

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			1. CONTRACT ID CODE	PAGE OF PAGES
2. AMENDMENT/MODIFICATION NO. 0004		3. EFFECTIVE DATE 13-Aug-2004	4. REQUISITION/PURCHASE REQ. NO. W25PHS-4156-9731	1 4
6. ISSUED BY CODE US ARMY ENGINEER DISTRICT, PHILADELPHIA CONTRACTING DIVISION WANAMAKER BUILDING 100 PENN SQUARE EAS PHILADELPHIA PA 19107-3390		7. ADMINISTERED BY (If other than item 6) CODE See Item 6	5. PROJECT NO.(If applicable)	
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and Zip Code)			X	9A. AMENDMENT OF SOLICITATION NO. W912BU-04-R-0025
			X	9B. DATED (SEE ITEM 11) 15-Jul-2004
				10A. MOD. 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 Offer <input checked="" type="checkbox"/> is extended, <input type="checkbox"/> is not extended.				
Offer 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 <u>1</u> 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) DESIGN, CONSTRUCT, TEST AND DELIVER A WELDED STEEL GATE BARGE				
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.				
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.				
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 FAR 43.103(B).				
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:				
D. OTHER (Specify type of modification and authority)				
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input type="checkbox"/> 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.) The above numbered procurement is amended to extend the date and time set for receipt of proposal to 1:15 p.m., August 20, 2004. This amendment also amends page H-27 and incorporates FAR Clause 52.246-18, Warranty of Supplies of a complex nature, into Section I, Contract Clauses (see attached pages H-27 and I-95). Offerors must acknowledge this amendment by signing and returning the Amendment with their offer. Failure to acknowledge this amendment will be cause for rejection of the offer. All other information remains the same.				
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)	
			TEL:	EMAIL:
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)		13-Aug-2004

In making these progress payments, the Government shall, upon request, reimburse the contractor for the amount of premiums paid for performance and payments (including co-insurance and reinsurance agreements, when applicable) after the contractor has furnished evidence of full payment to the surety. The retainage provision preceding shall not apply to that portion of progress payments attributed to bond premiums.

The Government shall pay the amount due the contractor under this contract after –

- Completion and acceptance of all work; and
- Presentation of a properly executed voucher.

Notwithstanding any other provision of this contract, progress payments shall not exceed eighty percent (80%) on work accomplished on undefinitized contract actions. A “contract action” is any action resulting in a contract as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes Clause, or funding and other administrative changes.

NOTE TO OFFERORS:

Bonding is not required if an offeror chooses to finance the entire contract by not receiving payment until final acceptance of the vessel at destination. Offerors are required to annotate the following blocks as applicable and to return this page with their offer.

Bonding will be provided: _____

Bonding will not be provided (offeror will finance contract) _____

Special Contract Clause H20, Progress Payment Based on Percentage or Stage of Completion, is not applicable if the offeror elects to finance the contract. See also, Section L, pages L-12 and L-13.

52.246-18 WARRANTY OF SUPPLIES OF A COMPLEX NATURE (MAY 2001)

(a) Definitions.

"Acceptance," as used in this clause, means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services rendered, as partial or complete performance of the contract.

"Correction," as used in this clause, means the elimination of a defect.

"Supplies," as used in this clause, means the end items furnished by the Contractor and related services required under this contract. The word does not include "data."

(b) Contractor's obligations. (1) The Contractor warrants that for 365 calendar days after final acceptance of the vessel all supplies furnished under this contract will be free from defects in material and workmanship and will conform with all requirements of this contract; provided, however, that with respect to Government-furnished property, the Contractor's warranty shall extend only to its proper installation, unless the Contractor performs some modification or other work on the property, in which case the Contractor's warranty shall extend to the modification or other work.

(2) Any supplies or parts thereof corrected or furnished in replacement shall be subject to the conditions of this clause to the same extent as supplies initially delivered. This warranty shall be equal in duration to that set forth in paragraph (b)(1) of this clause and shall run from the date of delivery of the corrected or replaced supplies.

(3) The Contractor shall not be obligated to correct or replace supplies if the facilities, tooling, drawings, or other equipment or supplies necessary to accomplish the correction or replacement have been made unavailable to the Contractor by action of the Government. In the event that correction or replacement has been directed, the Contractor shall promptly notify the Contracting Officer, in writing, of the nonavailability.

(4) The Contractor shall also prepare and furnish to the Government data and reports applicable to any correction required (including revision and updating of all affected data called for under this contract) at no increase in the contract price.

(5) When supplies are returned to the Contractor, the Contractor shall bear the transportation costs from the place of delivery specified in the contract (irrespective of the f.o.b. point or the point of acceptance) to the Contractor's plant and return.

(6) All implied warranties of merchantability and "fitness for a particular purpose" are excluded from any obligation contained in this contract.

(c) Remedies available to the Government. (1) In the event of a breach of the Contractor's warranty in paragraph (b)(1) of this clause, the Government may, at no increase in contract price--

(i) Require the Contractor, at the place of delivery specified in the contract (irrespective of the f.o.b. point or the point of acceptance) or at the Contractor's plant, to repair or replace, at the Contractor's election, defective or nonconforming supplies; or

(ii) Require the Contractor to furnish at the Contractor's plant the materials or parts and installation instructions required to successfully accomplish the correction.

(2) If the Contracting Officer does not require correction or replacement of defective or nonconforming supplies or the Contractor is not obligated to correct or replace under paragraph (b)(3) of this clause, the Government shall be entitled to an equitable reduction in the contract price.

(3) The Contracting Officer shall notify the Contractor in writing of any breach of the warranty in paragraph (b) of this clause within 30 calendar days after discovery of any defect. The Contractor shall submit to the Contracting Officer a written recommendation within 10 calendar days of such notification as to the corrective action required to remedy the breach. After the notice of breach, but not later than 30 calendar days after receipt of the Contractor's recommendation for corrective action, the Contracting Officer may, in writing, direct correction or replacement as in paragraph (c)(1) of this clause, and the Contractor shall, notwithstanding any disagreement regarding the existence of a breach of warranty, comply with this direction. If it is later determined that the Contractor did not breach the warranty in paragraph (b)(1) of this clause, the contract price will be equitably adjusted.

(4) If supplies are corrected or replaced, the period for notification of a breach of the Contractor's warranty in paragraph (c)(3) of this clause shall be 365 calendar days from the furnishing or return by the Contractor to the Government of the corrected or replaced supplies or parts thereof, or, if correction or replacement is effected by the Contractor at a Government or other activity, for 30 calendar days thereafter.

(5) The rights and remedies of the Government provided in this clause are in addition to and do not limit any rights afforded to the Government by any other clause of the contract.

(End of clause)