



ALASKA NATIVE TRIBAL HEALTH CONSORTIUM

CONTRACTING DEPARTMENT
1901 BRAGAW STREET
ANCHORAGE, ALASKA 99508
(907) 729-4063

ALASKA NATIVE TRIBAL HEALTH CONSORTIUM

REQUEST FOR PROPOSALS

ANTHC 12-R-15596

IDIQ TERM CONTRACT FOR ARCHAEOLOGICAL & HISTORICAL CONSULTANT SERVICES

DATE OF ISSUE: 16 FEBRUARY 2012

RESPONSE DUE DATE: 2:00PM ALASKA TIME, 8 MARCH 2012

ANNIE MESSER, C.P.M.
SENIOR CONTRACT SPECIALIST
1901 BRAGAW STREET
ANCHORAGE, AK 99508
907.729.4063
amesser@anthc.org

TABLE OF CONTENTS

<u>General Information</u>	<u>Page</u>
1. Background	1
2. Purpose of the Request For Proposal (RFP)	1
3. Business License Requirement	1
4. Other Licenses and Registrations Requirement	1
5. Minimum Requirements	1
6. Conflict of Interest and Restrictions	1
7. ANTHC Contact Person	1
8. Deadline for Receipt of Proposals	1
9. Proposer's Review and Substantive Questions	2
10. Proposer's Review and Directional Questions	2
11. Addendum to the RFP	2
12. Pre-proposal Conference	2
13. Cancellation of the RFP	2
14. Service of Protest	2
15. Proposal Withdrawal and Correction	2
16. Multiple Proposals	2
17. Disclosure of Proposal Contents	2
18. Retention of Proposals	3
19. Cost of Proposal Preparation	3
20. Delivery of Proposals	3
21. Media Announcements	3
22. Other Governmental Requirements	3
23. Binding Contract	3
24. Standard Terms and Conditions	3
25. Concerns with the Special or General Provisions	3
26. Bid Guarantee / Bid Bond	3
27. Performance Bonds and/or Surety Deposits	3
28. Liquidated Damages	4
29. Additional Terms and Conditions	4
30. Contract Negotiations	4
31. American Recovery & Reinvestment Act (ARRA)	4
 <u>Historical Information Pertinent to the Proposed Contract</u>	
1. ANTHC's Vision / Mission / Values	5
 <u>Information Pertinent to the Proposed Contract</u>	
1. Purpose	6
2. Location of Work	6
3. Term of Proposed Contract	6
4. Deliverables	6
5. General Responsibility	6
6. Specific Responsibility	6
7. Subcontracts	6
8. Schedule	7
9. Requirements	7
10. Delivery Orders	7
11. Inspection / Acceptance	7
12. Firm's Compensation	8
13. Option to Exercise Renewal Options	8
14. Option Year Pricing	8
15. Option to Extend Services	8
16. Payment Process	9
17. Award Statement	9

TABLE OF CONTENTS

<u>Proposal Content and Requirements</u>	<u>Page</u>
1. Table of Contents	10
2. Introduction	10
3. Strategic Planning & Development	10
4. Professional Qualifications	10
5. Technical Expertise	10
6. Past Performance	10
7. Capacity to respond and Accomplish the Work in Required Time	11
8. Price Proposal	11
9. Alaska Native / American Indian Preference	11

Review of Proposals

1. Responsiveness	12
2. Evaluation Process	12
3. Evaluation Factors	12
4. Cost Evaluation Formula	12
5. Discussions	12
6. Presentations	13
7. Site Inspections	13
8. Notice of Award	13
9. Informal Debriefing	13

Attachments

1. Scope of Work	
2. Price Schedule	
3. Reimbursable Costs	
4. Representations and Certifications of Bidder/Offeror	
5. General Provisions	
6. ARRA Supplemental Terms and Conditions	

HISTORICAL INFORMATION PERTINENT TO THE PROPOSED CONTRACT

1. **Background:**

The Alaska Native Tribal Health Consortium (ANTHC) was formed pursuant to Section 325 of the FY 1998 Interior and Related Agencies Appropriations Act, P.L. 105-83, for the purpose of managing the programs and services previously provided by the Indian Health Service Alaska Area Office and the Alaska Native Medical Center in Alaska. ANTHC administers the program for planning, design, and construction of Alaska primary care facilities and sanitation facilities.

