

BID PACKAGE

For

Clear Creek Habitat Improvement Project

Bids Due: July 26, 2017

Mail or drop off bid packets to:

**Nez Perce Tribe Fisheries
DFRM- Watershed
Attn: Marcie Carter
PO Box 365
Lapwai, ID 83540**

**Physical Address: 28764 Salmon Lane
Sweetwater, ID**

Questions: Please call Marcie Carter at 208-621-3534 between 8 am and 4:30 pm.

Incomplete Bid Packets will be disqualified.

SCHEDULE OF ITEMS

Item	Description	Quantity	Unit	Total Price
1	Mobilization	1	LS	\$
2	Traffic Control	1	LS	\$
3	Stormwater Best Management Practices (BMPs)	1	LS	\$
4a	Japanese Knotweed Excavation	6500	SF	\$
4b	Japanese Knotweed Trimming and Spraying	1	LS	\$
5	Tree Removal and Material Salvage	8	EA	\$
6a	Primary Access Trail Typical 1	100	LF	\$
6b	Primary Access Trail Typical 2	500	LF	\$
6c	Primary Access Trail Typical 3	100	LF	\$
7	Side Trails	60	LF	\$
8	Cleared Foot Paths	50	LF	\$
9a	Boulder/Log Structure #1	1	EA	\$
9b	Boulder Structure #1	1	EA	\$
9c	Boulder Structure #2	1	EA	\$
9d	Boulder/Log Structure #2	1	EA	\$
10	Provide and Place Topsoil	350	LCY	\$
11	Floodplain Microtopography	7000	SF	\$
12	Floodplain and Place Weed Fabric	6500	SF	\$
13	TERO FEE	3.5%		
		TOTAL Price		\$

CLEAR CREEK HABITAT IMPROVEMENT PROJECT REQUEST FOR CONSTRUCTYION SOLICITATION/CONTRACT

THE NEZ PERCE TRIBE
and
To Be Determined

This solicitation and subsequent contract is entered into between the Nez Perce Tribe, PO Box 365, Lapwai, ID 83540, hereinafter referred to as the “Tribe”, and **To Be Determined**, hereinafter referred to as “Contractor”. The Tribe contemplates award of a firm, fixed price contract resulting from this request for proposal (RFP).

This contract and all subsequent subcontracts shall be subject to Title 9 of the Nez Perce Tribal Code, Tribal Employment Rights Act (TERO).

BACKGROUND

The Clear Creek Habitat Improvement Project is located on the Nez Perce Reservation in Idaho County, near Kooskia, Idaho. The project area is just downstream from the Kooskia National Fish Hatchery. The purpose of this project is to enhance in-stream fish habitat in Clear Creek, a tributary of the Middle Fork Clearwater River, and to provide improved trails for user access to Clear Creek during all times of the year. The removal of Japanese knotweed (*Polygonum cuspidatum*) is an additional goal of this project.

The Tribe’s vision is to take specific actions to enhance fish habitat and fishing opportunities in Clear Creek for Tribal members. The Tribe’s intent is to provide in-stream habitat complexity in the form of pools to serve as both fish habitat and places for Tribal fishermen to harvest adult salmon. An additional goal of the project is to provide improved trail access to Clear Creek during all times of the year, including high water. The Tribe intends to relocate the current trail to the top of an existing berm on the east side of the bank of the stream and remove Japanese knotweed along this streambank and in the floodplain.

The Nez Perce Tribe Department of Fisheries Management Watershed Division will be implementing this project during the 2017 field season with Snake River Basin Adjudication (SRBA) funds. The Tribe is seeking construction services from a qualified construction firm to complete the Clear Creek Habitat Improvement Project.

LOCATION

Clear Creek, a tributary of the Middle Fork Clearwater River, flows out of the Nez Perce-Clearwater National Forests and connects with the Middle Fork Clearwater River just east of Kooskia, Idaho. The

project area for this effort is located just south (upstream) of Clear Creek's confluence with the Middle Fork Clearwater River. Specifically, the project boundary extends from the Clear Creek Road bridge at the downstream limit to the downstream side of the existing Kooskia National Fish Hatchery weir at the upstream limit. The Kooskia National Fish Hatchery has been operating for over 40 years as a means to provide both Nez Perce Tribal member and sport fishing opportunities in the area. The hatchery is currently operated and managed by the Nez Perce Tribe (Tribe) and the U.S. Fish and Wildlife Service (USFWS). The project area is located on land owned by the USFWS.

