

# STATE OF ALASKA INVITATION TO BID (ITB)



## BERING SEA AND ALEUTIAN ISLANDS ONBOARD CRAB OBSERVERS

ITB 2024-1100-0260

FEBRUARY 28, 2024

THE DEPARTMENT OF FISH AND GAME, DIVISION OF COMMERCIAL FISHERIES, IS SOLICITING BIDS FROM QUALIFIED OFFERORS TO PROVIDE AND PLACE QUALIFIED OBSERVERS ONBOARD SELECTED COMMERCIAL CRAB FISHING VESSELS OPERATING IN THE BERING SEA AND ALEUTIAN ISLANDS.

**IMPORTANT NOTICE:** If you received this solicitation from the State of Alaska's "Online Public Notice" web site, you must register with the procurement officer listed below in order to receive notification of subsequent amendments to the solicitation. Failure to register with the procurement officer may result in the rejection of your offer.

**BIDDER'S NOTICE:** By signature on this form, the bidder certifies that they comply with the following:

- (1) the bidder has a valid Alaska business license or will obtain one prior to award of any contract resulting from this ITB. If the bidder possesses a valid Alaska business license, the license number must be written below or one the following forms of evidence submitted with the bid:
  - a canceled check for the business license fee;
  - a copy of the business license application with a receipt date stamp from the State's business license office;
  - a receipt from the State's business license office for the license fee;
  - a copy of the bidder's valid business license;
  - a sworn notarized affidavit that the bidder has applied and paid for a business license;
- (2) the price(s) submitted was arrived at independently and without collusion, under penalty of perjury, and that the bidder is complying with:
  - the laws of the State of Alaska;
  - the applicable portion of the Federal Civil Rights Act of 1964;
  - the Equal Employment Opportunity Act and the regulations issued thereunder by the state and federal government;
  - the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the state and federal government;
  - the bid will remain open and valid for at least 90 days;
  - all terms and conditions set out in this Invitation to Bid (ITB).

If a bidder does not hold an Alaska Business License (1) at the time designated in the ITB for opening the state will disallow the Alaska Bidder Preference. Bids must also be submitted under the name as appearing on the bidder's current Alaska business license in order to receive the Alaska Bidder Preference. If a bidder fails to comply with (2) of this paragraph, the state may reject the bid, terminate the contract, or consider the contractor in default.

Eric Verrelli Procurement Officer	_____ COMPANY SUBMITTING BID	*DOES YOUR BUSINESS QUALIFY FOR THE ALASKA BIDDER'S PREFERENCE? [ ] YES                      [ ] NO
	_____ AUTHORIZED SIGNATURE	*DOES YOUR BUSINESS QUALIFY FOR THE ALASKA VETERAN PREFERENCE? [ ] YES                      [ ] NO
Phone: (907) 465-6178 TDD: (907) 465-6181	_____ PRINTED NAME	*SEE ITB FOR EXPLANATION OF CRITERIA TO QUALIFY
Email: eric.verrelli@alaska.gov	_____ DATE	_____ TELEPHONE NUMBER
_____ ALASKA BUSINESS LICENSE NUMBER	_____ FEDERAL TAX ID NUMBER	_____ E-MAIL ADDRESS

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# SECTION 1. INTRODUCTION & INSTRUCTIONS

## SEC. 1.01 PURPOSE OF THE ITB

The Department of Fish and Game, Division of Commercial Fisheries, is soliciting bids for a certified, independent contracting company to place observers on randomly selected catcher vessels (C/V) in Bering Sea and Aleutian Islands commercial crab fisheries. Observer-collected data are primarily used to generate estimates of total crab fishery mortality, enumerate bycatch, characterize size composition of retained catch, and document fishing practices and fleet behavior. Observer-collected data directly contributes to annual stock assessment and data is summarized in reports by the Alaska Department of Fish and Game (ADF&G), the North Pacific Fishery Management Council and the National Marine Fisheries Service.

## SEC. 1.02 DEADLINE FOR RECEIPT OF BIDS

Bids must be received no later than **2:00 PM** Alaska Time on March 20, 2024, at which time they will be publicly opened. Late bids or amendments will be disqualified and not opened or accepted for evaluation.

## SEC. 1.03 PRIOR EXPERIENCE

In order for a bid to be considered responsive the bidder must meet these minimum prior experience requirements:

1. **Minimum contractor qualifications:** Prospective bidders must be ADF&G certified onboard observer independent contracting agents as specified in 5 AAC 39.144 *Onboard observer independent contracting agent certification and decertification*. Prospective bidders must also comply with conflict of interest standards in 5 AAC 39.142 *Conflict of interest standards for onboard observers and independent contracting agents*. Contractors must comply with 5 AAC 39.645 (j)(1, 4-13). A bidder's failure to provide proof of the contractor's qualifications upon request will cause the State to reject the bid as non-responsive.
2. **Minimum observer qualifications:**
  - a. Alaska Administrative Code 5 AAC 39.646 *Shellfish onboard observer trainee program qualifications and requirements* provides qualifications and requirements for prospective observer candidates. Observer candidates may not be enrolled in the training class without approval from ADF&G, 5 AAC 39.645(j)(4). Observer candidates, trainee observers, and certified observers must **maintain compliance** with certification regulations and with conflict of interest standards, 5 AAC 39.143, 5 AAC 39.142, and 5 AAC 39.141(g) *Onboard observer program*.
  - b. Observers and persons who apply to be observer candidates must sign a waiver that allows ADF&G to request and receive the observer or observer candidate's performance evaluations from all observer program training facilities and observer programs that the observer or observer candidate has participated in. ADF&G retains the right to reject a returning observer or observer candidate proposed by the contractor if their performance was unsatisfactory in other observer programs or if their behavior was disruptive or jeopardized the credibility of the observer program.
  - c. Upon request for the purpose of a background check, observers and persons that apply to be observer candidates must provide their date of birth and Social Security number to ADF&G.

- d. Observers must submit to the ADF&G crab observer program a signed and dated statement from a licensed physician confirming that, based on a physical examination, the observer does not have a health condition(s) that would jeopardize their safety or the safety of others while deployed on a commercial fishing vessel, or prevent the observer from performing assigned duties. The statement must declare that the physician received a description of observer duties and the dangerous, remote, and rigorous nature of the work prior to the examination. The physical exam must have occurred during the 12 months prior to observer deployment and expires 12 months after the physical exam occurred. An observer that does not have a statement indicating a current physical exam on file with the ADF&G Crab Observer Program will not be allowed to deploy.

**A bidder's failure to meet these minimum prior experience requirements will cause their bid to be considered non-responsive and rejected. The selected bidder will be required to provide certification documentation before the contract award.**

#### **SEC. 1.04 INVITATION TO BID (ITB) REVIEW**

Bidders shall carefully review this ITB for defects and questionable or objectionable material. Comments concerning defects and questionable or objectionable material in the ITB should be made in writing and received by the procurement officer at least ten days before the bid opening date. This will allow time for an amendment to be issued if one is required. It will also help prevent the opening of a defective bid, upon which award cannot be made, and the resultant exposure of bidders' prices.

#### **SEC. 1.05 QUESTIONS PRIOR TO DEADLINE FOR RECEIPT OF BIDS**

All questions must be in writing and directed to the procurement officer. The interested party must confirm telephone conversations in writing. Two types of questions generally arise. One may be answered by directing the questioner to a specific section of the ITB. These questions may be answered over the telephone. Other questions may be more complex and may require a written amendment to the ITB. The procurement officer will make that decision.

#### **SEC. 1.06 SITE INSPECTION**

Removed.

#### **SEC. 1.07 SUBMITTING BIDS**

All submissions for ITB 2024-1100-0260

##### **Email Submission**

The preferred method of response submission to this solicitation is via email, sent to the following address:

[dfg.contracting@alaska.gov](mailto:dfg.contracting@alaska.gov)

The email submission must contain the ITB number in the subject line. In the body of the email, please indicate the Procurement Officer's name, the Bidder's name, the number of attachments, and the names of the attachments being submitted.

The maximum size of a single email (including all text and attachments) that can be received by the State is 20mb (megabytes). If the email containing the bids exceeds this size, the bid must be sent in multiple emails that are each less than 20 megabytes; each email must comply with the requirements above. Please also include an indication of multiple email submissions (1 of 2, 2 of 2, etc).

It is the Bidder's responsibility to ensure that the issuing agency has received the bid in full, prior to the deadline. The Procurement Officer will respond to the email to confirm receipt. If you do not receive a confirmation, it is your responsibility to contact the Procurement Officer to confirm. The State is not responsible for lost, unreadable, or corrupt emails, or missing attachments.

An offeror's failure to submit its bid prior to the deadline will cause the proposal to be disqualified. Late proposals or amendments will not be opened or accepted for evaluation.

### **Paper Submission**

If submitting a bid by mail, Bidder must submit one hard copy of their bid to the procurement officer in a sealed package.

#### **The bid must be addressed as follows:**

Department of Fish and Game

Division of Administrative Services

Attention: Eric Verrelli, Procurement Officer

ITB Number: 2024-1100-0260

ITB Title: **Bering Sea and Aleutian islands Onboard crab observers**

#### **If mailing via US Mail, please use the following address:**

PO Box 115526

Juneau, AK 99811-5526

If utilizing a delivery service, please use the following address:

1255 W. 8<sup>th</sup> St

Procurement Section

Juneau, AK 99801

#### **If faxing, please use the below number:**

907-465-6181 \*If faxing your bid please send a confirmation email to [dfg.contracting@alaska.gov](mailto:dfg.contracting@alaska.gov) to ensure it was received.

An offeror's failure to submit its bid prior to the deadline will cause the bid to be disqualified.

Late bids or amendments will not be opened or accepted for evaluation. **Oral proposals will not be accepted.**

## **SEC. 1.08 BID FORMS**

Bidders shall use the front page of this ITB and any other forms identified in this ITB for submitting bids. All bids must be signed by an individual authorized to bind the bidder to the provisions of the ITB.

### **BIDDER'S CERTIFICATION**

By signature on the bid, the bidder certifies that they comply with the following:

- A. the laws of the State of Alaska;
- B. the applicable portion of the Federal Civil Rights Act of 1964;
- C. the Equal Employment Opportunity Act and the regulations issued thereunder by the state and federal government;
- D. the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the state and federal government;
- E. all terms and conditions set out in this ITB;

- F. the price(s) submitted was arrived at independently arrived and without collusion, under penalty of perjury; and
- G. that the bid will remain open and valid for at least 90 days.

