	NOV 1995
252.209-7004	Subcontracting With Firms That Are Owned or Controlled By The Government of a Terrorist Country	MAR 1998

252.225-7012	Preference For Certain Domestic Commodities	FEB 2003
252.227-7033	Rights in Shop Drawings	APR 1966
252.236-7000	Modification Proposals-Price Breakdown	DEC 1991
252.236-7008	Contract Prices-Bidding Schedules	DEC 1991
252.242-7000	Postaward Conference	DEC 1991
252.243-7001	Pricing Of Contract Modifications	DEC 1991
252.243-7002	Requests for Equitable Adjustment	MAR 1998
252.244-7000	Subcontracts for Commercial Items and Commercial Components (DoD Contracts)	MAR 2000
252.246-7000	Material Inspection And Receiving Report	MAR 2003
252.247-7023	Transportation of Supplies by Sea	MAY 2002
252.247-7024	Notification Of Transportation Of Supplies By Sea	MAR 2000

#### CLAUSES INCORPORATED BY FULL TEXT

#### 52.200-4803 ADMINISTRATIVE, APPROPRIATION, AND ACCOUNTING DATA

(a) Partial payments will be made monthly for the amount and value of the work and services performed upon submission of ENG Form 93, "Payment Estimate-Contract Performance". This estimate will be forwarded to and verified by the Contracting Officer's Representative utilizing the progress report submitted by the Contractor and independent analyses of progress. Sample format for ENG Form 93 will be provided to the Contractor by the Contracting officer's Representative upon contract award.

(b) Submit requests for payment (Original and one copy) to:

U.S. Army Corps of Engineers, Charleston  
 Attn: CESAC-TS-OL  
 431 Meeting Street  
 Charleston, SC 29403-5525

(c) Payments will be made by:

USACE Finance Center (EROOC: K2)  
 Attn: CEFC-AO-P  
 5720 Integrity Drive  
 Millington, TN 38054

(End of paragraph)

#### 52.219-3 NOTICE OF TOTAL HUBZONE SET-ASIDE (JAN 1999)

(a) Definition. HUBZone small business concern, as used in this clause, means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

(b) General. (1) Offers are solicited only from HUBZone small business concerns. Offers received from concerns that are not HUBZone small business concerns shall not be considered.

(2) Any award resulting from this solicitation will be made to a HUBZone small business concern.

(c) Agreement. A HUBZone small business concern agrees that in the performance of the contract, in the case of a contract for--

(1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other HUBZone small business concerns;

(2) Supplies (other than acquisition from a nonmanufacturer of the supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other HUBZone small business concerns;

(3) General construction, at least 15 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other HUBZone small business concerns; or

(4) Construction by special trade contractors, at least 25 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other HUBZone small business concerns.

(d) A HUBZone joint venture agrees that, in the performance of the contract, the applicable percentage specified in paragraph (c) of this clause will be performed by the HUBZone small business participant or participants.

(e) A HUBZone small business concern nonmanufacturer agrees to furnish in performing this contract only end items manufactured or produced by HUBZone small business manufacturer concerns. This paragraph does not apply in connection with construction or service contracts.

(End of clause)

#### 52.225-9 BUY AMERICAN ACT—CONSTRUCTION MATERIALS (JUN 2003)

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

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 a 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 end product.

Domestic construction material means--

- (1) An unmanufactured construction material mined or produced in the United States; or
- (2) A construction material manufactured in the United States, if 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.

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

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

(b) Domestic preference. (1) This clause implements the Buy American Act (41 U.S.C. 10a-10d) by providing a preference for domestic construction material. The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

(2) This requirement does not apply to the construction material or components listed by the Government as follows:  
NONE

(3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) 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 requirements 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)(3) 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)(3)(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.

(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) \1\
<b>Item 1</b>			
Foreign construction material....	.....	.....	.....
Domestic construction material...	.....	.....	.....
<b>Item 2</b>			
Foreign construction material....	.....	.....	.....
Domestic construction material...	.....	.....	.....

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

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

Include other applicable supporting information.

(End of clause)

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 site investigations by Charleston District, Corps of Engineers personnel and surveys performed for the Charleston District.

(b) Weather conditions, transportation facilities and other pertinent information may be found in Technical Provisions, Section 01100, General, Physical Conditions and Data.