Within the project reach, Clear Creek currently exhibits a lack of hydraulic and habitat complexities in the form of pools, structures, and stream shade that would serve as necessary fish habitat during adult migration and juvenile rearing. An existing trail present along the east right bank is used by Tribal fisherman to access Clear Creek. Japanese knotweed which is classified as a noxious weed in Idaho, is widespread along this trail and streambank. This trail also becomes inundated during a typical spring runoff event making it unusable by Tribal Fisherman during these times.

INFORMATION CONCERNING RFP AND PROJECT

All correspondence pertaining to this RFP, including submittal of proposals should be directed to:

Marcie Carter
Nez Perce Tribe
Department of Fisheries Resource Management-Watershed Division
P.O. Box 365
Lapwai, ID 83540

Phone: 208-621-3534
Email: marciec@nezperce.org

SITE VISIT

A formal site visit to the project area will be held on July 7, 2017, at 10:00am. Contact Marcie Carter with the Nez Perce Tribe, (208) 621-3534 or email marciec@nezperce.org and provide your company information and the number of persons who will attend the tour. Please bring a copy of the solicitation/attachments with you or request a hard copy if necessary.

Contractors are urged and expected to inspect the site where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable.

I. SERVICES

The Tribe hereby hires Contractor to provide the following services:

This project requires the building of in-stream habitat structures and the re-build of the current trail along Clear Creek. The work includes but is not limited to clearing and grubbing, erosion control measures, excavation, embankment excavations, and construction of a new trail, and all other incidental items necessary to complete the project in accordance with the design plans and specifications. This includes the furnishing of all labor, equipment, supervision, transportation, operating supplies and incidentals (except those designated as Nez Perce Tribe-furnished).

Construction of the Clear Creek Habitat Improvement Project:

This Improvement project is comprised of 3 main components:

1. Excavation and Removal of Japanese Knotweed
2. Relocate the current trail
3. Excavate and place instream boulders/logs

Incorporated into this construction contract are 4 major documents providing construction contract direction. They are as follows (as attachments):

1. Schedule of Bid Items
2. Construction Specifications prepared by TerraGraphics
3. Construction Plan Sheet Set prepared by TerraGraphics
4. Additional Contract Clauses

1. Meetings, Coordination and Project Management

The Contractor shall meet and/or coordinate with the Tribe. The contractor shall be responsible for all project management and coordination necessary to complete the Services and shall assign professional staff time to this aspect of the Services.

2. Japanese Knotweed Removal

The Japanese knotweed will be identified, removed by equipment or hand; treated with herbicide, and disposed of prior to project construction. All trimmed knotweed will be bagged in heavy duty trash bags for transportation to a disposal area so that no seeds, pieces of stem, or any plant particles are spread on or offsite.

3. Trail reconstruction

The new trail will be constructed on top of the existing berm. The contractor shall use excavated material from the existing berm and other on-site sources to fill and level the areas of the berm as necessary to construct a trail along a leveled surface that matches the dimensions, elevations, and grades shown on the drawings.

4. In-stream Structures

Four in-stream habitat structures will be installed in the locations and manner as shown on the drawings. Construction of in-stream habitat structures includes the installation of large boulders and logs in the channel bed and bank. Prior to any instream construction activities, the work area shall be block netted off and all fish will be removed and relocated from the work area by a qualified Fisheries Biologist. Block nets will remain in place through the duration of all instream construction activities and will only be removed by the qualified Fisheries Biologist. The four types of in stream habitat structures are as follows: boulder/log structure #1, boulder/log structure #2, boulder structure #1, and boulder structure #2. An engineer must be on site when habitat features are constructed

II. PRICE RANGE

The cost estimate for the project is between \$75,000 - \$105,000.

III. TERM

Pre-work Conference

Prior to commencement of work, the Tribe will arrange a meeting with the Contractor to discuss the contract terms and work performance requirements. Also at this meeting such things as work progress schedule and turbidity/erosion control plans shall be developed and established in writing.

IV. PERFORMANCE SCHEDULE

It is expected that Meetings, Coordination and Project Management (Item 2) will be regular and ongoing throughout the performance period of this contract. Other important deadlines are provided below.