2. **Purpose of the Request For Proposal (RFP):**

The Alaska Native Tribal Health Consortium (ANTHC) is soliciting detailed proposals from contractors interested in providing the following services providing Archaeological and Historic Consultant Services on an as-needed basis.

3. **Business License Requirement:**

All proposers, and their subcontractors, if any, must have a valid Alaska Business License prior to award of contract.

4. **Other Licenses and Registrations Requirement:**

All proposers are required to hold any and all necessary applicable professional licenses and registrations required by law. Proof of professional licenses is required with the proposal. Obtaining and ensuring compliance to all licensing and registering requirements is the complete responsibility of the proposer.

5. **Minimum Requirements:**

Every Proposer to this RFP must meet the following minimum requirements to be considered responsive to this RFP.

- The contractor must have a staff member who meets the Secretary of Interior's Qualification Standards (36 CFR 61). The contractor's staff must include a qualified archaeologist.

6. **Conflict of Interest and Restrictions:**

If any proposer, proposer's employee, subcontractor, or any individual working on the proposed contract may have a possible conflict of interest that may affect the objectivity, analysis, and/or performance of the contract, it shall be declared in writing and submitted to ANTHC within ten days of issuance of this RFP. ANTHC shall determine in writing if the conflict is significant and material and if so, may eliminate the proposer from submitting a proposal.

7. **ANTHC Contact Person:**

Any information required or questions regarding this RFP should be addressed and/or delivered to:

Alaska Native Tribal Health Consortium
Contracting Department

If Mailing/Delivering: **1901 Bragaw Street, Suite 200**
Anchorage, Alaska 99508

Attention: Annie Messer, Sr. Contract Specialist
E-mail Address: amesser@anthc.org
Phone Number: 907.729.4063

8. **Deadline for Receipt of Proposals:**

Proposals may be mailed or hand delivered, as long as **four** (one unbound original and three bound copies) paper copies, as well as one electronic format (disk or thumb drive), are physically received by ANTHC no later than **2:00pm Alaska Time, Thursday, 8 March 2012**. Faxed proposals are not acceptable. Failure to meet the deadline will result in disqualification of the proposal without review.

HISTORICAL INFORMATION PERTINENT TO THE PROPOSED CONTRACT

NOTE: Price proposal is to be sealed in a separate envelope. Only one (1) copy of the price proposal is needed.

Proposals are to be delivered to the address(es) referenced above. So that they are not mistakenly opened early, either the outer or inner envelope should also contain the following:

Confidential: Do Not Open Until 3/8/12
Proposal For: ANTHC 12-R-15596, Archaeological Services
Attn: **ANNIE MESSER, SR. CONTRACT SPECIALIST**

9. **Proposer's Review and Substantive Questions:**

Proposer's should carefully review this RFP for errors, questionable or objectionable materials, and items requiring clarification. Proposer's shall put these comments and/or questions in writing and submit them to the ANTHC's contact person at least ten (10) calendar days before the due date of proposals. This will allow time for an addendum to the RFP to be issued, if required, to all recipients of the initial RFP.

10. **Proposer's Review and Directional Questions:**

If questions received involve no more than directing the questioner to a specific section of the RFP, questions may be responded to verbally, and do not require a written addendum.

11. **Addendum to the RFP:**

ANTHC reserves the right to issue written addendums to revise or clarify the RFP, respond to questions, and/or extend or shorten the due date of proposals.

12. **Pre-proposal Conference:**

A pre-proposal conference will not be held unless extensive questions arise regarding the RFP.

13. **Cancellation of the RFP:**

ANTHC retains the right to cancel the RFP process if it is in the ANTHC's best interest. ANTHC shall not be responsible for costs incurred by proposers for proposal preparation.

14. **Service of Protest:**

a. Protests, as defined in ANTHC Procurement Policy shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from

Alaska Native Tribal Health Consortium
Director of Procurement and Contracting
4000 Ambassador Drive
Anchorage AK 99508-5928

b. The protest shall be received in the office designated not later than ten (10) calendar days after the basis of protest is known or should have been known, whichever is earlier.

