

OFFER FORM	1. SOLICITATION NO. SFCR Floodplain Restoration Designs	2. TYPE OF SOLICITATION SEALED BID	3. DUE DATE 9/8/2021	PAGE OF PAGES 1 of 37 pages
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IMPORTANT - The "offer" section on the next page must be fully completed by offeror.

4. MAIL OFFER TO		5. ADDRESS OFFER TO	
Nez Perce Tribe Department of Fisheries Resources Management Watershed Division PO Box 365 Lapwai, ID 83540		Delivered to: Watershed Division Attn: Miranda Gordon 28764 Salmon Lane Lapwai, ID 83540	
6. FOR INFORMATION CALL:	A. NAME Miranda Gordon	B. TELEPHONE NO. (Include area code) (208) 621-3547	

SOLICITATION

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

7. THE NEZ PERCE TRIBE REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no., date):

South Fork Clearwater River Floodplain Restoration Designs Nez Perce Tribe, DFRM Watershed Division Nez Perce County, ID

FAXED OFFERS WILL NOT BE ACCEPTED.

ALL OFFERS MUST BE DELIVERED IN PERSON OR VIA CERTIFIED MAIL BY 4:00PM September 8, 2021.

8. The Contract time shall begin upon receipt of notice to proceed and the work shall be completed no later than January 15, 2022. This performance period is mandatory.

9. ADDITIONAL SOLICITATION REQUIREMENTS:

- A. Sealed offers in original and 1 copy to perform the work required are due at the place specified in Item 4 by **4:00 PM** local time **September 8, 2021**. Sealed envelopes containing offers shall be marked to show the offeror's name and address. If hand delivering RFP, please deliver to the physical address listed above. If sending by mail, please address to the PO Box listed above.

REQUEST FOR PROPOSALS (“RFP”) FOR CONTRACTOR SERVICES FOR THE NEZ PERCE TRIBE FISHERIES WATERSHED DIVISION

1. SERVICES AND PRICES

Item	Description	Quantity	Unit	Total Price
Site 1	South Fork Clearwater River Site 1 Floodplain Restoration Design, Specifications, Basis of Design Report, and Cost Estimate	1	Lump Sum	\$
Site 2	South Fork Clearwater River Site 2 Floodplain Restoration Design, Specifications, Basis of Design Report, and Cost Estimate	1	Lump Sum	
Site 3	South Fork Clearwater River Site 3 Floodplain Restoration Design, Specifications, Basis of Design Report, and Cost Estimate	1	Lump Sum	
		Total Price		\$

BASIS OF AWARD- Technical proposals are required to be submitted with your offer. See Sections 8 and 10 for instructions and evaluation/award information.

CRITICAL DATES- See Section 6 for project schedule.

2. PURPOSE OF RFP

The Nez Perce Tribe Department of Fisheries Resources Management - Watershed Division (NPT) is soliciting proposals from selected qualified contractors ("Offerors") to provide contract services ("Services") for the sites selected for restoration on the South Fork Clearwater River. Services expected include floodplain restoration designs, specifications, and bid documents for the construction of floodplain restoration projects to stabilize the portions of South Fork Clearwater River within the project areas while increasing the instream complexity to provide juvenile fish rearing habitat, increase floodplain connectivity, potential recruitment of spawning appropriate gravels, and restoring native plant communities to enhance ESA listed fish species. This project would produce implementation-ready, engineer-approved, regulatory-agency reviewed plans and specifications for the selected South Fork Clearwater River restoration sites, as well as prepare a HIP (Habitat Improvement Program) Basis of Design Reports (BDR) for Bonneville Power Administration (BPA). All instream structures must be stable at the 100-year flow event.

The Offeror, if any, who is selected through the Qualification Based Selection process (the “Contractor”) shall sign a contract with the NPT in the form set forth as Exhibit 1 to this RFP (the “Contract”).

3. BACKGROUND AND LOCATION

The discovery of placer gold districts along the South Fork Clearwater River and adjacent Gospel Hump Wilderness area were initially made in 1861, which began the influx of miners and activity into the drainage. From these actions, many portions of the South Fork Clearwater River corridor have been negatively impacted; the river is confined between elevated floodplains, steep rock walls, and state Highway 14 in many places. There is no floodplain, little or no overhead cover, and instream water temperatures are elevated. The Tribe has identified and assessed potential restoration opportunities for restoring and enhancing floodplain areas associated with these elevated floodplains.

The purpose of such restoration is ultimately to restore stream temperatures, geomorphic functions, and aquatic habitat in the South Fork Clearwater River drainage with the goal of increasing long-term salmon and steelhead productivity and ensuring that the system remains a refuge for anadromous fish, even in a time of climatic change. Although specific restoration and enhancement actions may be developed in future phases of this project, these potential actions may include:

- i.** Protecting and expanding cold water refugia at summer baseflow within the mainstem channels and lower reaches of major tributaries to improve holding and summer rearing habitat conditions;
- ii.** Grading and revegetating floodplains to allow access to the floodplain during high flows, reducing velocities and allowing for greater fish passage success;
- iii.** Adding channel structures that create hydraulic complexity and pool depth, increase the amount and quality of low-velocity winter rearing habitat, and sort spawning gravel;
- iv.** Grading and revegetating floodplains to increase flow connectivity and hyporheic exchange between the winter baseflow channel, bankfull side channels, and high flow side channels;
- v.** Creating or enhancing off-channel stream habitat and wetlands to improve winter rearing habitat; and
- vi.** Grading and revegetating floodplains and adjacent terraces to increase riparian shading, reduce heating, and improve hyporheic exchange.

To reach the project area from Grangeville, Idaho, follow the Mount Idaho Grade Road (State Highway 17) to State Highway 14. Site 1 is located near Milepost 36 (RKM 83.2

to 83.5), Site 2 is located near Milepost 37 (RKM 84.6 to 85.0), and Site 3 is located near Milepost 38 (RKM 86.1 to 86.5) on Highway 14. See map in Attachment 1.

4. SCOPE OF SERVICES

The following Scope of Services shall be the basis for Qualification response by Offeror under this RFP. At the discretion of the NPT, certain additional services may be assigned to Contractor during the course of the Services. Up to three sites will be selected dependent upon cost and work window constraints.

This contract requires data collection, analysis, and synthesis into a report, design, and cost estimate for the restoration of the aquatic habitat and floodplain on up to three approximately 0.4 km sites along South Fork Clearwater River in compliance with its terms, specifications, and provisions. This includes the furnishing of all labor, equipment, supervision, transportation, operating supplies and incidentals (except those designated as Tribe-furnished). Up to three sites will be selected.