(End of clause)

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):

<http://www.arnet.gov/far>

(End of clause)

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 (48 CFR \_\_\_\_\_) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of clause)

## Section 00800 - Special Contract Requirements

## CLAUSES INCORPORATED BY REFERENCE

52.211-18	Variation in Estimated Quantity	APR 1984
52.236-17	Layout of Work	APR 1984
52.246-12	Inspection of Construction	AUG 1996
252.201-7000	Contracting Officer's Representative	DEC 1991
252.236-7001	Contract Drawings, Maps, and Specifications	AUG 2000

## CLAUSES INCORPORATED BY FULL TEXT

52.201-4700 CONTRACTING OFFICER'S REPRESENTATIVE (COR)  
ADMINISTRATIVE CONTRACTING OFFICER (ACO)  
ORDERING OFFICER

## (a) Definitions.

(i) "Contracting Officer's Representative" (COR) means an individual designated in accordance with subsection 201.602-2 of the Defense Federal Acquisition Regulation Supplement and authorized in writing by the Contracting Officer to perform specific technical or administrative functions. The COR is not authorized to make any commitments or changes that will affect price, quality, quantity, delivery, or any other term or condition of the contract.

(ii) "Administrative Contracting Officer" (ACO) means an individual designated in accordance with subsections 1.602-1(100) and 1.603-3(100) of the Engineer Federal Acquisition Regulation Supplement and authorized in writing by the Contracting Officer to perform specific functions. The ACO is authorized to modify construction contracts within the scope of the contract under specified contract clauses.

(iii) "Ordering Officer" means an individual designated in accordance with subsection 1.603-1 of the Army Federal Acquisition Regulation Supplement and authorized in writing by the Chief of the Contracting Division to place orders against specific indefinite delivery type contracts.

(b) If a COR, ACO, or Ordering Officer is designated, the Contractor will receive a copy of the written designation. Each will specify the extent of the authority of the COR, ACO, or Ordering Officer to act on behalf of the Government.

(c) The Contractor shall not accept any instructions issued by any person employed by the Government, or otherwise, other than the Contracting Officer; or COR, ACO or Ordering Officer acting within their authority.

(End of paragraph)

52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984)

The Contractor shall be required to (a) commence work under this contract within 14 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 210 days after the work commences. The time stated for completion shall include final cleanup of the premises.

(End of clause)

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 \$871.00 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)

52.228-4001 REQUIRED INSURANCE

In accordance with the clause "INSURANCE - WORK ON A GOVERNMENT INSTALLATION" the following Schedule applies:

(a) Workmen's Compensation and Employer's Liability.

(1) Compliance with applicable workmen's compensation and occupational diseases statutes is required. (If occupational diseases are not compensable under applicable statutes, coverage may be under employer's liability insurance.)

(2) Employer's liability \$100,000.00

(b) General Liability (comprehensive form policy).

(1) Bodily injury per occurrence \$500,000.00

(c) Automobile Liability (comprehensive form policy).

(1) Bodily injury per person \$200,000.00

(2) Bodily injury per accident \$500,000.00

(3) Property damage per accident \$ 20,000.00

The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer.

(End of paragraph)

## 52.231-4500 EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE (MAR 1995)

- (a) This statement shall become operative only for negotiated contracts where cost or pricing data is requested, and for modifications to sealed bid or negotiated contracts where cost or pricing data is requested. This clause does not apply to terminations. See 52.231-5001, Basis for settlement of proposals, and FAR Part 49.
- (b) Allowable cost for construction and marine plant and equipment in sound workable condition owned or controlled and furnished by a contractor or subcontractor at any tier shall be based on actual cost data for each piece of equipment or groups of similar serial and series for which the Government can determine both ownership and operating costs from the contractor's accounting records. When both ownership and operating costs cannot be determined for any piece of equipment or groups of similar serial or series equipment from the contractor's accounting records, costs for that equipment shall be based upon the applicable provisions of EP 1110-1-8, Construction Equipment Ownership and Operating Expense Schedule, Region III. Working conditions shall be considered to be average for determining equipment rates using the schedule unless specified otherwise by the contracting officer. For equipment not included in the schedule, rates for comparable pieces of equipment may be used or a rate may be developed using the formula provided in the schedule. For forward pricing, the schedule in effect at the time of negotiations shall apply. For retroactive pricing, the schedule in effect at the time work was performed shall apply.
- (c) Equipment rental costs are allowable, subject to the provisions of FAR 31.105(d)(ii) and 31.205-36. Rates for equipment rented from an organization under common control, lease-purchase arrangements, and sale-leaseback arrangements, will be determined using the schedule, except that actual rates will be used for equipment leased from an organization under common control that has an established practice of leasing the same or similar equipment to unaffiliated lessees.
- (d) When actual equipment costs are proposed and the total amount of the pricing action exceeds the small purchase threshold, the contracting officer shall request the contractor to submit either certified cost or pricing data, or partial/limited data, as appropriate. The data shall be submitted on Standard Form 1411, Contract Pricing Proposal Cover Sheet.