If any bidder fails to comply with [a] through [g] of this paragraph, the state reserves the right to disregard the bid, terminate the contract, or consider the contractor in default.

#### CONFLICT OF INTEREST

Each bid shall include a statement indicating whether or not the company or any individuals working on the contract has a possible conflict of interest (e.g., currently employed by the State of Alaska or formerly employed by the State of Alaska within the past two years) and, if so, the nature of that conflict. The procurement officer reserves the right to **consider a bid non-responsive and reject it** or cancel the award if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the contract to be performed by the bidder.

#### SEC. 1.09 PRICES

The bidder shall state prices in the units of issue on this ITB. Prices quoted in bids must be exclusive of federal, state, and local taxes. If the bidder believes that certain taxes are payable by the state, the bidder may list such taxes separately, directly below the bid price for the affected item.

#### SEC. 1.10 PRE-BID CONFERENCE

Removed.

#### SEC. 1.11 ASSISTANCE TO BIDDERS WITH A DISABILITY

Bidders with a disability may receive accommodation regarding the means of communicating this ITB or participating in the procurement process. For more information, contact the procurement officer no later than ten days prior to the deadline for receipt of bids.

#### SEC. 1.12 AMENDMENTS TO BIDS

Amendments to or withdrawals of bids will only be allowed if acceptable requests are received prior to the deadline that is set for receipt of bids, in accordance with 2 AAC 12.140. No amendments or withdrawals will be accepted after the deadline unless the delay is due to an error of the contracting agency, in accordance with 2 AAC 12.160.

#### SEC. 1.13 AMENDMENTS TO THE ITB

If an amendment is issued, it will be provided to all who were notified of the ITB and to those who have registered with the procurement officer after receiving the ITB from the State of Alaska Online Public Notice website.

#### SEC. 1.14 ITB SCHEDULE

The ITB schedule set out herein represents the State of Alaska's best estimate of the schedule that will be followed. If a component of this schedule, such as the deadline for receipt of bids, is delayed, the rest of the schedule may be shifted accordingly. All times are Alaska Time.

<b>ACTIVITY</b>	<b>TIME</b>	<b>DATE</b>
Issue Date / ITB Released	10:00 AM	2/28/2024
Deadline for Receipt of Bids / Bid Due Date	2:00 PM	3/20/2024
Bid Evaluations Complete	10:00 AM	3/21/2024
Notice of Intent to Award	10:30 AM	3/21/2024
Contract Issued	10:00 AM	4/2/2024

This ITB does not, by itself, obligate the state. The state's obligation will commence when the contract is approved by the Commissioner of the Department of Fish and Game, or the Commissioner's designee. Upon written notice to the contractor, the state may set a different starting date for the contract. The state will not be responsible for any work done by the contractor, even work done in good faith, if it occurs prior to the contract start date set by the state.

**SEC. 1.15 ALTERNATE BIDS**

Bidders may only submit one bid for evaluation. In accordance with 2 AAC 12.830 alternate bids (bids that offer something different than what is asked for) will be rejected.

**SEC. 1.16 SUPPORTING INFORMATION**

Bidders shall submit all required technical, specification, and other supporting information with their bid, so that a detailed analysis and determination can be made by the procurement officer that the product offered meets the ITB specifications and that other requirements of the ITB have been met. However, provided a bid meets the requirements for a definite, firm, unqualified, and unconditional offer, the state reserves the right to request supplemental information from the bidder, after the bids have been opened, to ensure that the products or services offered completely meet the ITB requirements. The requirement for such supplemental information will be at the reasonable discretion of the state and may include the requirement that a bidder will provide a sample product(s) so that the state can make a first-hand examination and determination.

A bidder's failure to provide this supplemental information or the product sample(s), within the time set by the state, will cause the state to consider the offer non-responsive and reject the bid.

**SEC. 1.17 FIRM, UNQUALIFIED, AND UNCONDITIONAL OFFER**

Bidders must provide enough information with their bid to constitute a definite, firm, unqualified and unconditional offer. To be responsive a bid must constitute a definite, firm, unqualified and unconditional offer to meet all the material terms of the ITB. Material terms are those that could affect the price, quantity, quality, or delivery. Also included as material terms are those which are clearly identified in the ITB and which, for reasons of policy, must be complied with at risk of bid rejection for non-responsiveness.

## SECTION 2. CONTRACT INFORMATION

### SEC. 2.01 CONTRACT TERM

The length of the contract will be for an initial three (3) year period with two (2) one (1) year renewal options to be exercised at the sole discretion of the State.

### SEC. 2.02 CONTRACT ADMINISTRATION

The administration of this contract is the responsibility of the procurement officer or person appointed by the Department of Fish and Game, Division of Commercial Fisheries.

### SEC. 2.03 CONTRACT FUNDING

The Department of Fish and Game, Division of Commercial Fisheries, has no established budget for this contract. Federal and cost recovery funds will be available.

### SEC. 2.04 CONTRACT EXTENSION

Unless otherwise provided in this ITB, the state and the successful bidder/contractor agree: (1) that any extension of the contract excluding any exercised renewal options, will be considered as a month-to-month extension, and all other terms and conditions shall remain in full force and effect and (2) the procurement officer will provide written notice to the contractor of the intent to cancel the month-to-month extension at least thirty (30) days before the date of cancellation. A month-to-month extension may only be executed by the procurement officer via a written contract amendment.

### SEC. 2.05 CONTRACT CHANGES – UNANTICIPATED AMENDMENTS

During the course of this contract, the contractor may be required to perform additional work. That work will be within the general scope of the initial contract. When additional work is required, the state will provide the contractor a written description of the additional work and request the contractor to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work. Cost and pricing data must be provided to justify the cost of such amendments per AS 36.30.400.

The contractor will not commence additional work until the procurement officer has secured required state approvals necessary for the amendment and issued a written contract amendment.

### SEC. 2.06 SUBCONTRACTORS

Subcontractors may be used to perform work under this contract. If a bidder intends to use subcontractors, the bidder must identify in the bids the names of the subcontractors and the portions of the work the subcontractors will perform.

Subcontractor experience SHALL be considered in determining whether the bidder meets the requirements set forth in **SEC. 2.01 PRIOR EXPERIENCE**.

If a bid with subcontractors is selected, the bidder must provide the following information concerning each prospective subcontractor within five working days from the date of the state's request:

- complete name of the subcontractor;
- complete address of the subcontractor;
- type of work the subcontractor will be performing;

- percentage of work the subcontractor will be providing;
- evidence that the subcontractor holds a valid Alaska business license; and
- a written statement signed by each proposed subcontractor that clearly verifies that the subcontractor is committed to render the services required by the contract.

A bidder's failure to provide this information, within the time set, may cause the state to consider their bid non-responsive and reject it.

Note that if the subcontractor will not be performing work within Alaska, they will not be required to hold an Alaska business license.

## SEC. 2.07 JOINT VENTURES

Joint ventures will not be allowed.

## SEC. 2.08 CONTRACT PERFORMANCE LOCATION

The location(s) the work is to be performed, completed, and managed is onboard selected crab fishing vessels. Briefings and debriefings are performed in the ADF&G Dutch Harbor office, and potentially the Kodiak ADF&G office. Additional deployment locations may be Kodiak, Akutan, King Cove, and St. Paul Island. See additional details in section 2.10.8 of this ITB.

The state **WILL NOT** provide workspace for the contractor. The contractor must provide its own workspace.

The contractor should include in their bid price: transportation, lodging, and per diem costs sufficient to pay for all trips necessary.

By signature on their bid, the bidder certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States.

If the bidder cannot certify that all work will be performed in the United States, the bidder must contact the procurement officer in writing to request a waiver at least 10 days prior to the deadline for receipt of bids.

The request must include a detailed description of the portion of work that will be performed outside the United States, where, by whom, and the reason the waiver is necessary.

Failure to comply with these requirements may cause the state to reject the bid as non-responsive or cancel the contract.

## SEC. 2.09 RIGHT TO INSPECT PLACE OF BUSINESS

At reasonable times, the state may inspect those areas of the contractor's place of business that are related to the performance of a contract. If the state makes such an inspection, the contractor must provide reasonable assistance.

## SEC. 2.10 SCOPE OF WORK AND SPECIFICATIONS

**Background information:** Onboard observer data collection and fishery monitoring is an integral component of fisheries management. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) states in Findings (8) "The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States" (U.S.

Department of Commerce 1998 and 2007). The State of Alaska (SOA) Onboard Crab Observer Program is designed to help meet the MSA, and more recently the National Standard 1 requires that all MSA Fishery Management Plans comply with annual catch limits and accountability measures and end all overfishing.

State of Alaska commercial shellfish fishing regulation 5 AAC 39.645(a) *Shellfish onboard observer program* states that onboard observers provide the only effective means of collecting essential biological and management data in particular fisheries and provide the only effective means to enforce regulations that protect the shellfish resource.

Since 2000 the SOA has engaged in contracts with private observer contracting companies to place observers on randomly selected catcher vessels (C/V) in Bering Sea and Aleutian Islands commercial crab fisheries. Observer-collected data are primarily used to generate estimates of total crab fishery mortality, enumerate bycatch, characterize size composition of retained catch, and document fishing practices and fleet behavior. Observer-collected data directly contribute to annual stock assessment and data is summarized in reports by the Alaska Department of Fish and Game (ADF&G), the North Pacific Fishery Management Council and the National Marine Fisheries Service.

Crab fisheries observers are trained at ADF&G facilities in Kodiak. Up to two 3-week crab observer training classes are scheduled per year. Training classes typically occur in September and January of each year, but class timing may vary depending on fishery status. Enrollment for each class is limited to 15 candidates from all observer providers combined and are filled in the order they are received. There are currently two ADF&G-certified observer providers that may enroll candidates for crab observer training. Prospective bidders that are not currently certified may seek certification (as defined on p.11) prior to responding to this invitation to bid.

**Purpose:** In accordance with the terms and conditions of ITB 2024-1100-0260, provide ADF&G qualified crab observers (as defined on p. 11) for deployment on crab catcher vessels in selected Bering Sea and Aleutian Islands crab fisheries. These fisheries may include Bristol Bay red king, Bering Sea snow, Bering Sea Tanner, and Eastern and Western Aleutian Islands golden king crab. Deployed observers will sample harvest and bycatch according to ADF&G-assigned sampling protocols, collect fishery management and research data, and observe fishing activities.

