

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			1. CONTRACT ID CODE	PAGE OF PAGES 1 4	
2. MODIFICATION NO.: 0002		3. EFFECTIVE DATE 1 Jun 2004	4. REQUISITION/PURCHASE REQ. NO. W81W3G-4064-2164	PROJECT NO. (If applicable)	
6. ISSUED BY Department of the Army Baltimore District, Corps of Engineers Contracting Division P.O. Box 1715 Baltimore MD 21203-1715		CODE W912DR	7. ADMINISTERED BY: Contracting Division, Acquisition Branch, Civil Works Team, CENAB-CT-A 10 S. Howard ST. Room 7000 Baltimore, MD 21203-1715		CODE E1P0100
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)			(x)	9A. AMENDMENT OF SOLICITATION NO. W912DR-04-R-0033	
			X	9B. DATED (SEE ITEM 11) 14 May 2004	
				10A. MODIFICATION OF CONTRACT/ ORDER NO.	
				10B. DATED (SEE ITEM 13)	
CODE		FACILITY CODE			

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

<input checked="" type="checkbox"/>	The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers _____ is extended <u>X</u> is not extended.
-------------------------------------	---

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

- (a) By completing Items 8 and 15, and returning 1 copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

<input type="checkbox"/>	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER No. ITEM 10A
<input type="checkbox"/>	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR43.103(b)
<input type="checkbox"/>	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: changes clause FAR 52.243.1
<input type="checkbox"/>	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor is not, is required to sign this document and return copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

DESIGN-BUILD WYOMING VALLEY LEVEE RAISING PROJECT, OUTFALL AND FLOOD GATE REHABILITATION, LUZERNE COUNTY, PA

Solicitation is hereby revised as follows:

1. Section 00100

- a. Clause 52.215-15 is deleted from Section 00100.
- b. Clause 52.225-10 is hereby included by full text at the end of this amendment.

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect

15A. NAME AND TITLE OF SIGNER (Type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)	
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
_____ (signature of person authorized to sign)		BY _____ (Signature of Contracting Officer)	

- c. Clause 52.215-21 is deleted from Section 00100
2. Section 00600
 - a. Clause 52.219-2, Equal Low Bids is hereby included by full text at the end of this amendment.
3. Section 00700
 - a. Clause 52.215-21, Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data—Modifications, is hereby added by reference
 - b. Clause 52.219-9, Small Business Subcontracting Plan is hereby deleted and replaced by Small Business Subcontracting Plan, Alternate II and added by reference.
 - c. Clause 52.228-14, Irrevocable Letter of Credit is hereby added by reference.
 - d. Clause 52.232-27, Prompt Payment for Construction Contracts, is hereby added by reference.
 - e. Clause 52.233-3, Protest After Award, is hereby added by reference.
 - f. Clause 52.243-4, Changes, is hereby added by reference.
 - g. Clause 52.249-2, Termination for Convenience of the Government (Fixed-Priced), Alternate I, is hereby added by reference.
 - h. Clause Service of Protest is hereby added by full text to Informational Text section.
4. Section 00800: Clause entitled “Continuing Contracts”, paragraph (b) is hereby changed to read: “The sum of \$200,000.00 has been reserved for this contract...”

52.219-2 -- Equal Low Bids.

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

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

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

(End of Provision)

52.225-10 – Notice of Buy American Act Requirement—Construction Materials.

(a) *Definitions.* “Construction material,” “domestic construction material,” and “foreign construction material,” as used in this provision, are defined in the clause of this solicitation entitled “Buy American Act--Construction Materials” (Federal Acquisition Regulation (FAR) clause 52.225-9).

(b) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR 52.225-9 in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) *Evaluation of offers.*

(1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act, based on claimed unreasonable cost of domestic construction material, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(3)(i) of the clause at FAR 52.225-9.

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

(d) *Alternate offers.*

(1) When an offer includes foreign construction material not listed by the Government in this solicitation in paragraph (b)(2) of the clause at FAR 52.225-9, the offeror also may submit an alternate offer based on use of equivalent domestic construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of the clause at FAR 52.225-9 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of the clause at FAR 52.225-9 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested—

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

(End of provision)