Phase of Work	Delivery Date
Pre-bid tour	July 7, 2017
Proposal Due Date	July 26, 2017
Estimated Contractor Selection Date	Aug. 11, 2017
Estimated Contract Start Date	Aug. 28, 2017
Pre-work Meeting **Field review/in-person meeting required	Sept. 6,2017

Project Construction Initiation (estimate)	Sept. 11, 2017
Project Completion (estimate)	October 20, 2017

V. GENERAL REQUIREMENTS

1. The Tribe reserves the right to accept or reject any and all of the proposals received as a result of this request, or to cancel in part or entirely this request if it is in the best interest of the Tribe to do so.
2. Contractors responding to this RFP do so solely at their own expense. Under no circumstances whatsoever will the Tribe be responsible for reimbursing Contractors for any costs incurred in the preparation and presentation of their proposals, negotiation of the Contract and cost proposal by the Contractor, or for any related expenses or consequential damages of any kind. Payment for contract work will be made only for those pay items included in the Schedule of Bid Items. All other work and materials will be considered as incidental to and included in the payment for items shown.

VI. COMPENSATION

The Tribe shall compensate Contractor an amount not to exceed To Be Determined (Fixed Price). Payments for the expenses associated with fulfilling of the terms and conditions of this contract will be made within 45 days of receipt of invoices. The contract cost shall be based on a monthly invoice submitted for the work completed.

The Tribe will make payment based upon completion of work by Contractor and acceptance by the Contracting Officer. Proof of work completed shall be evidenced by the Contracting Officer’s signature on submitted invoice.

VII. TECHNICAL ASSISTANCE

Construction Resident Project Representative Services will be provided by TerraGraphics Environmental Engineering, Inc. hereinafter referred to as TerraGraphics. TerraGraphics will provide construction monitoring as the Tribe’s representative for the duration of this contract. TerraGraphics will ensure the instream structures and associated elements are constructed per the final engineering designs and provide design clarifications as requested. TerraGraphics will not direct, supervise or directly control the contractors work and will not have authority or the contractor’s means, methods, techniques or procedures.

VIII. KEY PERSONNEL

The key personnel specified in the Offeror’s Technical Proposal are considered to be essential to the work being performed hereunder.

IX. INDEPENDENT CONTRACTOR

Both parties agree that Contractor will act as an independent contractor in the performance of its duties under this contract. Contractor shall be responsible for payment of all applicable taxes including federal, state, and local taxes arising from its activities under this contract. The Tribe assumes no responsibility for damages to property of Contractor or employee injuries.

X. INDEMNIFICATION

The Contractor by signing this contract represents that he has obtained the necessary licenses and insurance and other coverage to perform the duties of the contract lawfully. Contractor agrees to indemnify and hold the Tribe and Tribal staff harmless from and against any and all liability and expense from suits and costs to the extent arising from the negligent acts, errors or omissions or willful misconduct of Contractor in the performance of this Agreement. For claims arising from Contractor's professional services, Contractor's defense obligation under this indemnity paragraph shall include only the reimbursement of reasonable defense costs to the extent of Contractor's actual, proportional indemnity obligation hereunder.

XI. LIMITATION OF REMEDIES

Contractor's aggregate liability responsibility to the Tribe, including that of Contractor's subsidiaries and affiliates, officers, directors, employees, agents and sub-consultants, is limited to \$1,000,000.00 or the amount of Contractor's fee under this Agreement, whichever is greater. This limitation of remedy applies to all lawsuits, claims or actions, whether identified as arising in tort, contract or other legal theory, related to Contractor's services under this Agreement and any continuation or extension of Contractor's services.

XII. WARRANTIES

Contractor warrants that all contractor and contractor's employees will be properly certified to perform work outlined in contract/bid.

XIII. STANDARD OF CARE

Contractor shall perform its work according to U.S. standards with that degree of care and skill ordinarily employed by others practicing at the same time and under similar conditions. Further, Contractor shall comply with all applicable laws, licenses and other requirements to perform said work to the extent required by the aforementioned standard of care and that are in effect during the term of this Agreement. Contractor agrees to remedy any activities/work not meeting the aforementioned standard, without cost to the Tribe. The Tribe shall notify contractor of such discrepancies within one year of Contractor's completion of work under this contract.