The contractor, after a minimum of 10 days notification from vessel operators, will provide crab observers to selected C/Vs. The contractor must submit to ADF&G each observer assignment for a C/V deployment and the vessel's planned port of departure and delivery before the assignment can be approved. ADF&G reserves the right to disallow any observer assignments.

An onboard commercial crab fisheries observer must be able to work long hours on the deck of a crab fishing vessel in inclement weather and be physically able to carry out duties specified in the Crab Observer Training and Deployment Manual (available upon request) or by ADF&G crab observer program staff. Observers must not be incapacitated by chronic or debilitating seasickness. An observer must not have a physical or mental illness or injury which could become aggravated from performing observer duties, jeopardize the safety of the observer or the vessel's crew, or prevent the observer from performing assigned duties to the standards of the ADF&G crab observer program (available in Crab Observer Training and Deployment Manual). Observers must have good interpersonal skills and mental stamina for living and working in a remote location with a fishing vessel crew. Observers must be able to

assert themselves diplomatically with vessel crew concerning sampling protocols and regulatory compliance. Exposure to blood or body fluids may exist in a remote emergency First Aid/CPR situation. Biological sampling duties could include the use of sharp instruments such as needles or knives or small amounts of chemical preservatives such as ethanol or formalin.

### **Contact Persons**

Technical questions concerning this contract should be directed to Bo Whiteside, phone (907) 486-1854. Alaska Department of Fish and Game, Division of Commercial Fisheries, 351 Research Ct. Kodiak, AK 99615. Email [Bo.Whiteside@alaska.gov](mailto:Bo.Whiteside@alaska.gov)

Administrative questions concerning this contract should be directed to Eric Verrelli (907) 465-6178. Alaska Department of Fish and Game, Division of Administrative Services, P.O. Box 115526, Juneau, Alaska 99811-5526. E-mail [eric.verrelli@alaska.gov](mailto:eric.verrelli@alaska.gov).

### **TERMS AND CONDITIONS:**

- 3. Length of contract:** Please see section 2.01 of this ITB for detailed information.
- 4. Contract cancellation:** The State reserves the right to cancel the contract at its convenience upon 14 calendar days' written notice to the contractor. The State is liable only for payment in accordance with the payment provisions of this contract for services or supplies provided before the effective date of termination.
- 5. Estimated use:** The State does not guarantee a need for observers in specific crab fisheries and does not guarantee a minimum or maximum number of observer days per fishery or during the term of the contract. However; for the Bering Sea fisheries, ADF&G expects to place observers on 20 percent of Bristol Bay red king crab C/Vs, 30-100 percent of Bering Sea snow crab C/Vs, and 30–100 percent of Bering Sea Tanner crab C/Vs for up to 100 percent of the time each vessel harvests crab during those fisheries. All participating C/Vs in the Aleutian Islands golden king crab fisheries are required to carry a crab observer for 50 percent of the total golden king crab weight harvested by the vessel during each of the three trimesters dated August 1 through October 31, November 1 through January 31, and February 1 through April 30 during each registration year, 5AAC 39.645(d)(4)(A)(ii, iii) or comparable trimesters should regulatory season dates change as specified in 5 AAC 34.610(b). Emergency fishery closures, season closures, or season delays shall not be considered Force Majeure. See Attachment 1 for estimated observer requirements for each fishery.
- 6. Location of operation:** Observers will be briefed and debriefed by ADF&G staff in Dutch Harbor, as specified in Alaska Administrative Code (AAC) 5 AAC 39.146(c) *Onboard observer briefing and debriefing*. Observers primarily embark and disembark their assigned vessels in Dutch Harbor; however, other embark and disembark remote ports should be expected to occur.
- 7. Costs to be borne by the contractor:** The contractor will be responsible for all costs associated with providing observers as specified in this ITB. These costs will include: wages, benefits, employee insurance, lodging, food, travel (including airfare, rides to and from briefings and debriefings, and to and from vessels), administration and other related employment costs, all observer recruiting and training costs (including providing transportation for observer trainees for the duration of the three week training course), all observer sampling equipment required by ADF&G (pp. 13-14), and

all logistic and support costs. Vessels that carry a crab observer are required to provide adequate food and accommodations for the observer equal to those provided for the vessel's crew, 5 AAC 39.645(i)(4).

- 8. Payment for services:** The contractor will be paid a daily rate per observer per day. The daily observer rate will be paid from the day the vessel leaves port with the observer on board to the day the observer disembarks their vessel, plus daily rate allowances of up to one day in port on the vessel prior to departure, one day for briefing and one day for debriefing. Up to two days for debriefing will be paid if the extended debriefing is due to a large volume of data collected and not due to negligence on the observer's part such as arriving late for an appointment or excessive errors in the data set which extend the debriefing session beyond a reasonable amount of time for the amount of data collected. The observer is not allowed to board their vessel before briefing or remain on their assigned vessel after debriefing. For remote deployments, a daily-rate allowance of up to two days for travel to the vessel after briefing and up to two days for travel from the vessel before the day of debriefing will be paid. For remote deployments in the port of Akutan, a daily-rate allowance of up to one day for travel will be paid. No daily rate will be paid for travel from any port when the reason for travel is to end a deployment as a result of a trainee permit that will expire if the trainee does not travel to Dutch Harbor in order to comply with 5 AAC 39.143 (c)(1)(A) *Onboard observer certification and decertification*, or due to poor planning on the part of the contractor, where no travel allowance will be given for travel cost or travel days needed to switch out observers.
- a. Observer days may not be duplicate-invoiced; for example, if an observer completes debriefing, and on the same day completes their briefing for deployment on a different vessel, only one day will be paid.
  - b. When any observer deployment or portion of an observer deployment results in the collection of data that is unusable for ADF&G's purposes due to negligence by an observer, the contractor will not be compensated for observer services for day(s) determined by ADF&G to be data deficient. Examples of data deficiency include but are not limited to falsification of data, data that is not usable due to collection errors, or the collection of insufficient data or no data collected, such as neglecting to complete species composition samples when sampling could reasonably have been accomplished or missing sampling opportunities during the offload of the observer's assigned vessel.
  - c. Observer travel to and from remote ports of Akutan, False Pass, King Cove, Kodiak and St. Paul for the purpose of boarding or disembarking an assigned vessel, will be reimbursed after completion of each remote deployment, at actual cost when proof of purchase and proof of travel is provided with the invoice, except when the reason for travel is to end a deployment as a result of a trainee permit that will expire if the trainee does not travel to Dutch Harbor in order to comply with 5 AAC 39.143(c)(1)(A), or due to poor planning on the part of the observer contractor, where no travel allowance will be given for travel cost or travel days to switch out observers. The observer contractor must invoice the reimbursable travel expenses at the end of the associated deployment only. Taxi fares, lodging, food, and other costs are the responsibility of the contractor and are included in the daily rate bid. Proof of travel must contain the observer's name and date of travel and may include boarding passes, baggage tags, passenger rosters, and airline mileage credit reports.

d. Observer days will not be paid for a trainee whose permit is expired under 5 AAC 39.143(c)(1)(A); unless late return of a trainee observer is solely the fault of the vessel operator.

e. Invoices must be submitted by the observer contractor to the ADF&G crab observer program on the 1<sup>st</sup> and 16<sup>th</sup> of each month for observer deployment services. Each invoice must contain the contract number indicated on the first page of this contract. Each invoice must itemize each deployment in the billing cycle and must include:

- 1) Observer's name;
- 2) Assigned vessel;
- 3) Date the observer briefed;
- 4) Date and location the vessel left port with the observer onboard;
- 5) Date and location the observer disembarked the vessel;
- 6) Date the observer's debriefing is completed;
- 7) If applicable, dates of travel to or from remote ported vessels;
- 8) If applicable, vendor information for remote travel;
- 9) Where applicable, the related charges for each item;
- 10) Fishery in which each deployment occurred, i.e.:

Bering Sea invoices:

BBR (Bristol Bay red king crab),

EBT (Eastern Bering Sea Tanner crab),

WBT (Western Bering Sea Tanner crab),

BSS (Bering Sea snow crab),

Aleutian Islands invoices:

EAG (Eastern Aleutian Islands golden king crab),

WAG (Western Aleutian Islands golden king crab).

- 11) Whether the deployed observer was certified (C) or a trainee (T).

Invoices that do not contain these details will be returned unpaid to the contractor for missing information.

**9. Contractor performance requirements:** The contractor will be responsible for meeting the following performance requirements:

- a. Provide and expedite crab observers to crab C/Vs that ADF&G selects for observer coverage. The ADF&G crab observer program will provide a list of vessels to the contractor in September. Because vessel plans often change, frequent updates are made to the vessel list during the fishery season. Updates will be communicated between ADF&G and the contractor on a regular basis.
- b. For vessels planning to participate in Aleutian Islands golden king crab fisheries and/or deliver catch in ports other than Dutch Harbor, provide only ADF&G-certified crab observers and experienced trainee observers who have met performance expectations during their most recent crab fisheries deployment and have not been assigned mandatory midtrip debriefings as a result of poor performance. Vessels are asked to indicate port of delivery to ADF&G during preseason vessel registration and the vessel-specific port information is relayed to the contractor, at which time the contractor will begin work under this contract. The contractor must verify the port of delivery when arranging observer logistics with each vessel. Certified observers and experienced trainee observers that have not met ADF&G performance expectations for their previous deployment may only be deployed on vessels that will be delivering catch in Dutch Harbor for the duration of deployment. Inexperienced trainee observers may only deploy on vessels delivering in Dutch Harbor.
- c. Provide all transportation and logistics to ensure observers are present for the crab observer training class if required, briefings and debriefings with Dutch Harbor ADF&G, and on their assigned vessels at the required times and dates specified by ADF&G.
- d. Maintain ADF&G onboard observer independent contracting agent certification, as defined in 5 AAC 39.144 for the duration of the contract, as well as contractor requirements in 5 AAC 39.142 and 5 AAC 39.645(j).
- e. Ensure all observers are fully prepared to deploy on a crab vessel at the time of briefing. Observers that have not met their individual briefing requirements will not be deployed.
- f. Ensure all data, biological samples and evidence specimens collected by deployed observers are properly maintained and submitted to ADF&G in a timely manner as specified by ADF&G.
- g. Ensure all equipment and materials provided to observers by ADF&G are returned at debriefing. The contractor shall replace ADF&G provided items that, as determined by ADF&G, are lost, damaged, or stolen while in possession of the observer.
- h. Ensure the contractor's team members are proactive in adhering to ADF&G regulations 5 AAC 39.141(g), 5 AAC 39.142, 5 AAC 39.143, and 5 AAC 39.645. It is the contractor's responsibility to follow regulations pertinent to their role in the State's crab observer program, and to anticipate appropriate actions needed for regulatory compliance. Personnel employed by the observer contractor who are responsible for expediting crab observers under this contract must be familiar

with the State's crab observer program and able to handle the challenges of expediting and deploying observers in the Bering Sea crab fisheries.