15. **Proposal Withdrawal and Correction:**

A proposal may be corrected or withdrawn by a written request received prior to the deadline date for submitting proposals.

16. **Multiple Proposals:**

ANTHC shall not accept multiple proposals from the same proposer.

17. **Disclosure of Proposal Contents:**

HISTORICAL INFORMATION PERTINENT TO THE PROPOSED CONTRACT

A proposal's content shall not be disclosed to other proposers.

18. **Retention of Proposals:**

All proposals and other material submitted become the ANTHC's property and may be returned only at ANTHC's option.

19. **Cost of Proposal Preparation:**

Any and all costs incurred by proposer's in preparing and submitting a proposal are the proposer's responsibility and shall not be charged to the ANTHC or reflected as an expense of the resulting contract.

20. **Delivery of Proposals:**

ANTHC assumes no responsibility or liability for the transmission, delay, or delivery of proposals by either public or private carriers.

21. **Media Announcements:**

Any and all media announcements pertaining to this RFP require the ANTHC's prior written approval.

22. **Other Governmental Requirements:**

It is the responsibility of the proposer to indicate within their proposal the applicability of any other federal, state, municipal, or other governmental statutes, regulations, ordinances, acts, and/or requirements.

23. **Binding Contract:**

This RFP does not obligate the ANTHC or the selected proposer until a contract is signed and approved by both parties. If approved, it is effective from the date of final approval by the Contracting Officer. ANTHC shall not be responsible for work done, even in good faith, prior to final approval of the proposed contract.

24. **Standard Terms and Conditions:**

The successful proposer is expected to comply with the attached contractual terms and conditions attached to this RFP and titled:

- a. Statement of Work
- b. General Provisions
- c. American Recovery & Reinvestment Act (ARRA) Supplemental Terms and Conditions

25. **Concerns with the Special or General Provisions:**

If a proposer has concerns with either the Special or General Provisions, they should put their comments and/or questions in writing and submit them to ANTHC's contact person at least ten calendar days before the due date of proposals. This will allow time for an addendum to the RFP to be issued, if required, to all recipients of the initial RFP.

ANTHC reserves the right to not award or cancel the award of the contract to a proposer who will not agree to all of the Special or General Provisions.

26. **Bid Guarantee / Bid Bond:**

A bid guarantee or bid bond is not required to establish the contract.

27. **Bonds and/or Surety Deposits:**

HISTORICAL INFORMATION PERTINENT TO THE PROPOSED CONTRACT

Payment and Performance bonds are not required to establish the contract. However, ANTHC reserves the right to request the bonds on any individual project anticipated to exceed \$100,000. If bonding is required for an individual project, and contractor can not obtain bonding, ANTHC reserves the right to use a different contractor awarded under this solicitation, or to re-solicit for that particular project, per ANTHC procurement policy. Inability to obtain bonding on an individual project will not affect the term contract for future projects

28. **Liquidated Damages:**

Liquidated damages are not required to establish the contract. However, ANTHC reserves the right to require liquidated damages on any individual project. The requirement for liquidated damages will be identified in the individual project scope of work/services. If liquidated damages are required for an individual project, and contractor does not wish to comply with the requirement, ANTHC reserves the right to use a different contractor awarded under this solicitation, or to re-solicit for that particular project, per ANTHC procurement policy. Failure to comply with the requirement of liquidated damages on an individual project will not affect the term contract for future projects.

29. **Additional Terms and Conditions:**

ANTHC reserves the right to include additional terms and conditions during contract negotiations. However, these terms and conditions must be within the scope of the original RFP and will be limited to price, clarification, definition, and administrative and legal requirements.

30. **Contract Negotiations:**

Upon completion of the evaluation process, contract negotiations may commence. If the selected proposer fails to provide the necessary information for negotiations in a timely manner, negotiate in good faith, or cannot perform the contract within the amount of funds available for the project and/or as proposed, ANTHC may terminate negotiations and negotiate with the next highest ranked proposer, or terminate award of the contract. ANTHC shall not be responsible for costs incurred by the proposer resulting from contract negotiations.