(End of clause)

## 52.232-4001 RELEASE OF CLAIMS -- CONSTRUCTION

The following is an example of a Contractor's release of claims required of the Contractor to comply with the provisions of clause "PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS".

(Sample)

## RELEASE OF CLAIMS

The undersigned Contractor under Contract Number \_\_\_\_\_ dated \_\_\_\_\_, 19\_\_\_\_, between the United States of America and said Contractor for the \_\_\_\_\_ located at \_\_\_\_\_ in accordance with Section I, "PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS" FAR clause 52.232-0005, of said Contract, hereby releases the United States, its officers, agents, and employees from any and all claims arising under or by virtue of said contract or any modification or change thereof except with respect to those

claims, if any, listed below:

(Here itemize claims and amounts due)

\_\_\_\_\_  
(Contractor signature)

\_\_\_\_\_  
(Typed name and title)

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

(End of paragraph)

52.232-5001 CONTINUING CONTRACTS (MAR 1995)—EFARS

(a) This is a continuing contract, as authorized by Section 10 of the River and Harbor Act of September 22, 1922 (33 U.S. Code 621). The payment of some portion of the contract price is dependent upon reservations of funds from future appropriations, and from future contribution to the project having one or more non-federal project sponsors. The responsibilities of the Government are limited by this clause notwithstanding any contrary provision of the "Payments to Contractor" clause or any other clause of this contract.

(b) The sum of \$1,000 has been reserved for this contract and is available for payments to the contractor during the current fiscal year. It is expected that Congress will make appropriations for future fiscal years from which additional funds together with funds provided by one or more non-federal project sponsors will be reserved for this contract.

(c) Failure to make payments in excess of the amount currently reserved, or that may be reserved from time to time, shall not entitle the contractor to a price adjustment under the terms of this contract except as specifically provided in paragraphs (f) and (i) below. No such failure shall constitute a breach of this contract, except that this provision shall not bar a breach-of-contract action if an amount finally determined to be due as a termination allowance remains unpaid for one year due solely to a failure to reserve sufficient additional funds therefore.

(d) The Government may at any time reserve additional funds for payments under the contract if there are funds available for such purpose. The contracting officer will promptly notify the contractor of any additional funds reserved for the contract by issuing an administrative modification to the contract.

(e) If earnings will be such that funds reserved for the contract will be exhausted before the end of any fiscal year, the contractor shall give written notice to the contracting officer of the estimated date of exhaustion and the amount of additional funds which will be needed to meet payments due or to become due under the contract during that fiscal year. This notice shall be given not less than 45 nor more than 60 days prior to the estimated date of exhaustion.

(f) No payments will be made after exhaustion of funds except to the extent that additional funds are reserved for the contract. The contractor shall be entitled to simple interest on any payment that the contracting officer determines

was actually earned under the terms of the contract and would have been made except for exhaustion of funds. Interest shall be computed from the time such payment would otherwise have been made until actually or constructively made, and shall be at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41, 85 STAT 97, as in effect on the first day of the delay in such payment.

(g) Any suspension, delay, or interruption of work arising from exhaustion or anticipated exhaustion of funds shall not constitute a breach of this contract and shall not entitle the contractor to any price adjustment under the "Suspension of Work" clause or in any other manner under this contract.

(h) An equitable adjustment in performance time shall be made for any increase in the time required for performance of any part of the work arising from exhaustion of funds or the reasonable anticipation of exhaustion of funds.