- i. Ensure the contractor's team members use any information provided by the State or the vessels only for the purposes of performing the services provided herein. The contractor must not speak for ADF&G concerning ADF&G financial or operational information. The contractor shall not disseminate or allow dissemination of confidential information, including any data in any form provided by the State to the contractor, or acquired, obtained or learned by the contractor in the performance of this contract. Examples include but are not limited to fishing locations, schedules, operations or processes, catch information, fishing violations or evidence collected by observers, or personal information about vessel crews which could constitute an invasion of privacy.
- j. After awarding the contract, the State reserves the right to approve any change in the project team members.

**10. Equipment and supplies provided by contractor:** The contractor must provide, for each observer deployment, a complete set of the following equipment. All items must be in good working order, approved by ADF&G and in possession of the observer at the time of briefing.

1. Two (2) 300-mm stainless steel Vernier calipers, showing both inches and cm in increments of 0.1, with the metric scale on the bottom of the ruler adjacent to the outer jaws
2. Rust preventative for calipers
3. Two (2) crab measuring sticks of the appropriate size for each retained species
4. Three (3) digital fast playback audio recorders capable of USB connectivity with a minimum internal storage capacity of 8GB.
5. One (1) small calculator
6. Spare batteries for audio recorders, calculator, and head lamp
7. Two (2) clipboards for 8.5" by 11" paper
8. Minimum of five (5) black pens, two (2) red pens, twelve (12) #2 pencils, one (1) pencil sharpener and one (1) large eraser
9. Two (2) thumb tally-counters
10. Current year calendar
11. A reliable watch
12. One (1) indelible marking pen, black
13. One (1) jeweler's loupe (21-mm, power 30x)
14. One (1) 150-cm measuring tape, with increments in centimeters only
15. One (1) waterproof voice recorder bag
16. Biological Field Techniques for Chionoecetes Crabs field guide
17. Biological Field Techniques for Lithodid Crabs field guide
18. Field Guide to Common Marine Fishes and Invertebrates of Alaska
19. Protective hard hat and USCG approved flotation vest (Type III or V) with attached strobe light and whistle
20. Two (2) locking cases large enough to contain all sampling equipment and all forms and equipment issued by ADF&G
21. US Coast Guard approved immersion/survival suit with attached strobe light and whistle

22. One (1) head lamp suitable for illuminating the area the observer uses for reading instruments and recording data as required in their normal duties
23. A valid telephone calling card with a minimum of 30 minutes of time for calling all locations within the state of Alaska
24. One (1) waterproof, buoyant, personal locator beacon (PLB) with GPS accurate to at least 100 feet, and with a current NOAA registration

The contractor is required to assure ADF&G that each observer is equipped with adequate foul-weather gear appropriate for the Bering Sea and any other related clothing and safety equipment needed to complete their assigned tasks.

**11. Termination of contract:** The State may, without fault or liability, terminate the contract for the following reasons:

- 1) Failure of the contractor or the contractor's employees (observers) to report at the time and location to begin the contract and/or provide the services specified in the ITB.
- 2) Failure of the contractor to maintain ADF&G certification (as defined in 5 AAC 39.144) throughout the term of the contract, as well as other qualifications and standards listed under 5 AAC 39.142 and 5 AAC 39.645(j).
- 3) Failure of the contractor to comply with any other provisions of the contract awarded.

Regulations cited in the ITB can be accessed through the State of Alaska web page or provided by the Contracting Officer.

## **Summary**

All requirements described in the ITB 2024-1100-0260 must be met in a satisfactory manner by the successful bidder.

All deliverables related to ITB 2024-1100-0260 must be satisfactorily completed by the successful bidder.

All data collected by observers deployed under the contract related to ITB 2024-1100-0260 must be usable by ADF&G for the purposes of Bering Sea crab fisheries management and research.

**All crab observers deployed under the contract related to ITB 2024-1100-0260 must satisfactorily meet data collection thresholds and observer deployment performance standards established by ADF&G.**

## **SEC. 2.11 F.O.B. POINT**

Removed.

## **SEC. 2.12 SHIPPING DAMAGE**

The state will not accept or pay for damaged goods. The contractor must file all claims against the carrier(s) for damages incurred to items in transit from the point of origin to the ultimate destination. The state will provide the contractor with written notice when damaged goods are received. The state will deduct the cost of the

damaged goods from the invoice prior to payment. The contractor must file all claims against the carrier(s) for reimbursement of the loss.

### SEC. 2.13 DELIVERY TIME

removed.

### SEC. 2.14 INSPECTION & MODIFICATION - REIMBURSEMENT FOR UNACCEPTABLE DELIVERABLES

The contractor is responsible for providing all products or the completion of all work set out in the contract. All products or work is subject to inspection, evaluation, and approval by the state. The state may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. The state may instruct the contractor to make corrections or modifications if needed in order to accomplish the contract's intent. The contractor will not unreasonably withhold such changes.

Substantial failure of the contractor to perform the contract may cause the state to terminate the contract. In this event, the state may require the contractor to reimburse monies paid (based on the identified portion of unacceptable products or work received) and may seek associated damages.

### SEC. 2.15 CONTINUING OBLIGATION OF CONTRACTOR

Notwithstanding the expiration date of a contract resulting from this ITB, the contractor is obligated to fulfill its responsibilities until warranty, guarantee, maintenance, and parts availability requirements have completely expired.

### SEC. 2.16 ESTIMATED QUANTITIES

The quantities referenced in this ITB are the state's estimated requirements and may vary more or less from the quantities actually purchased. The state does not guarantee any minimum or maximum purchase. Orders will be issued throughout the contract period on an as-needed basis.

### SEC. 2.17 CONTRACT PRICE ADJUSTMENTS

A contract resulting from this ITB will include the following price adjustment clause:

**Consumer Price Index (CPI):** Contract prices will remain firm through **2024**.

The contractor may request price adjustments, in writing, 30 days prior to the contract renewal date. Requests must be in writing and must be received 30 days prior to the contract renewal date. If the contractor fails to request a CPI price adjustment 30 days prior to the contract renewal date, the adjustment will be effective 30 days after the state receives their written request.

Price adjustments will be made in accordance with the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items, Urban Alaska.

The price adjustment rate will be determined by comparing the percentage difference between the CPI in effect for the base year six-month average (January through June OR July through December 20\_\_); and each (January through June OR July through December 20\_\_ six-month average) thereafter. The percentage difference between those two CPI issues will be the price adjustment rate. No retroactive contract price adjustments will be allowed.

All price adjustments must be approved by the procurement officer prior to the implementation of the adjusted pricing. Approval shall be in the form of a contract amendment issued by the procurement officer.

## SEC. 2.18 INFORMAL DEBRIEFING

When the contract is completed, an informal debriefing may be performed at the discretion of the procurement officer. If performed, the scope of the debriefing will be limited to the products provided or work performed by the contractor.

## SEC. 2.19 INDEMNIFICATION

The contractor shall indemnify, hold harmless, and defend the contracting agency from and against any claim of, or liability for error, omission or negligent act of the contractor under this agreement. The contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the contractor and the independent negligence of the contracting agency, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis.

“Contractor” and “contracting agency”, as used within this and the following article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term “independent negligence” is negligence other than in the contracting agency’s selection, administration, monitoring, or controlling of the contractor and in approving or accepting the contractor’s work.

## SEC. 2.20 INSURANCE

Without limiting the contractor's indemnification, it is agreed that the contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits.

Certificates of Insurance must be furnished to the procurement officer prior to contract approval and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the contractor's services. All insurance policies shall comply with and be issued by insurers licensed to transact the business of insurance under AS 21.

### **Proof of insurance is required for the following:**

- Workers' Compensation Insurance: The contractor shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the state.
- Commercial General Liability Insurance: covering all business premises and operations used by the contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per occurrence.
- Commercial Automobile Liability Insurance: covering all vehicles used by the contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per occurrence.

## SEC. 2.21 MANDATORY REPORTING

The contractor must provide a quarterly usage report to the procurement officer in an electronic format (Excel). The report must contain at least the following information: purchasing entity, description of items and/or services purchased, date of purchase, contract price, retail price, extended contract and retail price, and savings.

These reports are due 30 days after the end of each quarter. The contractor's failure to provide these reports as required may result in contract default action.

<b><u>Reporting Period</u></b>	<b><u>Due Date</u></b>
State Fiscal Quarter 1 (Jul 1 - Sept 30):	Oct 31
State Fiscal Quarter 2 (Oct 1 - Dec 31):	Jan 31
State Fiscal Quarter 3 (Jan 1 - Mar 31):	Apr 30
State Fiscal Quarter 4 (Apr 1 - Jun 30):	Jul 31

Any quarter with zero sales must be reported as zero sales. This may be done via email to the procurement officer.

## SECTION 3. CONTRACT INVOICING AND PAYMENTS

### SEC. 3.01 BILLING INSTRUCTIONS

All invoices produced by the contractor must contain the following information at a minimum:

- 1) Observer's name;
- 2) Assigned vessel;
- 3) Date the observer briefed;
- 4) Date and location the vessel left port with the observer onboard;
- 5) Date and location the observer disembarked the vessel;
- 6) Date the observer's debriefing is completed;
- 7) If applicable, dates of travel to or from remote ported vessels;
- 8) If applicable, vendor information for remote travel;
- 9) Where applicable, the related charges for each item;
- 10) Fishery in which each deployment occurred, i.e.:

Bering Sea invoices:

BBR (Bristol Bay red king crab),

EBT (Eastern Bering Sea Tanner crab),

WBT (Western Bering Sea Tanner crab),

BSS (Bering Sea snow crab),

Aleutian Islands invoices:

EAG (Eastern Aleutian Islands golden king crab),

WAG (Western Aleutian Islands golden king crab).