31. **American Recovery and Reinvestment Act (ARRA):**

This contract is not funded with ARRA funds. However, it is possible that individual projects may be funded with ARRA funds. In that event, the ARRA Supplemental Terms and Conditions shall apply

HISTORICAL INFORMATION PERTINENT TO THE PROPOSED CONTRACT

ANTHC:

The Alaska Native Tribal Health Consortium is a non-profit health organization owned and managed by Alaska Native tribal governments and their regional health organizations. The Consortium was created in 1997 to provide statewide Native health services. Through its four divisions, the Consortium works in cooperation with tribes, Native health organizations and municipalities to achieve its goals. ANTHC's four divisions are: Alaska Native Medical Center (ANMC), Division of Environmental Health and Engineering (DEHE); Community Health Services (CHS); and Consortium Business Support Services (CBSS). The Alaska Native Tribal Health Consortium and Southcentral Foundation jointly own and manage Alaska Native Medical Center. The ANTHC has committed to continuous improvement through the use of the Baldrige National Quality Program health care criteria for performance excellence. Our **Vision, Mission** and **Values** are provided below. For more information please visit us at www.anthc.org

Our VISION:

Alaska Natives are the healthiest people in the world.

Our MISSION:

Providing the highest quality health services in partnership with our people and the Alaska Native Tribal Health System

Our VALUES:

ACHIEVING EXCELLENCE

We achieve excellence through actions that support the ANTHC Mission, and which demonstrate consistency; the commitment of our leaders and all staff to our values; responsibility to the organization, our co-workers and our customers; collaboration with colleagues; accountability for our actions; careful stewardship of the organization's resources; quality in everything we do; and continuous learning and improvement throughout the organization.

NATIVE SELF-DETERMINATION

We express the value of Native self-determination through Alaska Natives setting health policies, programs and priorities; through our Native professional and health care development activities; a focus on the importance of the Native community of Alaska; and by supporting the desirability and integrity of Native choice in matters of life and health.

TREAT WITH RESPECT AND INTEGRITY

We value our co-workers and our customers and we aspire to act in ways that are considerate and appreciative of them. We strive to always behave ethically in our business and personal lives. We are trusting, respectful, and open and honest in our interactions.

HEALTH AND WELLNESS

We promote lifelong health and wellness by pursuing health in mind, body and spirit, safety in the workplace and balance in our work and personal lives.

COMPASSION

We illustrate compassion through actions that demonstrate our awareness that we are part of a larger community; through an understanding of diversity; caring relationships; sincerity and our interactions with others; and sensitivity to others' needs and ways of living.

INFORMATION PERTINENT TO THE PROPOSED CONTRACT

1. **Purpose**

Award of multiple Indefinite Delivery Indefinite Quantity (IDIQ) Term Contracts is anticipated as a result of this solicitation, so that ANTHC will have available sufficient consultant contractors for specific or special needs in the areas of Section 106 compliances surveys and related needs, as identified in the Scope of Services. The anticipated contracts will impose no guaranteed minimums or obligation on the part of ANTHC to order any consultant services.

The Contractor shall provide all services in accordance with the Scope of Services of this solicitation, and the scope of work/services provided for the individual projects, subject to the terms and conditions of this contract.

2. **Location of Work**

Work shall be primarily performed, completed, and managed at contractor's place of business; however, many individual projects will require travel to the project site (rural community locations throughout Alaska, including regional hubs) to conduct fieldwork, inspections, etc.

3. **Term of Proposed Contract** ANTHC intends to establish a contract with a performance period of:

- one (1) year from date of award with two (2) optional one (1) year periods.

4. **Deliverables**

Depending upon the specific scope or work, drawings and written information requirements may include, but are not necessarily limited to:

- Reports
- Figures

By submitting a response to this solicitation, the Contractor agrees, if selected, to accept the terms and conditions included in this solicitation and attachments, and apply them to the individual projects.

5. **General Responsibility**

The successful firm(s) will provide all necessary tools, equipment, parts, supplies, labor, and supervision to provide archaeological services, as identified in the Scope of Services.