The data collection and analysis will be used by the Tribe and the USDA Nez Perce Clearwater National Forest in the National Environmental Policy Act (NEPA) process, detail existing condition, and complete the aquatics specialist reports. The required work-products for this contract are the final designs including maps, drawings, materials list, technical specifications, and cost estimates for the selected sites.

The overall vision of the designs is to be consistent with the restoration goals in the watershed of:

1. Restoring river ecosystem functions and aquatic habitat to increase long-term salmon and steelhead productivity.
2. Restoring river ecosystem functions and aquatic habitats that are resilient to watershed disturbances, including the effects of climate change.

The site design should address and improve the following functional and habitat limitations:

1. Lack of complexity (structural and hydraulic), which results in simplified habitat for rearing fish.
2. Lack of mature riparian plan community structure, which results in increased water temperature.
3. The lack of floodplain connectivity and the fine sediment accumulation in the riverbed surface, which limits hyporheic exchange and negatively impacts primary and secondary production.

The final design recommendation should include the following elements:

1. Improve channel morphology, function, and fish habitat to help achieve restoration goals and address limitations.

2. Rehabilitate floodplain and riparian function.

4.1 Contractor Work Requirements and Standards

The Contractor shall develop design criteria and subsequent report to support the development of designs to restore and reconnect the floodplain and create instream habitat and complexity in and along the selected reaches of the South Fork Clearwater River. The base habitat design will include maps, drawings, material lists, and technical specifications with adequate detail for implementation.

The designs will specify the locations of the stream centerline and bankfull (i.e. latitude, longitude, and elevation) for the restored river bankfull and associated floodplain. The contractor shall furnish topographic site surveys resulting in a map with 1.0 foot contour intervals for those sections of reach where construction is proposed including the lowered floodplain and excess material relocation. The contractor will also address specifications and locations for in-stream structures (i.e. latitude, longitude, and elevation). The reports shall include an assessment of the current existing floodplain profile and condition data, the current channel hydraulic data, the new channel/ floodplain design parameters, and the new channel hydraulic data.

4.2 Contract Requirements

4.2.1. Current Channel/ Floodplain Profile and Condition Data:

The reports shall include current channel and floodplain shape and geometry; sediment transport capacity; substrate and cobble embeddedness; spawning, rearing, and overwinter habitat for spring/summer Chinook salmon, steelhead, and bull trout; width to depth ratios; floodplain width and condition; riparian vegetation composition, condition, and canopy cover; and instream fish habitat including large woody debris and pool structure.

The reports shall also detail the ground and surface water interactions throughout project area. With a significant mining history in the area, the substrate is likely very coarse and inverted, possibly lacking fines, leaving behind larger cobble on the surface. It may be important to document the interaction between surface water and the alluvial aquifer through such means as piezometers and standpipes to record water surface elevations and flow rates.

4.2.2. Current Channel Hydrologic Data:

Reports shall include peak flows (bankfull, Q2, Q5, Q10, Q25, Q50, and Q100), low flows, and fish migration flows.

4.2.3. New Floodplain Design Parameters:

The reports shall include the new floodplain area and height in 1.0 foot increments. The report shall map areas of inundation at varying peak flow rates and depict connectivity with existing or new ponds, wetlands, and/or backwater channels. Riverbank reshaping will be identified, including elevations, if necessary.

Recommended areas for revegetation plantings, including suggested plant species, shall be included. If topsoil is required for revegetation success, the amount needed and found on-site will be quantified in the report.

4.2.4. New Mainstem Instream Structure Parameters:

Reports shall include estimates for the locations, types, and amounts of new instream structures required for the mainstem river, e.g. rock clusters, vortex rocks, or large woody debris placement if recommended. The fish habitat improvements should appear as natural as possible but not at the expense of detracting from their function.

4.2.5. New Channel Hydrologic Data:

Reports shall include peak flows (bankfull, Q2, Q5, Q10, Q25, Q50, and Q100), low flows, and fish migration flows.

4.3 Additional Considerations

4.3.1. Wetland Mapping and Impacts:

The wetlands to be affected, if any, by the design should be mapped, spatially quantified, and integrated into the design. The design may change functions of wetlands from their current condition to a new condition; however, the design should strive for no net loss of wetlands in the project area. Contractor will provide sufficient detail for permitting designs under Section 404 of the Clean Water Act and Idaho Stream Channel Alteration Act, including a map of affected areas.

4.3.2. Native Materials Inventory:

Contractor shall locate, inventory, and map potential sites for instream large woody debris, rock (boulder and large cobble), and soil sources within the project area. Available materials will be inventoried by size class or volume (soil); these classes shall correspond with design material specifications.

The Contractor will identify and map areas of potential topsoil within the project area or surrounding area. In many mined watersheds, the topsoil was removed from the valley bottom and pushed up on the hillslopes. This topsoil may be used

when revegetating the floodplain and riparian areas or topsoil may be needed from off-site. The amount of topsoil needed and found on-site will be quantified in the report.

An estimate of excavation volumes for channel excavation and floodplain construction shall be made. Repositories for the excavated material shall be identified within the project area, quantified, and mapped. The Contractor can use LIDAR and traditional ground surveys to calculate the volumes of material. These measurements will then be used to determine if additional repositories are needed when moving the tailings and designing off-channel habitat.

4.4 Design Development and Report

4.4.1. Technical and Functional Design Reviews:

This project will be funded by Bonneville Power Administration (BPA) through the Nez Perce Tribe. The project site locations are owned by the USDA Nez Perce Clearwater National Forest. As part of the design process, the Contractor will be required to cooperate with BPA and the NPT to meet their approval processes. The following project review checkpoints are proposed as standard project quality assurances for the scope and complexity of this project.

A Conceptual Project Review (typically 15%) will notify Tribe and BPA at 15%, or project concept stage, to review project concepts, goals, and objectives. This will also help confirm the direction and planning for subsequent phases of the design.

At the initial review of plans (typically 30%), the Contractor will produce preliminary drawings and other supporting documentation for the preferred project alternative.

At the final project review phase (typically 80%), the Contractor will submit to the Tribe, who will subsequently submit to BPA, for technical, functional, and interagency reviews. The 80% design should demonstrate complete incorporation of technical comments and recommendations developed at the previous design review, and submittals should include near-final drawings and specifications.

4.4.2. Maps, Drawings, Material Lists, Technical Specifications, and Supporting Documents:

A design shall be prepared for each site which includes maps, drawings, material lists, technical specifications, and supporting documents. Drawings for floodplain restoration shall be drafted. The contractor shall furnish a topographic site surface resulting in a map with 1.0 foot contour intervals for the newly designed flood-prone width.