(i) If, upon the expiration of sixty (60) days after the beginning of the fiscal year following an exhaustion of funds, the Government has failed to reserve sufficient additional funds to cover payments otherwise due, the contractor, by written notice delivered to the contracting officer at any time before such additional funds are reserved, may elect to treat his right to proceed with the work as having been terminated. Such a termination shall be considered a termination for the convenience of the Government.

(j) If at any time it becomes apparent that the funds reserved for any fiscal year are in excess of the funds required to meet all payments due or to become due the contractor because of work performed and to be performed under the contract during the fiscal year, the Government reserves the right, after notice to the contractor, to reduce said reservation by the amount of such excess. (End of clause)

#### 52.236-4103 ACKNOWLEDGEMENT OF NOTICE TO PROCEED (CESAC-CT)

Date of the Acknowledgement of Notice to Proceed will be the same date the Notice to Proceed was delivered to the Contractor or his representative by the Post Office Department or by a Corps representative, but shall in no case be later than seven (7) calendar days after the date of issue of the Notice to Proceed by the Contracting Officer.

(End of paragraph)

#### 52.236-4500 PLANT AND MATERIAL REMOVAL AFTER CONTRACT TERMINATION (MAR 1995)

Should this contract be terminated as provided in clause 52.232-5001 because of the failure of Congress to provide additional funds for its completion, the contractor may be permitted to remove plant and material on which payments for preparatory work have been made, subject to an equitable deduction from the amounts due the contractor to reimburse the United States for the unabsorbed value of such plant and material.

(End of clause)

#### 52.249-4500 BASIS FOR SETTLEMENT OF PROPOSALS (MAY 1995)

"Actual costs will be used to determine equipment costs for a settlement proposal submitted on the total cost basis under FAR 49.206-2(b). In evaluating a terminations settlement proposal using the total cost basis, the following principals will be applied to determine allowable equipment costs:

- (1) Actual costs for each piece of equipment, or groups of similar serial or series equipment, need not be available in the contractor's accounting records to determine total actual equipment costs.
- (2) If equipment costs have been allocated to a contract using predetermined rates, those charges will be adjusted to actual costs.
- (3) Recorded job costs adjusted for unallowable and unallowable expenses will be used to determine equipment operating expenses.
- (4) Ownership costs (depreciation) will be determined using the contractor's depreciation schedule (subject to the provisions of FAR 31.205-11).
- (5) License, taxes, storage and insurance costs are normally recovered as an indirect expense and unless the contractor charges these costs directly to contracts they will be recovered through the indirect expense rate.

(End of clause)

#### 252.236-7004 PAYMENT FOR MOBILIZATION AND DEMOBILIZATION (DEC 1991)

(a) The Government will pay all costs for the mobilization and demobilization of all of the Contractor's plant and equipment at the contract lump sum price for this item.

(1) 60 percent of the lump sum price upon completion of the contractor's mobilization at the work site.

(2) The remaining 40 percent upon completion of demobilization.

(b) The Contracting Officer may require the Contractor to furnish cost data to justify this portion of the bid if the Contracting Officer believes that the percentages in paragraphs (a) (1) and (2) of this clause do not bear a reasonable relation to the cost of the work in this contract.

(1) Failure to justify such price to the satisfaction of the Contracting Officer will result in payment, as determined by the Contracting Officer, of --

- (i) Actual mobilization costs at completion of mobilization;
- (ii) Actual demobilization costs at completion of demobilization; and
- (iii) The remainder of this item in the final payment under this contract.

(2) The Contracting Officer's determination of the actual costs in paragraph (b)(1) of this clause is not subject to appeal.

#### 52.236-4031a PLANT

The Contractor agrees to keep on the job sufficient plant to meet the requirements of the work. The plant shall be in satisfactory operating condition and capable of safely and efficiently performing the work as set forth in the specifications. Inspection of equipment listed in "Plant and Equipment Schedule" shall be made prior to commencement of work in order to determine if it is satisfactory so as to meet the requirement of work. The plant shall

be subject to inspection by Contracting Officer and the U.S. Coast Guard at all times. The plant listed on the Plant and Equipment Schedule is the minimum which the Contractor agrees to place and maintain on the job unless otherwise determined by the Contracting Officer, and its listing thereon is not to be construed as an agreement on the part of the Government that it is adequate for the performance of the work.

(End of paragraph)