- 11) Whether the deployed observer was certified (C) or a trainee (T).

**Invoices that do not contain these details will be returned unpaid to the contractor for missing information.**

Invoices must be billed to the ordering agency's address shown on the individual Purchase Order, Contract Award or Delivery Order. The state will make payment after it receives the goods or services and the invoice. Questions concerning payment must be addressed to the ordering agency.

### SEC. 3.02 PAYMENT FOR STATE PURCHASES

Payment for agreements under \$500,000 for the undisputed purchase of goods or services provided to a state agency, will be made within 30 days of the receipt of a proper billing or the delivery of the goods or services to the location(s) specified in the agreement, whichever is later. A late payment is subject to 1.5% interest per month

on the unpaid balance. Interest will not be paid if there is a dispute or if there is an agreement that establishes a lower interest rate or precludes the charging of interest.

Any single contract payments of \$1 million or higher must be accepted by the contractor via Electronic Funds Transfer (EFT).

### **SEC. 3.03 PROMPT PAYMENT FOR STATE PURCHASES**

Removed.

### **SEC. 3.04 THIRD-PARTY FINANCING AGREEMENTS NOT ALLOWED**

Because of the additional administrative and accounting time required of the state when third party financing agreements are permitted, they will not be allowed under this contract.

## SECTION 4. EVALUATION AND CONTRACTOR SELECTION

### SEC. 4.01 EVALUATION OF BIDS

After bid opening, the procurement officer will evaluate the bids for responsiveness. Bids deemed non-responsive will be eliminated from further consideration. An evaluation may not be based on discrimination due the race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, disability, or political affiliation of the bidder.

### SEC. 4.02 APPLICATION OF PREFERENCES

Certain preferences apply to all state contracts, regardless of their dollar value. The Alaska Bidder and Alaska Veteran preferences are the most common preferences involved in the ITB process. Additional preferences that may apply to this procurement are listed below. Guides that contain excerpts from the relevant statutes and codes, explain when the preferences apply and provide examples of how to calculate the preferences are available at the following website:

<http://doa.alaska.gov/dgs/pdf/pref1.pdf>

- Alaska Products Preference - AS 36.30.332
- Recycled Products Preference - AS 36.30.337
- Local Agriculture and Fisheries Products Preference - AS 36.15.050
- Employment Program Preference - AS 36.30.321(b)
- Alaskans with Disabilities Preference - AS 36.30.321(d)

The Division of Vocational Rehabilitation in the Department of Labor and Workforce Development keeps a list of qualified employment programs and individuals who qualify as persons with a disability. As evidence of a business' or an individual's right to the Employment Program or Alaskans with Disabilities preferences, the Division of Vocational Rehabilitation will issue a certification letter. To take advantage of these preferences, a business or individual must be on the appropriate Division of Vocational Rehabilitation list prior to the time designated for receipt of proposals. Bidders must attach a copy of their certification letter to the proposal. **A bidder's failure to provide this certification letter with their proposal will cause the state to disallow the preference.**

### SEC. 4.03 ALASKA BIDDER PREFERENCE

An Alaska Bidder Preference of 5% will be applied to the total bid price. The preference will be given to a bidder who:

- 1) holds a current Alaska business license prior to the deadline for receipt of bids;
- 2) submits a bid for goods or services under the name appearing on the bidder's current Alaska business license;
- 3) has maintained a place of business within the state staffed by the bidder, or an employee of the bidder, for a period of six months immediately preceding the date of the bid;
- 4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, is a limited liability company (LLC) organized under AS 10.50 and all members are residents of the state, or is a partnership under AS 32.06 or AS 32.11 and all partners are residents of the state; and

- 5) if a joint venture, is composed entirely of ventures that qualify under (1)-(4) of this subsection.

#### **Alaska Bidder Preference Certification Form**

In order to receive the Alaska Bidder Preference, the bid must include the Alaska Bidder Preference Certification Form attached to this ITB. A bidder does not need to complete the Alaska Veteran Preference questions on the form if not claiming the Alaska Veteran Preference. A bidder's failure to provide this completed form with their bid will cause the state to disallow the preference.

#### **SEC. 4.04 ALASKA VETERAN PREFERENCE**

An Alaska Veteran Preference of 5%, not to exceed \$5,000, will be applied to the total bid price. The preference will be given to a bidder who qualifies under AS 36.30.990(2) as an Alaska Bidder and is a:

- a) sole proprietorship owned by an Alaska veteran;
- b) partnership under AS 32.06 or AS 32.11 if a majority of the partners are Alaska veterans;
- c) limited liability company organized under AS 10.50 if a majority of the members are Alaska veterans; or
- d) corporation that is wholly owned by individuals, and a majority of the individuals are Alaska veterans.

In accordance with AS 36.30.321(i), the bidder must also add value by actually performing, controlling, managing, and supervising the services provided, or for supplies, the bidder must have sold supplies of the general nature solicited to other state agencies, other government, or the general public.

#### **Alaska Veteran Preference Certification**

In order to receive the Alaska Veteran Preference, the bid must include the Alaska Bidder Preference Certification Form attached to this ITB. A bidder's failure to provide this completed form with their bid will cause the state to disallow the preference.

#### **SEC. 4.05 USE OF LOCAL FOREST PRODUCTS**

In a project financed by state money in which the use of timber, lumber and manufactured lumber is required, only timber, lumber and manufactured lumber products originating in this state from Alaska forests shall be used unless the use of those products has been determined to be impractical, in accordance with AS 36.15.010 and AS 36.30.322.

#### **SEC. 4.06 LOCAL AGRICULTURAL AND FISHERIES PRODUCT PREFERENCE**

When agricultural, dairy, timber, lumber, or fisheries products are purchased using state money, a seven percent (7%) preference shall be applied to the price of the products harvested in Alaska, or in the case of fisheries products, the products harvested or processed within the jurisdiction of Alaska, in accordance with AS 36.15.050.

#### **SEC. 4.07 ALASKA PRODUCT PREFERENCE**

A bidder that designates the use of an Alaska Product which meets the requirements of the ITB specifications and is designated as a Class I, Class II or Class III Alaska Product by the Department of Community & Economic Development (DCCED) may receive a preference in the bid evaluation in accordance with AS 36.30.332 and 3 AAC 92.010.

To qualify for the preference, the product must have received certification from DCCED, be listed in the current published edition of the Alaska Products Preference List, and the bidder must provide the qualified product on a 100% basis. There are no provisions under Alaska Statutes or Regulations that allow for a product

exchanges/substitutions or permit the product to be co-mingled with other products. Rather, AS 36.30.330 provides for a penalty for failing to use the designated Alaska products.

Products are classified in one of three categories:

- Class I products receive a 3% preference.
- Class II products receive a 5% preference.
- Class III products receive a 7% preference.

When the bids are evaluated, the preference percentage will be deducted from the product price. If a bidder fails to specify the brand being offered, no preference will be given. For more information on the Alaska Product Preference and to see the list of products currently on the Alaska Product Preference List, use the following web link:

<https://www.commerce.alaska.gov/web/dcra/AlaskaProductPreferenceProgram.aspx>

#### **Brand Offered**

If offering a product that qualifies for the Alaska Product Preference, the bidder must indicate the brand of product they intent to provide. If a bidder is not offering a product that qualifies for the Alaska Product Preference, the bidder does not need to indicate a product brand.

#### **Brand of Product Changes**

During the course of the contract including all renewal options, a contractor that offered a product that qualified for the Alaska Product Preference wishes to change the product brand, the contractor must first provide a written request, along with evidence that the replacement brand also qualifies for the Alaska Product Preference, for approval by the procurement officer. A contract amendment must be issued by the procurement officer to authorize the change.

If a bidder offers a product brand in the original bid that does not qualify for the Alaska Product Preference, a change in the product brand may be made at any time during the course of the contract, including all renewals, as long as the product band continues to meet the required specifications. A contract amendment is not required if the product brand originally offered did not qualify for the Alaska Product Preference.

### **SEC. 4.08 EMPLOYMENT PROGRAM PREFERENCE**

If a bidder qualifies for the Alaska Bidder Preference and is offering goods or services through an employment program as defined under AS 36.30.990(12), an Employment Program Preference of 15% will be applied to the total bid price.

In accordance with AS 36.30.321(i), the bidder must also add value by actually performing, controlling, managing, and supervising the services provided, or for supplies, the bidder must have sold supplies of the general nature solicited to other state agencies, other government, or the general public.

### **SEC. 4.09 ALASKANS WITH DISABILITIES PREFERENCE**

If a bidder qualifies for the Alaska Bidder Preference and is a qualifying entity as defined in AS 36.30.321(d), an Alaskans with Disabilities Preference of 10% will be applied to the total bid price.

In accordance with AS 36.30.321(i), the bidder must also add value by actually performing, controlling, managing, and supervising the services provided, or for supplies, the bidder must have sold supplies of the general nature solicited to other state agencies, other government, or the general public.

#### **SEC. 4.10 PREFERENCE QUALIFICATION LETTER**

Regarding the Employment Program Preference and the Alaskans with Disabilities Preference, the Division of Vocational Rehabilitation in the Department of Labor and Workforce Development maintains lists companies who qualify for those preferences. As evidence of a company's right to the preferences, the Division of Vocational Rehabilitation will issue a certification letter. To take advantage of the preferences, a bidder must be on the appropriate Division of Vocational Rehabilitation list at the time the bid is opened and must attach a copy of their certification letter to their bid. The bidder's failure to provide this certification letter with their bid will cause the state to disallow the preference.

#### **SEC. 4.11 EXTENSION OF PRICES**

In case of error in the extension of prices in the bid, the unit prices will govern; in a lot bid, the lot prices will govern.

#### **SEC. 4.12 METHOD OF AWARD**

Award will be made to the lowest responsive and responsible bidder. In order to be considered responsive, bidders must bid on all items and complete Attachment 1 – Bid Schedule.