An estimate of excavation volumes for channel excavation, floodplain construction (tailings removal), and topsoil volumes shall be made. If necessary, repositories for the excavated material shall be identified within the project area, quantified and mapped or identified. LiDAR can be used to assist Contractor estimating these volumes.

The Contractor's designs will incorporate measures to protect and preserve all cultural resource sites/objects denoted in the reports from the Nez Perce Tribe, USFS, and SHPO, if available.

The drawings shall be stamped by a Professional Engineer licensed in the State of Idaho.

4.4.3. Cost Estimates:

A project cost estimate for implementing the design work elements shall be prepared using the native material sources (consisting of rock, boulder, and large cobble; large woody debris; and soil) available on site when possible. The estimate will not include the cost of the acquisition of revegetation but should include items such as access road construction, construction oversight, clearing, options for existing utility poles, regrading of the floodplain, construction of a new-side channel, and relocating excess material. **The release or publication of the cost estimate data to outside sources is expressly prohibited by this contract (please see FAR 52.227-14 Rights in Data – General).**

5. INFORMATION CONCERNING RFP AND PROJECT

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

Miranda Gordon
Nez Perce Tribe
Department of Fisheries Resources Management – Watershed Division
(208) 621-3547
Mirandag@nezperce.org

Offerors are cautioned not to make any assumptions as to the implied meaning or intent of any part of the RFP. Offerors should request clarification or additional information concerning the RFP in writing as soon as possible. ANY CORRECTIONS OR CLARIFICATIONS MADE IN ANY MANNER OTHER THAN BY A WRITTEN ADDENDUM WILL NOT BE BINDING ON NPT, AND OFFERORS SHALL NOT RELY THEREON.

- 5.2 Any prospective Offeror who contends that the terms and conditions of this RFP, the Contract, or any aspect of the selection process (1) will encourage favoritism

in the award of the Contract for Services; (2) will substantially diminish competition; (3) will violate any other statute, regulation, or law of any kind; or (4) is ambiguous, insufficient, or unfair for any reason, must file a written protest to this RFP. Failure to deliver a written protest to the address provided in “Address Offer To” box in the cover page of this RFP by the time specified in Section 6.1.2 of this RFP will be deemed a waiver of any claim by an Offeror that the selection process violates any of the items (1)-(4) of the foregoing sentence.

- 5.3 NPT reserves the right to (1) reject any or all proposals or (2) cancel the RFP if doing either would be in the public interest as determined by NPT.

6. SCHEDULE OF EVENTS

The following schedule of events shall be followed for this RFP unless otherwise modified by NPT:

Table of Timelines

1	Bids Due	9/8/2021 4:00 PM
2	Notice to Proceed	Anticipated 10/4/2021
3	Kick off Meeting	To be scheduled by Contractor
4	15 % Design	To be scheduled by Contractor
5	30% Design	10/30/2021
6	80 % Design	11/30/2021
7	100 % Design	12/15/2021
8	Deadline for Final Documents	12/30/2021
9	Contract Termination	1/15/2022

A formal site visit is not scheduled at this time. Close proximity to the project area is accessible by 2-wheel drive vehicle along Highway 14. Contact Miranda Gordon with the Nez Perce Tribe (208-621-3547 or email Mirandag@nezperce.org) for additional information or any questions concerning this proposal.

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.

7. NO REIMBURSEMENT FOR PROPOSAL

Offerors responding to this RFP do so solely at their own expense. Under no circumstances whatsoever will NPT be responsible or reimburse Offerors for any costs incurred in the preparation and presentation of their proposals, negotiation of the Contract

and cost proposal by the Offeror, or for any related expenses or consequential damages of any kind.

8. CONTENT OF PROPOSALS

Certified Indian Owned businesses registered with the Nez Perce Tribe will be given preference. Please note if you are a registered CIB with the Nez Perce Tribe.

Each interested contractor shall submit a proposal package to the Tribe that includes the sections below. Proposals should provide a concise description of the contractor's ability to meet the requirements of the project. Emphasis should be on completeness and clarity.

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. Offerors shall submit their proposal(s) in the following format and the quantities specified.
 - a. **1 copy of the completed, signed offer/price proposal.**
 - b. **1 copy of the technical proposal.**
3. **Technical Proposal:** 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 phrases as "will comply" or "standard techniques will be employed", will be considered unacceptable and will not be considered further. A finding of unacceptable on any one of the technical evaluation criteria could render the overall technical proposal unacceptable. As a minimum, the proposal must clearly provide the following:
 - a. **Past Performance.** List and briefly describe all previous contracts of similar scope and/ or size completed within the last 3 years. 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. The contractor should demonstrate having a minimum of 3 years of

experience in stream design and provide a summary of relevant experience and responsibility for similar projects in terms of project type and dollar value.

For each past 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. **Work Plan.** 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. 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, restoring and improving fish habitat, minimizing stream turbidity during construction, and meeting the performance deadlines.

Specifically address:

- Identify the proposed On-Site Supervisor/other Key Personnel and their duties on site as well as experience in this type of work
- Provide a production schedule that includes an overall time frame for the project as well as the time frames and sequencing of each work element included in the project.
- Describe the experience of the prime contracting firm and any major subcontractors in performing similar work. We will assess the contractor's performance risk given the amount and type of similar work performed on previous projects.

- c. **Experience in Similar Work – DESIGN FIRMS MUST HAVE A MINIMUM OF 3 YEARS EXPERIENCE IN SIMILAR WORK.** Identify the key personnel proposed 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. Specifically highlight experience in fish passage analysis and stream restoration projects.

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.

4. **Price Proposal:** Prices submitted in the Schedule of Bid Items will be evaluated for reasonableness and the degree to which they reflect an understanding of the work requirements. The Tribe may screen the quotes on price and those quotes determined to be unreasonably high or low will not be evaluated further.

The importance of cost/ price may become greater as the difference 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.**

PRICE RANGE: The cost estimate for this project is \$100,000 to \$185,000.

5. Identify any confidential information that the Offeror contends is exempt from disclosure. NPT will endeavor in good faith to honor appropriate requests for exemption from disclosure, but NPT reserves exclusive discretion to determine whether information qualifies for a statutory exemption. NPT's obligation under this Section 8 shall survive selection of the Contractor.
6. Include a proposed schedule for performing the Services and identify any constraints that could affect the Offeror's ability to perform the Services promptly and efficiently.
7. If the Offeror believes there are additional services not identified in this RFP that are necessary for successful completion of the Project, include a description of the additional services recommended by the Offeror, describe how the additional services would benefit NPT and Company, and describe the Offeror's ability to provide the additional services.