6. **Specific Responsibility**

In performing and accomplishing the general scope of services, the specific elements include but by no means are limited to:

- See attached Scope of Work

7. **Subcontracts**

Subcontracting shall be allowed. However, all sub-consultants and tasks to be performed by sub-consultants shall be identified in the proposal, or must be approved by ANTHC prior to initiation of sub contracted work.

INFORMATION PERTINENT TO THE PROPOSED CONTRACT

8. **Schedule**

The Contractor shall adhere to the schedule identified in the scope of work/services provided for individual projects, subject to the terms and conditions included with this solicitation.

9. **Requirements**

- a. This is a requirements contract for the supplies or services specified and effective for the period stated, in the Schedule. The ANTHC does not guarantee any minimum or maximum orders or obligations for consultant services.
- b. Performance shall be only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the ANTHC all services specified in this solicitation and attachments, and as called for by orders issued in accordance with Ordering (#11).
- c. Except as this contract otherwise provides, the ANTHC shall order from the awarded Contractors all the services specified in this solicitation and attachments. ANTHC reserves the right to use ANTHC personnel to perform these services.
- d. If the ANTHC urgently requires services and if the Contractor will not accept an order providing for the urgent services, the ANTHC may acquire the urgently required services from another source.
- e. The Contractor shall complete any order issued during the effective period of this contract and not completed within that period within the time specified in the order. The contract shall govern the Contractor's and ANTHC's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to perform any services under this contract after completion of the contract.

10. **Delivery Orders**

Upon identification of a requirement, ANTHC will contact a Contractor awarded under this contract for a fee proposal. The fee proposal will be based on a lump sum for the project, or with ANTHC's approval, on a time/materials basis.

- a. Any services to be furnished under this contract shall be ordered by issuance of delivery orders by ANTHC.
- b. All delivery orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order and this contract, the contract shall control.
- c. If mailed, a delivery order is considered "issued" when the ANTHC deposits the order in the mail. Orders may also be issued orally, by facsimile, or by electronic commerce methods.

11. **Inspection / Acceptance**

The Contractor shall only tender for acceptance those architectural or engineering services or deliverables that conform to the requirements of this contract. The ANTHC reserves the right to review any deliverables tendered to ANTHC for compliance with the

INFORMATION PERTINENT TO THE PROPOSED CONTRACT

contract terms prior to formal acceptance. The ANTHC may require correction, modification, or replacement of nonconforming services or deliverables at no increase in contract price. The ANTHC must exercise its acceptance rights within a reasonable time after the defect was discovered or should have been discovered (typically within the established ANTHC review period).

12. **Firm's Compensation**

Compensation to the contractor shall be based on specific price and/or rates identified in the Contractor's proposal.

13. **Option to Exercise Renewal Options**

Prior to contract expiration, the ANTHC may elect to extend the term of this contract by written unilateral modification.

If the ANTHC exercises this option, the extended contract shall be considered to include this option provision.

The total duration of this contract, including the exercise of any options under this clause, shall not exceed three (3) years.

14. **Option Year Pricing**

Contractors must request price adjustments, in writing, 30 days prior to the renewal date. Such adjustments may be made annually after completion of initial contract period. If a contractor fails to request a CPI price adjustment 30 days prior to the adjustment date, the adjustment will be effective 30 days after the ANTHC receives their written request. No retroactive contract price adjustments will be allowed.

The Base Rate is the original contract rate for each line item in the contract.

Price adjustments will be made in accordance with the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items, Anchorage Area, as published by the U.S. Department of Labor, Bureau of Labor Statistics.

The price adjustment rate will be determined by comparing the percentage difference between the CPI in effect for the base year six month average (July through December 2011), and each (July through December six month average) thereafter. The percentage difference between those two CPI issues will be the price adjustment rate. **The Base Year Index is 202.576.**

Formula for adjusting: difference between base year and option year index (always use the same half year index). Divide difference by base year, and multiply sum by base year price. Add sum to base year price for new contract price.

15. **Option to Extend Services**

The ANTHC may require continued performance of any services within the limits and at the rates specified in the contract. This option provisions may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting

INFORMATION PERTINENT TO THE PROPOSED CONTRACT

Officer may exercise the Option to Extend Services by written unilateral modification to the contract.