#### **SEC. 4.13 CONTRACTOR SELECTION PROCESS**

Once the contracts are established this selection process will be used. When the state needs security services the lowest priced contractor for that location will be contacted first. If, for any reason, the lowest contractor is not available to perform the needed service, the state will contact the next lowest priced contractor for that location. This process will continue until a contractor who can perform the service is located. The location of the contractor initially contacted will be determined by the starting location of the call-out. For instance, if a there was a need to transport a person from Anchorage to Fairbanks and then guard the person for two days in Fairbanks, the agency would contact Anchorage contractors, even though a substantial portion of the actual service would be performed in Fairbanks.

#### **SEC. 4.14 NOTICE OF INTENT TO AWARD**

After the responses to this ITB have been opened and evaluated, a tabulation of the bids will be prepared. This tabulation, called a Notice of Intent to Award, serves two purposes. It lists the name of each company or person that offered a bid and the price they bid. It also provides notice of the state's intent to award a contract(s) to the bidder(s) indicated. A copy of the Notice of Intent will be mailed to each company or person who responded to the ITB. Bidders identified as the apparent low responsive bidders are instructed not to proceed until a Purchase Order, Contract Award, Lease, or some other form of written notice is given by the procurement officer. A company or person who proceeds prior to receiving a Purchase Order, Contract Award, Lease, or some other form of written notice from the procurement officer does so without a contract and at their own risk.

## SECTION 5. GENERAL PROCESS AND LEGAL INFORMATION

### SEC. 5.01 ALASKA BUSINESS LICENSE AND OTHER REQUIRED LICENSES

Prior to the award of a contract, a bidder must hold a valid Alaska business license. However, in order to receive the Alaska Bidder Preference and other related preferences, such as the Alaska Veteran Preference and Alaskans with Disabilities Preference, a bidder must hold a valid Alaska business license prior to the deadline for receipt of bids. Bidders should contact the **Department of Commerce, Community and Economic Development, Division of Corporations, Business, and Professional Licensing, PO Box 110806, Juneau, Alaska 99811-0806**, for information on these licenses. Acceptable evidence that the bidder possesses a valid Alaska business license may consist of any one of the following:

- copy of an Alaska business license;
- certification on the bid that the bidder has a valid Alaska business license and has included the license number in the bid;
- a canceled check for the Alaska business license fee;
- a copy of the Alaska business license application with a receipt stamp from the state's occupational licensing office; or
- a sworn and notarized statement that the bidder has applied and paid for the Alaska business license.

You are not required to hold a valid Alaska business license at the time bids are opened if you possess one of the following licenses and are offering services or supplies under that specific line of business:

- fisheries business licenses issued by Alaska Department of Revenue or Alaska Department of Fish and Game,
- liquor licenses issued by Alaska Department of Revenue for alcohol sales only,
- insurance licenses issued by Alaska Department of Commerce, Community and Economic Development, Division of Insurance, or
- Mining licenses issued by Alaska Department of Revenue.

Prior the deadline for receipt of bids, all bidders must hold any other necessary applicable professional licenses required by Alaska Statute.

### SEC. 5.02 AUTHORITY

This ITB is written in accordance with AS 36.30 and 2 AAC 12.

### SEC. 5.03 COMPLIANCE

In the performance of a contract that results from this ITB, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws; be liable for all required insurance, licenses, permits and bonds; and pay all applicable federal, state, and borough taxes.

### SEC. 5.04 SUITABLE MATERIALS, ETC.

Unless otherwise specified in this ITB, all materials, supplies or equipment offered by a bidder shall be new, unused, and of the latest edition, version, model or crop and of recent manufacture.

## **SEC. 5.05 SPECIFICATIONS**

Unless otherwise specified in this ITB, product brand names or model numbers specified in this ITB are examples of the type and quality of product required, and are not statements of preference. If the specifications describing an item conflict with a brand name or model number describing the item, the specifications govern. Reference to brand name or number does not preclude an offer of a comparable or better product, if full specifications and descriptive literature are provided for the product. Failure to provide such specifications and descriptive literature may be cause for rejection of the offer.

## **SEC. 5.06 CONTRACTOR SITE INSPECTION**

The state may conduct on-site visits to evaluate the bidder's capacity to perform the contract. A bidder must agree, at risk of being found non-responsive and having its bid rejected, to provide the state reasonable access to relevant portions of its work sites. Individuals designated by the procurement officer at the state's expense will make site inspection.

## **SEC. 5.07 ORDER DOCUMENTS**

Except as specifically allowed under this ITB, an ordering agency will not sign any vendor contract. The state is not bound by a vendor contract signed by a person who is not specifically authorized to sign for the state under this ITB. Unless otherwise specified in this ITB, the State of Alaska Purchase Order, Contract Award and Delivery Order are the only order documents that may be used to place orders against the contract(s) resulting from this ITB.

## **SEC. 5.08 HUMAN TRAFFICKING**

By signature on their bid, the bidder certifies that the bidder is not established and headquartered or incorporated and headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: <http://www.state.gov/j/tip/>

Failure to comply with this requirement will cause the state to reject the bid as non-responsive, or cancel the contract.

## **SEC. 5.09 RIGHT OF REJECTION**

Bidders must comply with all of the terms of the ITB, the State Procurement Code (AS 36.30), and all applicable local, state, and federal laws, codes, and regulations. The procurement officer may reject any bid that does not comply with all of the material and substantial terms, conditions, and performance requirements of the ITB.

Bidders may not qualify the bid nor restrict the rights of the state. If a bidder does so, the procurement officer may determine the bid to be a non-responsive counter-offer and the bid may be rejected.

Minor informalities that:

- do not affect responsiveness;
- are merely a matter of form or format;
- do not change the relative standing or otherwise prejudice other offers;
- do not change the meaning or scope of the ITB;
- are trivial, negligible, or immaterial in nature;

- do not reflect a material change in the work; or
- do not constitute a substantial reservation against a requirement or provision;

may be waived by the procurement officer.

The state reserves the right to refrain from making an award if it determines that to be in its best interest.

**A bid from a debarred or suspended bidder shall be rejected.**

## SEC. 5.10 STATE NOT RESPONSIBLE FOR PREPARATION COSTS

The state will not pay any cost associated with the preparation, submittal, presentation, or evaluation of any bid.

## SEC. 5.11 DISCLOSURE OF BID CONTENTS

All bid prices become public information at the bid opening. After the deadline for receipt of bids, all other bid material submitted become the property of the State of Alaska and may be returned only at the state's option. AS 40.25.110 requires public records to be open to reasonable inspection. All other bid information will be held in confidence during the evaluation process and prior to the time a Notice of Intent to Award is issued. Thereafter, bids will become public information.

The Office of Procurement and Property Management (OPPM), or their designee recognizes that some information an offeror submits might be confidential under the United States or the State of Alaska Constitution, a federal statute or regulation, or a State of Alaska statute: i.e., might be confidential business information (CBI). *See, e.g.*, article 1, section 1 of the Alaska Constitution; AS 45.50.910 – 45.50.945 (the Alaska Uniform Trade Secrets Act); *DNR v. Arctic Slope Regional Corp.*, 834 P.2d 134, 137-39 (Alaska 1991). For OPPM or their designee to treat information an offeror submits with its proposal as CBI, the offeror must do the following when submitting their proposal: (1) mark the specific information it asserts is CBI; and (2) for each discrete set of such information, identify, in writing, each authority the offeror asserts make the information CBI. If the offeror does not do these things, the information will become public after the Notice of Intent to Award is issued. If the offeror does these things, OPPM or their designee will evaluate the offeror's assertion upon receiving a request for the information. If OPPM or their designee reject the assertion, they will, to the extent permitted by federal and State of Alaska law, undertake reasonable measures to give the offeror an opportunity to object to the disclosure of the information.

## SEC. 5.12 ASSIGNMENTS

Per 2 AAC 12.480, the contractor may not transfer or assign any portion of the contract without prior written approval from the procurement officer. Bids that are conditioned upon the state's approval of an assignment will be rejected as non-responsive.

## SEC. 5.13 FORCE MAJEURE (IMPOSSIBILITY TO PERFORM)

The parties to a contract resulting from this ITB are not liable for the consequences of any failure to perform, or default in performing, any of its obligations under the contract, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the respective party.

For the purposes of this ITB, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.

#### **SEC. 5.14 DEFAULT**

In case of default by the contractor, for any reason whatsoever, the state may procurement the goods or services from another source and hold the contractor responsible for any resulting excess cost and may seek other remedies under law or equity.

#### **SEC. 5.15 DISPUTES**

If the contractor has a claim arising in connection with the contract that it cannot resolve with the state by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620 – AS 36.30.632.

#### **SEC. 5.16 SEVERABILITY**

If any provision of the contract or agreement is found to be invalid or declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and, the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular provision held to be invalid.

#### **SEC. 5.17 CONTRACT CANCELLATION**

The state reserves the right to cancel the contract at its convenience upon **30** calendar days written notice to the contractor. The state is only liable for payment in accordance with the payment provisions of this contract for supplies or services provide before the effective date termination.

#### **SEC. 5.18 GOVERNING LAW; FORUM SELECTION**

A contract resulting from this ITB is governed by the laws of the State of Alaska. To the extent not otherwise governed by Section 5.15 of this ITB, any claim concerning the contract shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

#### **SEC. 5.19 SOLICITATION ADVERTISING**

Public notice has been provided in accordance with 2 AAC 12.220.

#### **SEC. 5.20 QUALIFIED BIDDERS**

Per 2 AAC 12.875, unless provided for otherwise in the ITB, to qualify as a bidder for award of a contract issued under AS 36.30, the bidder must:

- 1) Add value in the contract by actually performing, controlling, managing, or supervising the services to be provided; or
- 2) Be in the business of selling and have actually sold on a regular basis the supplies that are the subject of the ITB.

If the bidder leases services or supplies or acts as a broker or agency in providing the services or supplies in order to meet these requirements, the procurement officer may not accept the bidder as a qualified bidder under AS 36.30.

#### **SEC. 5.21 FEDERALLY IMPOSED TARIFFS**

Changes in price (increase or decrease) resulting directly from a new or updated federal tariff, excise tax, or duty, imposed after contract award may be adjusted during the contract period or before delivery into the United States via contract amendment.