9. CONTRACT

- 9.1 The Offeror, if any, selected by NPT will be required to enter into a written contract in the form attached as Exhibit 1 to this RFP.
- 9.2 The proposal should indicate acceptance of the Contract provisions but may – in addition to and not in lieu of NPT's Contract – suggest reasonable alternatives that do not substantially impair NPT's rights under the Contract. Silence shall be deemed acceptance of the standard form of Contract.
- 9.3 If inclusion of any of NPT's proposed contract provisions will result in higher costs for the services, such costs must be specifically identified in the proposal by the Offeror during cost negotiations and prior to selection of the Offeror as the Contractor.

10. EVALUATION OF PROPOSALS

- 10.1 Certified Indian Owned Business: Certified Indian Owned businesses registered with the Nez Perce Tribe will be given preference.

Please note if you are a registered CIB with the Nez Perce Tribe.

- 10.2 Proposals that do not adhere to all terms and conditions of this RFP or that are otherwise non-responsive may, in the sole discretion of NPT, be rejected or given a lower rating in the evaluation process.
- 10.3 NPT reserves the right to reject any and all proposals or to waive irregularities or deficiencies in a proposal if NPT determines that such waiver is in the best interests of NPT.
- 10.4 If two or more Offerors are equally qualified, NPT will give preference to a Certified Indian Owned Business.
- 10.5 If NPT and the highest ranked Offeror are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to NPT, NPT shall, either orally or in writing, formally terminate negotiations with the highest ranked Offeror. NPT may then negotiate with the next most qualified Offeror. The negotiation process may continue in this manner through successive Offerors until an agreement is reached or NPT terminates the contractor contracting process.
- 10.6 Proposal selection will be completed through a quality-based selection process (QBS) by a review team. Factors listed in descending order of importance. The following selection criteria will be used to evaluate the content of the written proposals based on a weighted scoring method:

- 10.6.1** Offeror's specialized experience, capabilities, and technical competence as it relates to the above Scope of Services. (20 Points)
- 10.6.2** Offeror's proposed approach (work plan and methodology) for providing the Services, including a description of tasks that will be performed by each member of the project team and how the Offeror would implement the Services. (20 Points)
- 10.6.3** Offeror's record of past performance, including but not limited to price and cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration. (15 Points)
- 10.6.4** Offeror's resources committed to perform the work and the proportion of the time that the Offeror's staff would spend on the project, including time for specialized services, within the applicable time limits. (10 Points)
- 10.6.5** Offeror's proposed schedule for performing the Services and any constraints that could affect the Offeror's ability to perform the Services promptly and efficiently. (10 Points)
- 10.6.6** Lowest price will be considered as it relates to the above Scope of Services. (5 Points)

10.7 NPT retains exclusive discretion and reserves the right to determine:

- 10.7.1** Whether a proposal is complete and complies with the provisions of this RFP.
- 10.7.2** Whether an Offeror should be allowed to submit supplemental information.
- 10.7.3** Whether an Offeror will be interviewed by NPT.
- 10.7.4** Whether irregularities or deficiencies in a proposal should be waived.
- 10.7.5** Whether to seek clarifications of each proposal or request additional information necessary to permit NPT to evaluate, rank, and select the most qualified Offeror.

11. SELECTION BY NPT

- 11.1 The Contract will be awarded to the Offeror who, in NPT's judgment, has submitted a proposal that best meets NPT's requirements and successfully completes scoping and fee negotiations with NPT.
- 11.2 If there are disagreements with the outcome or questions about the selection process, Offerors must submit protests in writing to NPT within seven (7) calendar days after the selection has been made. At the request of the protester a hearing will be conducted before NPT within seven (7) calendar days after submission of the written protest. NPT will either uphold or deny the protest, and a written response will be issued for all properly submitted protests. If the protest is denied, NPT will proceed to award the Contract.
- 11.3 Final award will be subject to execution of the Contract. Negotiation of the Contract will include the scope of services and fees for services. NPT reserves the right to negotiate a final Contract that is in the best interest of NPT. If permitted by NPT, in its sole discretion, negotiation of the Contract may include one or more of the proposed alternate terms and conditions, if any, in the selected Contractor's proposal. Award of the Contract may be withdrawn if the Contract negotiations are not timely concluded, as determined by NPT in its sole discretion.
- 11.4 If NPT and the Offeror initially selected by NPT are unable to negotiate a Contract, NPT reserves the right to select another Offeror and negotiate a Contract with that Offeror in accordance with this Section 11.

12. EXHIBITS

Exhibits to this RFP include:

- 1. Contract Form
- 2. Photographs and Location Map
- 3. Bonneville Power Administration Applicable Contract Clauses

EXHIBIT 1

SOUTH FORK CLEARWATER AQUATIC HABITAT AND FLOODPLAIN RESTORATION DESIGN AND COST ESTIMATE CONTRACT

**BETWEEN
NEZ PERCE TRIBE
AND
Selected Contractor**

This Contract (“Contract”) is entered into between the **Nez Perce Tribe**, P.O. Box 305, Lapwai, ID, 83540 (“Tribe”), by and through the Department of Fisheries Resources Management – Watershed Division, and **Selected Contractor**. (“Contractor”), referred to individually as “party” and collectively as “parties.”

RECITALS

- A.** The Tribe is a federally-recognized Indian tribe with its own government, unique culture, and history.
- B.** The Tribe wishes to retain Contractor, To Be Determined, to provide the following services for the Tribe.
- C.** Contractor is qualified to perform the services that are the subject of this Contract.
- D.** The foregoing recitals are hereby incorporated into, and made an integral part of, this Contract.

TERMS

SECTION 1: General

Contractor agrees to perform such professional services as are set forth in this Contract, and the Tribe agrees to pay such amounts as are specified in this Contract, all upon the following terms and conditions.

SECTION 2: Scope of Work/Deliverables

- 2.1 This contract requires data collection, analysis, and synthesis into a report, design, and cost estimate for the restoration of the aquatic habitat and floodplain for the designated approximately 0.4 km sites along South Fork Clearwater River in compliance with its terms, specifications, and provisions. This includes the furnishing of all labor, equipment, supervision, transportation, operating supplies and incidentals (except those designated as Tribe-furnished).

The data collection and analysis will be used by the Tribe and the USDA Nez Perce Clearwater National Forest in the National Environmental Policy Act (NEPA) process, detail existing condition, and complete the aquatics specialist reports. The required

work-products for this contract are the final designs including maps, drawings, materials list, technical specifications, and cost estimates.

The overall vision of the designs are to be consistent with the restoration goals in the watershed of:

1. Restoring river ecosystem functions and aquatic habitat to increase long-term salmon and steelhead productivity.
2. Restoring river ecosystem functions and aquatic habitats that are resilient to watershed disturbances, including the effects of climate change.