16. **Payment Process**

- a. ANTHC shall pay the Contractor for each Delivery Order issued based on the contract rates negotiated for this contract.
- b. ANTHC shall pay the amount due to Contractor under this contract and each Delivery Order after:
 - Completion and acceptance of project;
 - For projects expected to require more than a month to complete, monthly invoices (with a report on work completed) may be submitted;
 - Receipt of a properly executed invoice.

17. **Award Statement**

The ANTHC anticipates awarding up to two (2) contracts as a result of this solicitation. Award will be made to the highest ranked proposals.

The ANTHC reserves the right to cancel this solicitation or reject any or all proposals received per the ANTHC procurement policy.

PROPOSAL CONTENT AND REQUIREMENTS

Proposal Format: Submit one (1) unbound original and three (3) bound copies of the proposal, as well as one electronic format (disk or thumb drive). Proposals should be bound, printed on both sides of the paper when possible and organized according to the following outline. Proposals shall not exceed ten (10) pages, exclusive of resumes and exhibits.

NOTE: Unbound copy is to be 20# bond, with no tabs or card stock.

NOTE: Price proposal is to be sealed in a separate envelope. Only one copy of the price proposal is needed. Price shall not be referenced in other parts of the proposal.

1. **Table of Contents:** The proposal will have a table of contents with page numbers and pages numbered throughout the proposal.
2. **Introduction:** Brief introduction which includes:
 - 2.1 The proposer's name and address;
 - 2.2 **Statement that indicates the proposal is valid for at least 90 days from the proposal submission deadline;**
 - 2.3 Statement that indicates the proposer's willingness to perform the services described in this RFP;
 - 2.4 Provide a detailed and precise discussion, including examples and/or documentation, of meeting each Minimum Requirement, if any, established in the "General Information" section of this RFP. Limit discussion to the meeting of the Minimum Requirements.
 - 2.5 Proof of any other licenses and/or registrations as required by this RFP.
 - 2.6 A statement that all staff and other resources which are required to perform the services described in this RFP will be made available by your organization over the life of the anticipated contract;
 - 2.7 Completed and signed Representations and Certifications of bidder/offeree (attachment);
 - 2.8 Statement that the signatory has authority to bind the proposer; and
 - 2.9 Signature of authorized individual.
3. **Strategic Planning & Development (5 POINT VALUE):** Consistent with the ANTHC's commitment to continuous improvement through the use of the Baldrige National Quality Program criteria for performance excellence, Offeror must show evidence of its understanding of these criteria and how you will support our vision, mission and values, which are provided in the section titled *Historical Information Pertinent to the Proposed Contract*.
4. **Professional Qualifications (5 POINT VALUE):** Professional qualifications of the firm's proposed Project Manager, other key personnel, and/or team members necessary for satisfactory performance of required services. Include all personnel that will actively be involved with performing the work, to include a listing of all subcontractors, if any, with an explanation of purpose.
5. **Technical Expertise (5 POINT VALUE):** Narrative submittal must demonstrate the ability of the firm to provide electronic file formats compatible with ANTHC, SHPO, and Alaska Heritage Resource Survey electronic file standards.
6. **Past Performance (5 POINT VALUE):** Past performance in last five (5) years on contracts with Government agencies and private industry in terms of scope of work performed and how it is similar to services requested in this Request for Proposals, cost control, quality of work, and compliance with performance schedules. Include a list of all contacts of similar services performed for work performed in rural Alaska during the last two (2) years, with name of Contracting Officer and/or Project Manager for each contract. Provide phone numbers and emails for the named individuals.

PROPOSAL CONTENT AND REQUIREMENTS

7. **Capacity to Respond and Accomplish the Work in Required Time (15 POINT VALUE):** Capacity to respond, be available, and accomplish the work during the duration of the contract and in the required time. Proposal is to include a statement on how the firm will operate to maintain schedules during periods of high workload.

It may be possible that multiple projects may be issued to a Consultant at any given time. Clearly identify your firm's routine capacity to respond to specific delivery/work orders from the ANTHC as well as other firms you may have obligations with. Additionally, clearly state your firm's contingency (back up) plan to respond to ANTHC in the event multiple, delivery/work orders are received from ANTHC and your other clients, which require simultaneous schedules.