- **Notification of Changes:** The contractor must promptly notify the procurement officer in writing of any new, increased, or decreased federal excise tax or duty that may result in either an increase or decrease in the contract price and shall take appropriate action as directed by the procurement officer.
- **After-imposed or Increased Taxes and Duties:** Any federal excise tax or duty for goods or services covered by this contract that was exempted or excluded on the contract award date but later imposed on the contractor during the contract period, as the result of legislative, judicial, or administrative action may result in a price increase provided:
  - a) The tax or duty takes effect after the contract award date and isn't otherwise addressed by the contract;
  - b) The contractor warrants, in writing, that no amount of the newly imposed federal excise tax or duty or rate increase was included in the contract price, as a contingency or otherwise.
- **After-relieved or Decreased Taxes and Duties:** The contract price shall be decreased by the amount of any decrease in federal excise tax or duty for goods or services under the contract, except social security or other employment [taxes](#), that the contractor is required to pay or bear, or does not obtain a refund of, through the contractor's fault, negligence, or failure to follow instructions of the procurement officer.
- **State's Ability to Make Changes:** The state reserves the right to request verification of federal excise tax or duty amounts on goods or services covered by this contract and increase or decrease the contract price accordingly.
- **Price Change Threshold:** No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

## SEC. 5.22 PROTEST

AS 36.30.560 provides that an interested party may protest the content of the ITB.

An interested party is defined in 2 AAC 12.990(a) (7) as "an actual or prospective bidder or offeror whose economic interest might be affected substantially and directly by the issuance of a contract solicitation, the award of a contract, or the failure to award a contract."

If an interested party wishes to protest the content of a solicitation, the protest must be received, in writing, by the procurement officer at least ten days prior to the deadline for receipt of bids.

AS 36.30.560 also provides that an interested party may protest the award of a contract or the proposed award of a contract.

If a bidder wishes to protest the award of a contract or the proposed award of a contract, the protest must be received, in writing, by the procurement officer within ten days after the date the Notice of Intent to Award the contract is issued.

A protester must have submitted a bid in order to have sufficient standing to protest the proposed award of a contract. Protests must include the following information:

- the name, address, and telephone number of the protester;
- the signature of the protester or the protester's representative;
- identification of the contracting agency and the solicitation or contract at issue;

- a detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and the form of relief requested.

Protests filed by telex or telegram are not acceptable because they do not contain a signature. Fax copies containing a signature are acceptable.

The procurement officer will issue a written response to the protest. The response will set out the procurement officer's decision and contain the basis of the decision within the statutory time limit in AS 36.30.580. A copy of the decision will be furnished to the protester by certified mail, fax or another method that provides evidence of receipt.

All bidders will be notified of any protest. The review of protests, decisions of the procurement officer, appeals, and hearings, will be conducted in accordance with the State Procurement Code (AS 36.30), Article 8 "Legal and Contractual Remedies."

## SECTION 6. ATTACHMENTS

### **Attachments:**

- 1) Attachment 1 – Cost Schedule
- 2) Attachment 2 – Alaska Bidder Preference Certification
- 3) Attachment 3 – Standard Agreement Form
- 4) Attachment 4 - Appendix B2

# Attachment 1

## BID SCHEDULE

BID AMOUNT \$ \_\_\_\_\_ PER DAY PER CRAB OBSERVER FOR THE BERING SEA, BRISTOL BAY, AND ALEUTIAN ISLANDS CRAB FISHERIES.

### CRAB OBSERVER PROVIDER INFORMATION FORM:

Bidders must complete the information form below. A bidder's failure to provide this information may cause the State to reject the bid as non-responsive.

OBSERVER COMPANY NAME AND ADDRESS:

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

TELEPHONE: \_\_\_\_\_

FAX: \_\_\_\_\_

EMAIL: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

PROJECT TEAM MEMBERS: \_\_\_\_\_

STATE OF ALASKA BUSINESS LICENSE NUMBER: \_\_\_\_\_

### MINIMUM REQUIREMENTS:

Please indicate if you meet the minimum requirements listed in section 1.03 of this ITB:

Yes/No: \_\_\_\_\_

If subcontractors are being utilized, do they meet the minimum requirements:

Yes/No: \_\_\_\_\_

***\*Failure to meet the minimum requirements will result in your bid being rejected and deemed non-responsive.***

### METHOD OF AWARD:

Award will be made to the lowest responsive and responsible bidder.



Attachment 2

ALASKA BIDDER PREFERENCE CERTIFICATION

AS 36.30.321(A) / AS 36.30.990(2)

BUSINESS NAME: CLICK OR TAP HERE TO ENTER TEXT.

<b>Alaska Bidder Preference:</b> Do you believe that your firm qualifies for the Alaska Bidder Preference?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Alaska Veteran Preference:</b> Do you believe that your firm qualifies for the Alaska Veteran Preference?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please list any additional Alaska Preferences below that you believe your firm qualifies for.	
<b>1.</b>	<b>2.</b>
<b>3.</b>	<b>4.</b>
<b>5.</b>	<b>6.</b>

To qualify for and claim the Alaska Bidder Preference you must answer **YES** to all questions below in the Alaska Bidder Preference Questions section. To qualify for and claim the Alaska Veteran Preference, you must answer **YES** to these questions as well as answer **YES** to all the questions in the Alaska Veteran Preference section. A signed copy of this form must be included with your bid or proposal no later than the deadline set for receipt of bids or proposals.

If you are submitting a bid or proposal as a **JOINT VENTURE**, all members of the joint venture must complete and submit this form before the deadline set for receipt of bids or proposals. [AS 36.30.990\(2\)\(E\)](#)

**If the procuring agency is unable to verify a response, the preference may not be applied.** Knowingly or intentionally making false or misleading statements on this form, whether it succeeds in deceiving or misleading, constitutes misrepresentation per [AS 36.30.687](#) and may result in criminal penalties.

**Alaska Bidder Preference Questions:**

1) Does your business hold a current Alaska business license per [AS 36.30.990\(2\)\(A\)](#)?

YES  NO

If **YES**, enter your current **Alaska business license number**: Click or tap here to enter text.

2) Is your business submitting a bid or proposal under the name appearing on the Alaska business license noted in **Question 1** per [AS 36.30.990\(2\)\(B\)](#)?

YES       NO

3) Has your business maintained a **place of business** within the state **staffed by the bidder or offeror** or an employee of the bidder or offeror for a period of six months immediately preceding the date of the bid or proposal per [AS 36.30.990\(2\)\(C\)](#)?

YES       NO

If **YES**, please complete the following information:

**A. Place of Business**

Street Address: [Click or tap here to enter text.](#)

City: [Click or tap here to enter text.](#)

ZIP: [Click or tap here to enter text.](#)

“**Place of business**” is defined as a location at which normal business activities are conducted, services are rendered, or goods are made, stored, or processed; a post office box, mail drop, telephone, or answering service does not, by itself, constitute a place of business per [2 AAC 12.990\(b\)\(3\)](#).

Do you certify that the **Place of Business** described in **Question 3A** meets this definition?

YES       NO

**B.** The bidder or offeror, or at least one employee of the bidder or offeror, must be a resident of the state under [AS 16.05.415\(a\)](#) per [2 AAC 12.990\(b\)\(7\)](#).

1) Do you certify that the bidder or offeror OR at least one employee of the bidder or offeror is physically present in the state with the intent to remain in Alaska indefinitely and to make a home in the state per [AS 16.05.415\(a\)\(1\)](#)?

YES       NO

2) Do you certify that that the resident(s) used to meet this requirement has maintained their domicile in Alaska for the 12 consecutive months immediately preceding the deadline set for receipt of bids or proposals per [AS 16.05.415\(a\)\(2\)](#)?

YES       NO

3) Do you certify that the resident(s) used to meet this requirement is claiming residency ONLY in the state of Alaska per [AS 16.05.415\(a\)\(3\)](#)?

YES       NO

4) Do you certify that the resident(s) used to meet this requirement is NOT obtaining benefits under a claim of residency in another state, territory, or country per [AS 16.05.415\(a\)\(4\)](#)?

YES       NO

4) Per [AS 36.30.990\(2\)\(D\)](#), is your business (**CHOOSE ONE**):

**A. Incorporated or qualified to do business under the laws of the state?**

YES       NO

If **YES**, enter your current **Alaska corporate entity number**: [Click or tap here to enter text.](#)

**B. A sole proprietorship AND the proprietor is a resident of the state?**

YES       NO

C. A **limited liability company** organized under AS 10.50 **AND** all members are residents of the state?

YES       NO

Please identify each member by name: [Click or tap here to enter text.](#)

D. A **partnership** under former AS 32.05, AS 32.06, or AS 32.11 **AND** all partners are residents of the state?

YES       NO

Please identify each partner by name: [Click or tap here to enter text.](#)

### Alaska Veteran Preference Questions:

1) Per [AS 36.30.321\(F\)](#), is your business (**CHOOSE ONE**):

A. A **sole proprietorship** owned by an Alaska veteran?

YES       NO

B. A **partnership** under AS 32.06 or AS 32.11 **AND** a majority of the partners are Alaska veterans?

YES       NO

C. A **limited liability company** organized under AS 10.50 **AND** a majority of the members are Alaska veterans?

YES       NO

D. A **corporation** that is wholly owned by individuals, **AND** a majority of the individuals are Alaska veterans?

YES       NO

Per [AS 36.30.321\(F\)\(3\)](#) “**Alaska veteran**” is defined as an individual who:

(A) Served in the

- (i) Armed forces of the United States, including a reserve unit of the United States armed forces; or
- (ii) Alaska Territorial Guard, the Alaska Army National Guard, the Alaska Air National Guard, or the Alaska Naval Militia; and

(B) Was separated from service under a condition that was not dishonorable.

Do you certify that the individual(s) indicated in **Question 1A, 1B, 1C, or 1D** meet this definition and can provide documentation of their service and discharge if necessary?

YES       NO

### **SIGNATURE**

By signature below, I certify under penalty of law that I am an authorized representative of [Click or tap here to enter text.](#) and all information on this form is true and correct to the best of my knowledge.