The site design should address and improve the following functional and habitat limitations:

1. Lack of complexity (structural and hydraulic), which results in simplified habitat for rearing fish.
2. Lack of mature riparian plant community structure, which results in increased water temperature.
3. The lack of floodplain connectivity and the fine sediment accumulation in the riverbed surface, which limits hyporheic exchange and negatively impacts primary and secondary production.

The final design recommendation should include the following elements:

1. Improve channel morphology, function, and fish habitat to help achieve restoration goals and address limitations.
2. Rehabilitate floodplain and riparian function.

2.2 Contractor Work Requirements and Standards

The Contractor shall develop design criteria and subsequent reports to support the development of designs to restore and reconnect the floodplain and create instream habitat and complexity in and along the selected reaches of the South Fork Clearwater River. The base habitat design will include maps, drawings, material lists, and technical specifications with adequate detail for implementation.

The designs will specify the locations of the stream centerline and bankfull (i.e. latitude, longitude, and elevation) for the restored river bankfull and associated floodplain. The contractor shall furnish topographic site surveys resulting in a map with 1.0 foot contour intervals for those sections of reach where construction is proposed including the lowered floodplain and excess material relocation. The contractor will also address specifications and locations for in-stream structures (i.e. latitude, longitude, and elevation). The reports shall include an assessment of the current existing floodplain profile and condition data, the current channel hydraulic data, the new channel/ floodplain design parameters, and the new channel hydraulic data.

2.3 Contract Requirements

2.3.1 Current Channel/ Floodplain Profile and Condition Data:

The reports shall include current channel and floodplain shape and geometry; sediment transport capacity; substrate and cobble embeddedness; spawning, rearing, and overwinter habitat for spring/summer Chinook salmon, steelhead, and bull trout; width to depth ratios; floodplain width and condition; riparian vegetation composition, condition, and canopy cover; and instream fish habitat including large woody debris and pool structure.

The reports shall also detail the ground and surface water interactions throughout project area. With a significant mining history in the area, the substrate is likely very coarse and inverted, possibly lacking fines, leaving behind larger cobble on the surface. It may be important to document the interaction between surface water and the alluvial aquifer through such means as piezometers and standpipes to record water surface elevations and flow rates.

2.3.2 Current Channel Hydrologic Data:

Reports shall include peak flows (bankfull, Q2, Q5, Q10, Q25, Q50, and Q100), low flows, and fish migration flows.

2.3.3 New Floodplain Design Parameters:

The reports shall include the new floodplain area and height in 1.0 foot increments. The report shall map areas of inundation at varying peak flow rates and depict connectivity with existing or new ponds, wetlands, and/or backwater channels. Riverbank reshaping will be identified, including elevations, if necessary.

Recommended areas for revegetation plantings, including suggested plant species, shall be included. If topsoil is required for revegetation success, the amount needed and found on-site will be quantified in the report.

2.3.4 New Mainstem Instream Structure Parameters:

Reports shall include estimates for the locations, types, and amounts of new instream structures required for the mainstem river, e.g. rock clusters, vortex rocks, or large woody debris placement if recommended. The fish habitat improvements should appear as natural as possible but not at the expense of detracting from their function.

New Channel Hydrologic Data:

Reports shall include peak flows (bankfull, Q2, Q5, Q10, Q25, Q50, and Q100), low flows, and fish migration flows.

2.4 Additional Considerations

2.4.1 Wetland Mapping and Impacts:

The wetlands to be affected, if any, by the design should be mapped, spatially quantified, and integrated into the design. The design may change functions of wetlands from their current condition to a new condition; however, the design should strive for no net loss of wetlands in the project area. Contractor will provide sufficient detail for permitting designs under Section 404 of the Clean Water Act and Idaho Stream Channel Alteration Act, including a map of affected areas.

2.4.2 Native Materials Inventory:

Contractor shall locate, inventory, and map potential sites for instream large woody debris, rock (boulder and large cobble), and soil sources within the project area. Available materials will be inventoried by size class or volume (soil); these classes shall correspond with design material specifications.

The Contractor will identify and map areas of potential topsoil within the project area or surrounding area. In many mined watersheds, the topsoil was removed from the valley bottom and pushed up on the hillslopes. This topsoil may be used when revegetating the floodplain and riparian areas or topsoil may be needed from off-site. The amount of topsoil needed and found on-site will be quantified in the report.

An estimate of excavation volumes for channel excavation and floodplain construction shall be made. Repositories for the excavated material shall be identified within the project area, quantified, and mapped. The Contractor can use LIDAR and traditional ground surveys to calculate the volumes of material. These measurements will then be used to determine if additional repositories are needed when moving the tailings and designing off-channel habitat.

2.5 Design Development and Report

2.5.1 Technical and Functional Design Reviews:

This project will be funded by Bonneville Power Administration (BPA) through the Nez Perce Tribe. The project site locations are owned by the USDA Nez Perce Clearwater National Forest. As part of the design process, the Contractor will be required to cooperate with BPA and the NPT to meet their approval processes. The following project review checkpoints are proposed as standard project quality assurances for the scope and complexity of this project.

A Conceptual Project Review (typically 15%) will notify Tribe and BPA at 15%, or project concept stage, to review project concepts, goals, and objectives. This will also help confirm the direction and planning for subsequent phases of the design.

At the initial review of plans (typically 30%), the Contractor will produce preliminary drawings and other supporting documentation for the preferred project alternative.

At the final project review phase (typically 80%), the Contractor will submit to the Tribe, who will subsequently submit to BPA, for technical, functional, and interagency reviews. The 80% design should demonstrate complete incorporation of technical comments and recommendations developed at the previous design review, and submittals should include near-final drawings and specifications.

2.5.2 Maps, Drawings, Material Lists, Technical Specifications, and Supporting Documents:

A design shall be prepared for each site which includes maps, drawings, material lists, technical specifications and supporting documents. Drawings for floodplain restoration shall be drafted. The contractor shall furnish a topographic site surface resulting in a map with 1.0 foot contour intervals for the newly designed flood-prone width.

An estimate of excavation volumes for channel excavation, floodplain construction (tailings removal), and topsoil volumes shall be made. If necessary, repositories for the excavated material shall be identified within the project area, quantified and mapped or identified. LiDAR can be used to assist Contractor estimating these volumes.

The Contractor's designs will incorporate measures to protect and preserve all cultural resource sites/objects denoted in the reports from the Nez Perce Tribe, USFS, and SHPO, if available.

The drawings shall be stamped by a Professional Engineer licensed in the State of Idaho.