8. **Price Proposal (55 POINT VALUE):** Provide pricing for all items indicated on the Proposal Price Schedule. **NOTE: Price Proposal is to be sealed in a separate envelope.**
9. **Alaska Native / American Indian Preference (10 POINT VALUE):** Complete and sign attached Representations and Certifications.

REVIEW OF PROPOSALS

1. **Responsiveness:** Prior to evaluation, each proposal shall be reviewed to determine whether or not it is responsive. Nonresponsive proposals shall be eliminated and will not be evaluated. Factors that may result in a proposal being declared nonresponsive are:
 - 1.1 Not providing evidence of meeting the Minimum Requirements.
 - 1.2 Substantive and material conflicts of interest which were not declared and/or were declared and determined to be significant enough that the ANTHC requested the potential proposer not submit a proposal.
 - 1.3 Substantive and material noncompliance to requirements of the RFP proposal submission guideline.
 - 1.4 Not providing a price, if applicable.

2. **Evaluation Process:** An evaluation committee consisting of ANTHC employees shall evaluate responsive proposals. Each proposal shall be independently evaluated by each member of the evaluation committee.

The evaluation will be based on the evaluation factors and values stated in this RFP. Discussions, presentations, and/or site inspections, if held, may result in individual evaluation committee members changing their scores. Evaluation factors not specified in this RFP may not be considered.

3. **Evaluation Factors:** The evaluation factors and the value of each are:

Strategic Planning & Development	5
Professional Qualifications	5
Technical Expertise	5
Past Performance	5
Capacity to Respond	15
Price Proposal	55
Alaska Native / American Indian Preference	<u>10</u>
Maximum Possible Points	100

4. **Cost Evaluation Formula:** The proposal with the lowest price shall receive the maximum points. The points allocated to each of the higher priced proposals shall be determined using the following formula:

$$\frac{(\text{Price of Lowest Proposal}) \times (\text{Maximum Allowable Points for Price})}{\text{Proposer's Price}} = \text{Points}$$

5. **Discussions:** As determined by the evaluation process, proposer's reasonably susceptible of award may be offered the opportunity to discuss their proposal with the contracting officer or evaluation committee and the proposal may be adjusted as a result of the discussion. Proposers may also be allowed to submit a best and final proposal as a result of the discussion.

REVIEW OF PROPOSALS

6. **Presentations:** ANTHC reserves the right to require an oral presentation. As determined by the evaluation process, proposers reasonably susceptible of award may be afforded the opportunity to give an oral presentation. If so afforded, proposers will be notified in writing of the presentation's requirements, date, time, location, and amount of time allowed for the presentation and/or questions and answer period. Time frames will be strictly enforced.

The entire evaluation committee shall be present for oral presentations. All proposer costs associated with attending an oral presentation shall be borne by the proposer.

7. **Site Inspections:** ANTHC reserves the right to require a site inspection. Site inspections may be required of all proposers or limited to those that, as determined by the evaluation process, are reasonably susceptible of award. If so afforded, proposers will be notified in advance. All costs associated with the site inspection shall be borne by the ANTHC.
8. **Notice of Award:** After award of Contract all Proposer's will be issued a Notice of Award containing the name(s) and address(es) of all proposers and the recipient of the contract.
9. **Informal Debriefing:** Any proposer may request and receive an informal debriefing after the Notice of Intent to Award is mailed out. The debriefing shall be limited to the offeror's proposal, concentrating on the areas considered deficient or inferior. The merits of other proposals will not be discussed.

I. Introduction

- A. Pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and its implementing regulations (36 CFR 800), the ANTHC has established that the area of potential effects (APE) of construction may include any buildings facing each site on all four sides where visual effects may occur, noise impact areas, wildlife viewing, material sources, storage or staging areas, utility corridors, road corridors, and the like.
- B. The ANTHC requires contract services for three (3) distinct types of services that may be generated at the discretion of the ANTHC:
1. Identification Phase: To initiate the identification of historic properties within the APE, by assessing what information may be needed to identify such properties, and evaluate them using the criteria for inclusion in the National Register of Historic Places (36 CFR 60.4).
 2. Evaluation Phase: Evaluation is to determine if historic properties in the APE are eligible for inclusion in the National Register of Historic Places. Occasionally a survey will discover a cultural resource within the APE that will be affected by the project. Occasionally the evaluation phase will include site monitoring or responding to a discovery situation.
 3. Treatment Phase: Treatment, or the avoidance, minimizing, or mitigating of adverse effects on historic properties.