XIV. NOTICES

All notices, requests for changes to contract/bid agreement, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresses:

If to the Tribe:

Nez Perce Tribe
Dept. of Fisheries Resource Management
Watershed Division
PO Box 365
Lapwai, Idaho 83540
Attention: Marcie Carter

If to the Contractor:

To Be Determined

XV. FORUM & CHOICE OF LAW

This contract shall be construed in accordance with the laws of the Nez Perce Tribe including, without limitation, Title 9 of the Nez Perce Tribal Code: the Tribal Employment Rights Act. In the absence of such laws, the laws of the State of Idaho may be utilized as guidelines by the trier of fact in any tribal dispute, which may arise under the terms of this contract. Mediation shall be a condition precedent to any other dispute remedy between the parties.

XVI. MEDIATION

In the event that a dispute arises between the parties to this Contract, the parties agree to make good faith efforts to resolve the dispute informally. If such efforts fail, the parties agree to participate in at least four hours of mediation in accordance with the mediation procedures of the American Arbitration Association. The parties shall share equally in the costs of mediation and the mediation shall be administered by a registered American Arbitration Association Administrator. The decision of the designated Mediator shall be binding on both parties.

XVII. ASSIGNMENT OF INTEREST

Neither party shall assign any claims, rights or interests under this contract without the prior written permission of the other party.

XVIII. PROPERTY

Upon receipt of all amounts owing under this Agreement, all information, proposals, papers, or materials developed by the Contractor in connection with the performance of services under this contract shall become the property of the Tribe, and the Contractor shall turn over such information, proposals, papers, or materials to the Tribe with the final billing, or sooner upon request. Any modification to such information, proposals, papers, or materials or reuse for purpose outside the

scope of this Agreement by the Tribe or others without prior written permission of Contractor shall be at user's sole risk and without liability to Contractor, and the Tribe shall defend, indemnify, and hold Contractor harmless from any claims, losses, or damages arising from such modification or reuse.

XIX. SOVEREIGN IMMUNITY

The Nez Perce Tribe hereby agrees to waive its sovereign immunity from suit for the sole and limited purpose of enforcement of the terms of this contract, provided, however, that this waiver is limited to the recovery of no more than the total amount of the Contract; and the payment of any amount shall not be paid with real property belonging to the Nez Perce Tribe. This waiver does not extend to the award of punitive or exemplary damages of any kind, nor does this waiver extend to the payment of attorney's fees. This waiver is expressly limited to the adjudication of mediation under this Contract as enforced by the Nez Perce Tribal Court.

XX. NOTICE OF PROHIBITION OF MECHANIC'S LIEN RIGHTS

The Nez Perce Tribe categorically forbids liens of any kind, whether in law or in equity, on Tribally-owned property.

XXI. TERMINATION FOR CONVENIENCE

This contract may be terminated by the Contractor or Nez Perce Tribe Executive Committee (NPTEC) without cause, upon 30 days written notice, or sooner if the parties agree.

This contract shall terminate if Tribal funds cease to be available and the Contractor shall be reimbursed for any services rendered to this date. If any provisions of this contract are held invalid, the remaining provision shall not be affected and shall remain in full force and effect. In the event of termination, Contractor shall be paid for services performed up to the date of termination.

XXII. AMENDMENTS

This contract may be amended in writing at any time by mutual consent of the parties involved and signed by each of them. If such changes cause an increase or decrease in the cost of, or the time required for the performance of any part of the work under the contract, a mutually satisfactory adjustments shall be made in the price or delivery schedule.

XXIII. INSTRUCTIONS FOR THE PREPARATION OF TECHNICAL & BUSINESS PROPOSALS

The technical proposal will be used to make an evaluation and arrive at a determination as to whether the proposal will meet the requirements of the Tribe. Therefore, the technical proposal must present sufficient information to reflect a thorough understanding of the requirements and a detailed description of the techniques, procedures and program for achieving the objectives of the specifications/statement of work. Proposals which merely paraphrase the requirements of the Tribe's specifications/statement of work, or use such phrases as "will comply" or "standard techniques will be

employed” will be considered unacceptable and will not be considered further.

Proposals submitted in response to this solicitation shall be furnished in the following format with the numbers of copies as specified below.