2.5.3 Cost Estimates:

A project cost estimate for implementing the design work elements shall be prepared using the native material sources (consisting of rock, boulder, and large cobble; large woody debris; and soil) available on site when possible. The estimate will not include the cost of the acquisition of revegetation but should include items such as access road construction, construction oversight, clearing, options for existing utility poles, regrading of the floodplain, construction of a new-side channel, and relocating excess material. **The release or publication of the cost estimate data to outside sources is expressly prohibited by this contract (please see FAR 52.227-14 Rights in Data – General).**

4.6 Contractor agrees to provide the following deliverables:

1. From the data collected, final construction-ready design plans and bid package for each site will be provided as a deliverable.
2. A project cost estimate for each site for implementing the recommended project designs will be generated as a deliverable.

Item	Description	Quantity	Unit	Total Price
Site 1	South Fork Clearwater River Site 1 Floodplain Restoration Design, Specifications, Basis of Design Report, and Cost Estimate	1	Lump Sum	\$
Site 2	South Fork Clearwater River Site 2 Floodplain Restoration Design, Specifications, Basis of Design Report, and Cost Estimate	1	Lump Sum	
Site 3	South Fork Clearwater River Site 3 Floodplain Restoration Design, Specifications, Basis of Design Report, and Cost Estimate	1	Lump Sum	
Total Price				\$

2.7 Contractor shall not vary from the description of work described herein, unless Contractor receives specific, prior written authorization from the Tribe.

SECTION 3: Timetable

Time is of the essence. Following the signing of this Contract by both parties, Contractor shall perform the duties described in Section 2 by no later than **January 15, 2022**.

SECTION 4: Term/Termination

- 4.1 As described in Section 4, the term of this Contract shall begin when both parties sign this Contract and shall end on **January 15, 2022**. This Contract may be terminated by the Tribe without cause upon thirty (30) days written notice to Contractor, or sooner if both parties agree.
- 4.2 Either party may terminate this Contract at any time upon a breach by the other. If required, the costs incurred by the Tribe in hiring a replacement contractor shall be deducted from the Contract amount.
- 4.3 The Tribe may terminate this Contract without penalty or cost at any time if the work performed by Contractor is determined by the Tribe, in its sole discretion, to not be

reasonably satisfactory. If required, the costs incurred by the Tribe in hiring a replacement contractor shall be deducted from the Contract amount.

4.4 This Contract shall terminate at any time if Tribal funds cease to be available.

4.5 If this Contract is terminated pursuant to this Section, the terminating party shall send written notice to the other party. Contractor shall receive payment for the reasonable value of any work completed prior to termination.

SECTION 5: Payment

The total amount to be paid under this Contract, contingent upon the Tribe's acceptance of Contractor's work as reasonably satisfactory, **shall not exceed (Fixed Price)**.

Invoices shall be paid upon completion of work and the contractor will provide invoices to Miranda Gordon, South Fork Clearwater River Watershed Project Leader, for approval and submission to the Nez Perce Tribe Finance Department for payment.

SECTION 6: Personnel

6.1 Independent Contractor. Contractor shall 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. Contractor shall also be responsible for obtaining all necessary federal, state, or local permits in order to perform work under this Contract. The Tribe assumes no responsibility for damage to property of Contractor or for any injuries to Contractor's employees. Contractor and the Tribe are not engaged in a joint venture or partnership. Neither party can represent or bind the other.

6.2 TERO Compliance. Contractor shall comply with all regulations and policies of the Tribal Employment Rights Office ("TERO") Title 9: Indian Preference in Employment and Contracting, including executing a Compliance Agreement prior to initiating work under this Contract. Contact the TERO at (208) 843-7363 for further information.

SECTION 7: Indemnification

To the fullest extent permitted by law, Contractor shall indemnify and hold harmless the Tribe and the Tribe's officers, guests, agents, and employees from and against all claims, damages, losses, and expenses, including but not limited to attorneys' fees arising out of, or resulting from, the performance of this Contract, provided that any such claim, damage, loss, or expense is not caused in whole or in part by any negligent act or omission of the Tribe, anyone directly employed by the Tribe, or anyone for whom the Tribe may be liable.

SECTION 8: Officials, Agents, and Employees of the Tribe Not Personally Liable

In no event shall any official, officer, employee, or agent of the Tribe be personally liable or responsible for: any covenant, whether expressed or implied; any statement, representation, or

warranty made in connection with this Contract, or any provision thereof; or the performance of this Contract.

SECTION 9: Assignment and Delegation/Subcontracting

Contractor may not assign the rights or delegate the duties described under this Contract, or subcontract any part of the work to be performed pursuant to this Contract, without the Tribe's prior written authorization. The Tribe may attach any reasonable conditions or limitations to the employment of any subcontractor.

SECTION 10: Binding Effect

This Contract is for the benefit only of the parties hereto and shall inure to and bind the parties hereto and their respective heirs, legal representatives, successors, and assigns.

SECTION 11: Notice

Any notice under this Contract shall be in writing and delivered in person or by public or private courier service including the U.S. Postal Service Express Mail or certified mail, with return receipt requested, or by email. Any notice shall be addressed to the parties at the following addresses or at such other addresses as the parties may, from time-to-time, direct in writing.

NEZ PERCE TRIBE:

Departmental Notification to:

Name: Miranda Gordon

Title: SF Clearwater Project Leader

Address: P.O Box 365

Lapwai, ID 83540

Phone: 208-621-3547

Email: Mirandag@nezperce.org

Tribal Notification to:

Name: Nez Perce Tribal Executive Committee

Address: P.O. Box 305

Lapwai, ID 83540

Phone: (208) 843-2253

Email: NPTEC@nezperce.org

CONTACTOR:

Name:

Title:

Address:

Phone:

Email:

Any notice shall be deemed to have been given on the earlier of (a) actual delivery or refusal to accept delivery, (b) the date of mailing by certified mail, or (c) the day email delivery is verified. Actual notice, however and from whoever received, shall always be effective.

SECTION 12: Forum

The forum for any dispute concerning this Contract shall be the Nez Perce Tribal Court. This Contract shall be construed in accordance with the contract laws of the Tribe, as applicable. In the absence of such laws, the laws of the state of Idaho may be used as guidelines by the trier of fact.

SECTION 13: Sovereign Immunity

Nothing in this Contract shall be construed as a waiver or diminishment of the Tribe's inherent sovereign immunity.

SECTION 14: Severability

If any terms of this Contract are deemed to be illegal, void, or unenforceable, the remainder of the provisions herein shall remain valid and enforceable.

SECTION 15: Non-Waiver of Breach

The delay or failure of the Tribe to exercise any of its rights under this Contract for a breach by Contractor shall not be deemed to be a waiver of such rights and shall not be deemed to be a waiver of any subsequent breach by Contractor, either of the same provision or otherwise.

SECTION 16: Force Majeure

If Contractor is unable to perform its duties as described herein, in whole or in part, due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes thereof, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of Contractor, the parties shall negotiate in good faith to reach an amicable settlement.