Printed Name

Title

Date

Signature

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## Attachment 3

### STANDARD AGREEMENT FORM FOR PROFESSIONAL SERVICES

The parties' contract comprises this Standard Agreement Form, as well as its referenced Articles and their associated Appendices

1. Agency Contract Number	2. Contract Title	3. Agency Fund Code	4. Agency Appropriation Code
5. Vendor Number	6. IRIS GAE Number (if used)	7. Alaska Business License Number	
<b>This contract is between the State of Alaska,</b>			
8. Department of	Division	hereafter the State, and	
9. Contractor hereafter the contractor			
Mailing Address	Street or P.O. Box	City	State ZIP+4
<p>10. <b>ARTICLE 1. Appendices:</b> Appendices referred to in this contract and attached to it are considered part of it.</p> <p><b>ARTICLE 2. Performance of Service:</b></p> <p>2.1 Appendix A (General Provisions), Articles 1 through 16, governs the performance of services under this contract.</p> <p>2.2 Appendix B sets forth the liability and insurance provisions of this contract.</p> <p>2.3 Appendix C sets forth the services to be performed by the contractor.</p> <p><b>ARTICLE 3. Period of Performance:</b> The period of performance for this contract begins _____, and ends _____.</p> <p><b>ARTICLE 4. Considerations:</b></p> <p>4.1 In full consideration of the contractor's performance under this contract, the State shall pay the contractor a sum not to exceed \$_____ in accordance with the provisions of Appendix D.</p> <p>4.2 When billing the State, the contractor shall refer to the Authority Number or the Agency Contract Number and send the billing to:</p>			
11. Department of	Attention: Division of		
Mailing Address	Attention:		
<b>12. CONTRACTOR</b>		<p>14. <b>CERTIFICATION:</b> I certify that the facts herein and on supporting documents are correct, that this voucher constitutes a legal charge against funds and appropriations cited, that sufficient funds are encumbered to pay this obligation, or that there is a sufficient balance in the appropriation cited to cover this obligation. I am aware that to knowingly make or allow false entries or alternations on a public record, or knowingly destroy, mutilate, suppress, conceal, remove, or otherwise impair the verity, legibility or availability of a public record constitutes tampering with public records punishable under AS 11.56.815-.820. Other disciplinary action may be taken up to and including dismissal.</p>	
Name of Firm			
Signature of Authorized Representative	Date		
Typed or Printed Name of Authorized Representative			
Title			
<b>13. CONTRACTING AGENCY</b>		Signature of Head of Contracting Agency or Designee	Date
Department/Division	Date	<p>Signature of Procurement Officer</p> <p>Typed or Printed Name</p> <p>Title</p>	
Signature of Procurement Officer			
Typed or Printed Name of Procurement Officer			
Title			

**NOTICE!** This contract has no effect until signed by the head of the contracting agency, procurement officer or designee.

## APPENDIX A

### SECTION 7. GENERAL PROVISIONS

#### Article 1. Definitions.

- 1.1 In this contract and appendices, "Project Director" or "Agency Head" or "Procurement Officer" means the person who signs this contract on behalf of the Requesting Agency and includes a successor or authorized representative.
- 1.2 "State Contracting Agency" means the department for which this contract is to be performed and for which the Commissioner or Authorized Designee acted in signing this contract.

#### Article 2. Inspections and Reports.

- 2.1 The department may inspect, in the manner and at reasonable times it considers appropriate, all the contractor's facilities and activities under this contract.
- 2.2 The contractor shall make progress and other reports in the manner and at the times the department reasonably requires.

#### Article 3. Disputes.

- 3.1 If the contractor has a claim arising in connection with the contract that it cannot resolve with the State by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620 – 632.

#### Article 4. Equal Employment Opportunity.

- 4.1 The contractor may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, or because of age, disability, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position(s) do not require distinction on the basis of age, disability, sex, marital status, changes in marital status, pregnancy, or parenthood. The contractor shall take affirmative action to insure that the applicants are considered for employment and that employees are treated during employment without unlawful regard to their race, color, religion, national origin, ancestry, disability, age, sex, marital status, changes in marital status, pregnancy or parenthood. This action must include, but need not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting out the provisions of this paragraph.
- 4.2 The contractor shall state, in all solicitations or advertisements for employees to work on State of Alaska contract jobs, that it is an equal opportunity employer and that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, age, disability, sex, marital status, changes in marital status, pregnancy or parenthood.
- 4.3 The contractor shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' compensation representative of the contractor's commitments under this article and post copies of the notice in conspicuous places available to all employees and applicants for employment.
- 4.4 The contractor shall include the provisions of this article in every contract, and shall require the inclusion of these provisions in every contract entered into by any of its subcontractors, so that those provisions will be binding upon each subcontractor. For the purpose of including those provisions in any contract or subcontract, as required by this contract, "contractor" and "subcontractor" may be changed to reflect appropriately the name or designation of the parties of the contract or subcontract.
- 4.5 The contractor shall cooperate fully with State efforts which seek to deal with the problem of unlawful discrimination, and with all other State efforts to guarantee fair employment practices under this contract, and promptly comply with all requests and directions from the State Commission for Human Rights or any of its officers or agents relating to prevention of discriminatory employment practices.

- 4.6 Full cooperation in paragraph 4.5 includes, but is not limited to, being a witness in any proceeding involving questions of unlawful discrimination if that is requested by any official or agency of the State of Alaska; permitting employees of the contractor to be witnesses or complainants in any proceeding involving questions of unlawful discrimination, if that is requested by any official or agency of the State of Alaska; participating in meetings; submitting periodic reports on the equal employment aspects of present and future employment; assisting inspection of the contractor's facilities; and promptly complying with all State directives considered essential by any office or agency of the State of Alaska to insure compliance with all federal and State laws, regulations, and policies pertaining to the prevention of discriminatory employment practices.
- 4.7 Failure to perform under this article constitutes a material breach of contract.

**Article 5. Termination.**

- 5.1 The Procurement Officer, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the State. In the absence of breach of contract by the contractor, the State is liable only for payment in accordance with the payment provisions of this contract for services rendered before the effective date of termination.
- 5.2 The Procurement Officer may also, by written notice, terminate this contract under Administrative Order 352 if the contractor supports or participates in a boycott of the State of Israel.

**Article 6. No Assignment or Delegation.**

The contractor may not assign or delegate this contract, or any part of it, or any right to any of the money to be paid under it, except with the written consent of the Project Director and the Agency Head.

**Article 7. No Additional Work or Material.**

No claim for additional services, not specifically provided in this contract, performed or furnished by the contractor, will be allowed, nor may the contractor do any work or furnish any material not covered by the contract unless the work or material is ordered in writing by the Project Director and approved by the Agency Head.

**Article 8. Independent Contractor.**

The contractor and any agents and employees of the contractor act in an independent capacity and are not officers or employees or agents of the State in the performance of this contract.

**Article 9. Payment of Taxes.**

As a condition of performance of this contract, the contractor shall pay all federal, State, and local taxes incurred by the contractor and shall require their payment by any Subcontractor or any other persons in the performance of this contract. Satisfactory performance of this paragraph is a condition precedent to payment by the State under this contract.

**Article 10. Ownership of Documents.**

All designs, drawings, specifications, notes, artwork, and other work developed in the performance of this agreement are produced for hire and remain the sole property of the State of Alaska and may be used by the State for any other purpose without additional compensation to the contractor. The contractor agrees not to assert any rights and not to establish any claim under the design patent or copyright laws. Nevertheless, if the contractor does mark such documents with a statement suggesting they are trademarked, copyrighted, or otherwise protected against the State's unencumbered use or distribution, the contractor agrees that this paragraph supersedes any such statement and renders it void. The contractor, for a period of three years after final payment under this contract, agrees to furnish and provide access to all retained materials at the request of the Project Director. Unless otherwise directed by the Project Director, the contractor may retain copies of all the materials.

**Article 11. Governing Law; Forum Selection**

This contract is governed by the laws of the State of Alaska. To the extent not otherwise governed by Article 3 of this Appendix, any claim concerning this contract shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

**Article 12. Conflicting Provisions.**

Unless specifically amended and approved by the Department of Law, the terms of this contract supersede any provisions the contractor may seek to add. The contractor may not add additional or different terms to this contract; AS 45.02.207(b)(1). The contractor specifically acknowledges and agrees that, among other things, provisions in any documents it seeks to append hereto that purport to (1) waive the State of Alaska's sovereign immunity, (2) impose indemnification obligations on the State of Alaska, or (3) limit liability of the contractor for acts of contractor negligence, are expressly superseded by this contract and are void.

**Article 13. Officials Not to Benefit.**

Contractor must comply with all applicable federal or State laws regulating ethical conduct of public officers and employees.

**Article 14. Covenant Against Contingent Fees.**

The contractor warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee except employees or agencies maintained by the contractor for the purpose of securing business. For the breach or violation of this warranty, the State may terminate this contract without liability or in its discretion deduct from the contract price or consideration the full amount of the commission, percentage, brokerage or contingent fee.

**Article 15. Compliance.**

In the performance of this contract, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws, and be liable for all required insurance, licenses, permits and bonds.

**Article 16. Force Majeure:**

The parties to this contract are not liable for the consequences of any failure to perform, or default in performing, any of their obligations under this Agreement, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the respective party. For the purposes of this Agreement, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.

# Attachment 4

## APPENDIX B<sup>2</sup>

### INDEMNITY AND INSURANCE

#### Article 1. Indemnification

The contractor shall indemnify, hold harmless, and defend the contracting agency from and against any claim of, or liability for error, omission or negligent act of the contractor under this agreement. The contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the contractor and the independent negligence of the contracting agency, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "Contractor" and "contracting agency", as used within this and the following article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term "independent negligence" is negligence other than in the contracting agency's selection, administration, monitoring, or controlling of the contractor and in approving or accepting the contractor's work.

#### Article 2. Insurance

Without limiting contractor's indemnification, it is agreed that contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the contracting officer prior to beginning work and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the contractor's services. All insurance policies shall comply with and be issued by insurers licensed to transact the business of insurance under AS 21.

**2.1 Workers' Compensation Insurance:** The Contractor shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the State.

**2.2 Commercial General Liability Insurance:** covering all business premises and operations used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.

**2.3 Commercial Automobile Liability Insurance:** covering all vehicles used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.

**2.4 Professional Liability Insurance:** covering all errors, omissions or negligent acts in the performance of professional services under this agreement. Limits required per the following schedule:

<b>Contract Amount</b>	<b>Minimum Required Limits</b>
Under \$100,000	\$300,000 per Claim / Annual Aggregate
\$100,000-\$499,999	\$500,000 per Claim / Annual Aggregate
\$500,000-\$999,999	\$1,000,000 per Claim / Annual Aggregate
\$1,000,000 or over	Refer to Risk Management