1. The proposal must include a technical proposal and price proposal. Each of the parts shall be separate and complete so that evaluation of one may be accomplished independently from evaluation of the other. The technical proposal must not contain reference to cost; however, resource information (such as data concerning crews to be employed on the project, materials, subcontracts, etc.) must be contained in the technical proposal so that the contractor's understanding of the statement of work may be evaluated.
2. The Tribe will evaluate proposals in accordance with the evaluation criteria set forth below in Section XXIV.
3. **Offerors shall submit their proposal(s) in the following format and the quantities specified:**
 - (a) **1 copy of the completed, signed offer/price proposal (Schedule of Items of the solicitation package).**
 - (b) **1 copy of the technical proposal.**

Amendments to Proposals:

Any changes to a proposal made by the offeror after its initial submittal shall be accomplished by replacement pages. Changes from the original page shall be indicated on the outside margin by vertical lines adjacent to the change. The offeror shall include the date of the amendment on the lower right corner of the changed pages.

XXIV. EVALUATION CRITERIA

1. **Preference:** Certified Indian Owned businesses registered with the Nez Perce Tribe, TERO Department will be given preference. Please note if you are a registered CIB with the Nez Perce Tribe.
2. **Technical Evaluation Factors:** Technical Proposals are required for the evaluation of offers. Contractors must submit the required information to be considered for contract award. Commitments made in the offeror’s technical proposal will be incorporated into the awarded contract. The following factors shall be used for evaluation. These factors are approximately equal in importance.
 - a) **Past Performance.** The proposal must address past performance for both the Contractor and any proposed major subcontractors. Performance information may be requested from references provided and other known clients. Submit a list and briefly describe all similar project work that was completed by your firm or any of your

proposed major subcontractors in the last 3 years. Emphasis is placed on past work specifically related to the work elements in the solicitation. Past performance will be evaluated in terms of quality of services; timeliness of performance; management and business relations with previous customers; customer satisfaction; cost control; oversight of project including subcontractors, and suppliers; and compliance with contract requirements, labor, and safety standards.

For each project include:

- Location of the project
- Type of work performed
- Date the work was completed
- Size of the project including dollar value
- On-Site Supervisor/Key Personnel utilized
- Current client contact information (include telephone numbers)
- If problems were encountered, describe them and any corrective actions taken to prevent a recurrence.

- b) **Technical Approach and Proposed Schedule.** Describe your plan to efficiently accomplish the work. Identify work crews and equipment to be devoted to this project, as well as the schedule for their assignment, addressing all significant work items. The proposal should include information on how the work will be organized and performed to ensure successful accomplishment of the work in accordance with the specifications, terms and conditions of the solicitation. Provide a plan that addresses who, what, where, when, and how you plan to do the work, from beginning to end. Describe all the significant tasks to be performed, the number of workers to be utilized and the type of equipment to be involved. Include a proposed progress schedule detailing time frames and work sequencing by task that ensures timely project completion. The schedule should include work performed in-house and via subcontractors. Provide as much detail as you consider necessary to fully explain the proposed technical approach or method

The Tribe will assess the realism of proposed completion dates, given the resources to be devoted to the work. Acceptable proposals will show ability to complete the project within the time frames specified, or sooner. In addition, the Tribe will assess the strengths, weaknesses and risks of the technical approach as it relates to meeting the project specifications, minimizing stream turbidity during construction, and meeting the performance deadlines.

- c) **Experience in Similar Work**
Identify the key personnel proposed for the project and provide an organizational chart for the project showing the authority and role for each proposed individual. For each individual identified, provide a resume showing the years of experience in discipline(s), relevant licenses, certifications, education/training and professional registrations, plus

up to five (5) projects that indicate experience similar to the Description of Work. Evaluation shall consider the following factors: 1) the number of similar successfully completed projects performed by the key personnel proposed, 2) the relevant licenses, certifications, education/training and professional registrations of the key personnel and 3) how the mix of professionals proposed for the project suits the goals and requirements of the project.

3. **Price.** The completed and signed Schedules of Items shall suffice for a price proposal. This criterion will (1) consider price reasonableness, and (2) be used to help determine the offeror's understanding of the work. The importance of price may become greater as the differences between technical proposals decreases. Where technical proposals are determined to be substantially equal, any cost/price advantage to the Tribe may control award.

***** The technical criteria, when combined, are greater than price in the award decision.**

Both parties agree to the provisions set forth herein as evidenced by the signatures of their authorized representatives below:

NEZ PERCE TRIBE

Mary Jane Miles, Chairman

Date

Casey L. Mitchell, Secretary

Date

Contractor

Date

Attachments:

- 1. Project Site Map**
- 2. Clear Creek Habitat Improvement Project Final Design**
Web reference: www.nezperce.org