SECTION 17: Representations

Contractor represents and warrants that it has the full right and legal authority to enter into and fully perform its duties under this Contract, in accordance with this Contract's terms, without violating the rights of any third party and that it has all governmental licenses, permits, or other authorizations necessary to perform the duties herein described.

The individuals executing this Contract on behalf of the Tribe represent and warrant that they are duly authorized to execute and deliver this Contract on behalf of the Tribe in accordance with the Tribe's Revised Constitution and By-Laws adopted by the General Council of the Nez Perce Tribe on May 6, 1961 and approved by the Acting Commissioner of Indian Affairs on June 27, 1961.

SECTION 18: Insurance

18.1 Contractor warrants that workers' compensation insurance is purchased for all agents or employees of Contractor engaged in the performance of work under this Contract and shall provide the Tribe with a certificate of insurance to verify the same prior to the

execution of this Contract. Any changes in the status of such workers' compensation insurance shall be immediately reported to the Tribe.

- 18.2 Contractor shall obtain and maintain comprehensive general liability insurance in an aggregate amount equal to or exceeding \$1,000,000, which includes the type of work being performed by Contractor and Contractor's employees and agents under this Contract. This requirement may be satisfied by obtaining appropriate endorsement from an umbrella policy provider for the work being performed by Contractor under this Contract. Contractor shall provide the Tribe with proof of such coverage prior to the execution of this Contract. Any changes in the status of such comprehensive general liability insurance shall be immediately reported to the Tribe.

SECTION 19: Warranties

Contractor shall perform work in a professional, thorough, and skillful manner consistent with its profession's standards in the Pacific Northwest region. Contractor warrants that all of Contractor's employees or agents are properly certified to perform the work described herein and that Contractor and its employees or agents shall comply with all applicable laws, licenses, and other requirements without cost to the Tribe. The Tribe shall notify Contractor of any violation of this warranty within one (1) year of completion of work under this Contract. Otherwise, such warranty expires. All representations and warranties are to be interpreted expansively to afford the broadest protection available to the Tribe.

SECTION 20: Proprietary Rights and Confidentiality

- 20.1 All material produced as a result of this Contract is the property of the Tribe for the sole beneficial use of the Tribe and shall not be reproduced without written permission from the Tribe.
- 20.2 Contractor shall not disclose to any third party, or use for any purposes other than the performance of its duties under this Contract, any document or information designated by the Tribe, orally or in writing, as "confidential" or "proprietary," without express, prior written authorization from the Tribe. The receiving party shall treat the Tribe's confidential or proprietary documents and information as it would treat its own confidential or proprietary documents or information, and, in no event, shall it use less than a reasonable degree of care.

SECTION 21: Entire Agreement/Amendment

This Contract, including attached photos, maps, and "Contractor" Technical Memorandum Scope of Work, constitutes the entire understanding between the parties with respect to the subject matter herein and shall not be amended except by agreement signed by the parties' authorized representatives. If an amendment results in 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 adjustment shall be made, in writing, in the payment or delivery schedule.

IN WITNESS WHEREOF, the parties agree to the provisions set forth herein as evidenced by the signatures of their authorized representatives below:

NEZ PERCE TRIBE:

Samuel N. Penney, Chairman
Nez Perce Tribal Executive Committee

Date

Shirley J. Allman, Secretary
Nez Perce Tribal Executive Committee

Date

CONTRACTOR:

Date

EXHIBIT 2

Location Map and Site Photos

Site Map



Photos



Figure 2. Site 1 current site conditions. Location RKM 83.2 to 83.5.



Figure 3. Site 2 current site conditions. Location RKM 84.6 to 85.0.



Figure 4. Site 3 current site conditions. Location RKM 86.1 to 86.5.

EXHIBIT 3

Bonneville Power Administration Applicable Contract Clauses

This project is being funded partially through BPA funds secured by the Nez Perce Tribe. The Tribe is required by the BPA to apply the following contract clauses to all Tribal contracts / subcontracts. The word Government and Tribe shall be used interchangeably. The “Contractor” in these clauses refers to the Nez Perce Tribe. These clauses are incorporated into this solicitation/contract and must be complied with by the awarded construction firm.

EMPLOYMENT ELIGIBILITY VERIFICATION (10-18) (OCT 14) ([BPL10.1.8.3](#))

(a) “Employee assigned to the contract,” as used in this clause, means an employee who was hired after November 6, 1986, who is directly performing work, in the United States, under a contract that is required to include the clause as prescribed by 10.7.3. An employee is not considered to be directly performing work under a contract if the employee—

(1) Normally performs support work, such as indirect or overhead functions; and

(2) Does not perform any substantial duties applicable to the contract. (b) E-Verify enrollment

and verification requirements.

(1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at the time of the contract award, the

Contractor shall:

(A) Enroll. Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;

(B) Verify all new employees. Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (a) (3) of this section); and

(C) Verify employees assigned to the contract. For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee’s assignment to the contract, whichever date is later (but see paragraph (a)(4) of this section).

(2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of—

(A) All new employees.

(i) Enrolled 90 calendar days or more. The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to

the contract within 3 business days after the date of hire (but see paragraph (a)(3) of this section); or

- (ii) Enrolled less than 90 calendar days. Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (3) of this section); or

- (B) Employees assigned to the contract. For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (4) of this section).

- (3) If the Contractor is an institution of higher education; a state or local government, or the government of a federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract. The Contractor shall follow the applicable verification requirements at (a)(1) or (a)(2), respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

- (4) Option to verify employment eligibility of all employees. The Contractor may elect to verify all existing employees hired after November 6, 1986, rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986, within 180 calendar days of—

- (A) Enrollment in the E-Verify program; or

- (B) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).

- (5) The Contractor shall comply, for the period of performance of this contract, with the requirement of the E-Verify program MOU.

- (A) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a Department of Energy suspension or debarment official.

- (B) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.

- (c) Web site. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.
- (d) Individuals previously verified. The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee—
 - (1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;
 - (2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or
 - (3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD) -12, Policy for a Common Identification Standard for Federal Employees and Contractors.
- (e) Subcontracts. The contractor shall include the requirements of this clause, including this paragraph (d) (appropriately modified for identification of the parties), in each subcontract that—
 - (1) Is for:
 - (A) Services other than commercial services that are part of the purchase of a commercial-off-the-shelf (COTS) item, performed by the COTS provider and are normally provided for that COTS item; (B) Construction.
 - (2) Has a value of more than \$3,000; and
 - (3) Includes work performed in the United States.

SUBCONTRACTING WITH DEBARRED OR SUSPENDED ENTITIES (11-7) (JUL 13) (BPI 11.8.1; BPI 25.1.1)

- (a) “Commercially available off-the-shelf (COTS) item,” as used in this clause means any item of supply (including construction material) that is:
 - (1) A commercial item (as defined in BPI 1.8);
 - (2) Sold in substantial quantities in the commercial marketplace; and
 - (3) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace.
- (b) The Government suspends or debar Contractors to protect the Government’s interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into

any subcontract in excess of \$30,000 with a Contractor that is debarred, suspended, by any executive agency unless there is a compelling reason to do so.

- (c) The Contractor shall require each proposed subcontractor whose subcontract will exceed \$30,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended by the Federal Government.
- (d) The Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended (see www.sam.gov).
- (e) Subcontracts. Unless this is a contract for the acquisition of commercial items, the Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that exceed \$30,000 in value and is not a subcontract for commercially available off-the-shelf items

CONTRACTOR SAFETY AND HEALTH (15-12) (APR 14)([BPI 15.2.4.1](#))

- a) The Contractor shall furnish a place of employment that is free from recognized hazards that cause or have the potential to cause death or serious physical harm to employees; and shall comply with occupational safety and health standards promulgated under the Occupational Safety and Health Act of 1970 (Public Law 91-598). Contractor employees shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to their own actions and conduct.

(1) All construction contractors working on contracts in excess of \$100,000 shall comply with Department of

Labor Contract Work Hours and Safety Standards (40 U.S.C. § 3701 et seq.). (2) The Contractor shall comply with

- (i) National Fire Protection Association (NFPA) National Fire Codes for fire prevention and protection applicable to the work or facility being occupied or constructed;
- (ii) NFPA 70E, *Standard for Electrical Safety in the Workplace*;
- (iii) American Conference of Governmental Industrial Hygiene *Threshold Limit Values for Chemical Substances and Physical Agents* and Biological Exposure Indices; and,
- (iv) Any additional safety and health measures identified by the Contracting Officer.

This clause does not relieve the Contractor from complying with any additional specific or corporate safety and health requirements that it determines to be necessary to protect the safety and health of employees.

- (b) The Contractor bears sole responsibility for ensuring that all contractor's workers performing contract work possess the necessary knowledge and skills to perform the work correctly and safely. The Contractor shall make any training and certification records necessary to demonstrate compliance with this requirement available for review upon request by BPA.
- (c) The Contractor shall hold BPA and any other owners of the site of work harmless from any and all suits, actions, and claims for injuries to or death of persons arising from any act or

omission of the Contractor, its subcontractors, or any employee of the Contractor or subcontractors, in any way related to the work under this contract.

(d) The Contractor shall immediately notify the Contracting Officer (CO), the Contracting Officer's Technical Representative (COTR), and the Safety Office by telephone at (360) 418-2397 of any death, injury, occupational disease or near miss arising from or incident to performance of work under this contract.

(1) The BPA Safety Office business hours are 7:00 AM to 4:00 PM Pacific Time. If the Safety Office Officials are not available to take the phone call the contractor shall leave a voicemail that includes the details of the event, and the Contractor's contact information. The Contractor shall periodically repeat the phone call to the Safety Office until the Contractor is able to speak directly with a BPA Safety Official.

(2) The Contractor shall follow up each phone call notification with an email to SafetyNotification@BPA.gov immediately for any fatality or within 24 hours for non-fatal events.

(3) The Contractor shall complete BPA form 6410.15e Contractor's Report of Personal Injury, Illness, or Property Damage Accident and submit the form to the CO, COTR, and Safety Office within five (5) working days of such an occurrence. The Contractor shall include photographs and witness statements with the report.

(4) In the case of a Near Miss Incident that does not involve injury, illness, or property damage, the Contractor shall complete BPA Form 6410.18e Contractor's Report of Incident/Near Miss and submit the form to the CO, COTR, and Safety Office within five (5) working days of such an occurrence. The Contractor shall include photographs and witness statements with the report.

(e) Notification of Imminent Danger and Workers Right to Decline Work

(1) All workers, including contractors and BPA employees, are responsible for identifying and notifying other workers in the affected area of imminent danger at the site of work. Imminent danger is any condition or practice that poses a danger that could reasonably be expected to cause death or severe physical hardship before the imminence of such danger could be eliminated through normal procedures.

(2) A contract worker has the right to ask, without reprisal, their onsite management and other workers to review safe work procedures and consider other alternatives before proceeding with a work procedure. Reprisal means any action taken against an employee in response to, or in revenge for, the employee having raised, in good faith, reasonable concerns about a safety and health aspect of the work required by the contract.

(3) A contract worker has the right to decline to perform tasks, without reprisal, that will endanger the safety and health of themselves or of other workers.

- (4) The Contractor shall establish procedures that allow workers to cease or decline work that may threaten the safety and health of the worker or other workers.
- (f) BPA encourages all contractor workers to raise safety and health concerns as a way to identify and control safety hazards. The Contractor shall develop and communicate a formal procedure for submittal, resolution, and communication of resolution and corrective action to the worker submitting the concern. The procedure shall 1.) encourage workers to identify safety and health concerns directly to their supervisor and employer using the employer's reporting process; and 2.) inform workers that they may raise safety concerns to BPA or the State OSHA. Workers may notify the Safety Office at (360) 418-2397 if the employer's work process does not resolve the worker's safety and health concern. BPA may coordinate the response to a contractor worker's health and safety concerns with the State OSHA when necessary to facilitate resolution.
- (g) BPA employees may direct the contractor to stop a work activity due to safety and health concerns. The BPA employee shall notify the Contractor orally with written confirmation, and request immediate initiation of corrective action. After receipt of the notice the Contractor shall immediately take corrective action to eliminate or mitigate the safety and health concern. When a BPA employee stops a work activity due to a safety and health concern the Contractor shall immediately notify the CO, provide a description of the event, and identify the BPA employee that halted the work activity. The Contractor shall not resume the stopped work activity until authorization to resume work is issued by a BPA Safety Official. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule when BPA stops a work activity due to safety and health concerns that occurred under the Contractor's control.
- (h) The Contractor shall keep a record of total monthly labor hours worked at the site of work. The Contractor shall include a separate calculation of the monthly total labor hours for each subcontractor in the contractor's monthly data. Upon request by the CO, COTR or BPA Safety Office, the Contractor shall provide the total labor hours for a completed month to BPA no later than the 15th calendar day of the following month. The requestor shall identify the required reporting format and procedures.
- (i) The Contractor shall include this clause, including paragraph (i) in subcontracts. The Contractor may make appropriate changes in the designation of the parties to reflect the prime contractor--subcontractor arrangement. The Contractor is responsible for enforcing subcontractor compliance with this clause.