II. Services Required

- A. Identification Phase: The contractor will conduct the background research to determine:
1. The overall history and prehistory of the APE, as documented in published and unpublished literature history.
 2. The history of development within the APE, including but not limited to determining what buildings and structures previously stood on each construction site and utility corridor, and the history of surrounding buildings to the extent that such information is available from documentary records and/or local oral history.
 3. Whether any historic properties exist within the APE that are registered as such at the Federal, State, or local level, or recorded in any State or local inventory.
 4. Whether there have been previous surveys or other studies aimed in whole or in part at identifying historic properties within or near the APE, and if so, what the results of such studies have been.
 5. Whether it is likely that previously undiscovered historic properties (including but not limited to historic buildings and structures, historic districts, and historic and prehistoric archaeological sites), cemeteries, isolated graves, or human remains, or traditional cultural properties exist within the APE.
 6. If such properties may exist, what further studies, if any, should be undertaken to identify them.
 7. Examine all relevant historic property inventories and relevant printed material, including but not limited to the Alaska Heritage Resource Survey (AHRS) and other documents maintained or recommended by the State Historic Preservation Officer (SHPO).
- B. Evaluation Phase – The contractor will consider the potential for historic properties [including Determination of Eligibility (DOE)] in the APE with reference to the National Register Criteria (36 CFR

60.4), all pertinent National Register of Historic Places Bulletins, and any other guidance provided by the SHPO.

- C. Treatment Phase - The contractor will consider the potential for treatment, i.e. the avoidance, minimizing, or mitigating of adverse effects on historic properties and/or sites and **confidentially** recommend alternatives that meet Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and its implementing regulations (36 CFR 800).

III. Qualifications & Work Products

- A. Professional Standards. All background research, fieldwork, and report preparation dealing with archaeology shall be overseen by a qualified archaeologist.
- B. Professional Supervision. Persons not meeting the above standards may be used in the study provided they are overseen by a person or persons meeting such standards, and provided they are sufficiently trained and experienced to carry out the tasks assigned them. At least one person meeting the above standards must oversee all research.
- C. Work Product Ownership. Photos, documents, and products submitted to ANTHC become the property of ANTHC for its use on this and other projects.

IV. Conduct of Work

A. Standard Services

1. The contractor shall:
 - a. Prepay shipping charges on all charts, models, sketches, drawings, manuscripts, and documents submitted to the Project manager and Environmental Review staff.
 - b. Attend and participate in working conferences with the Project manager and ANTHC Environmental Review staff.
 - c. Consult with and document the views of all appropriate Federal, regional and local government agencies, and tribal councils and appropriate functional activities and community groups.
 - d. Utilize in the performance of the contract those key personnel proposed to and accepted by the ANTHC prior to the award of the contract. The contractor shall not make substitutions of personnel without advance written approval of the ANTHC.
 - e. Not publish; nor release-to-any-third-party, any publication, news-releaser or other report concerning work done or information gained under this contract without prior written approval by the ANTHC-DEHE Vice President of Operations.
2. The ANTHC will:
 - a. Review all material submitted by the contractor.
 - b. Advise the contractor of all meetings, presentations, and the like for which attendance is mandatory in accordance with each delivery order.
 - c. Provide the contractor with a Scope of Work for the task to be performed.

V. Schedule of Deliverables

- A. Response to Request. The contractor must be responsive to ANTHC request (by personnel contact, email, or left phone message) within five (5) business days and provide availability schedule and/or fee proposal as requested for contract work.

Archaeological and Historic Consultant Services

B. Scope of Work. Unless otherwise specified in an individual delivery order, the contractor will complete the services required under the Scope of Work for each delivery order and submit the required reports, drawings, and related documentation in accordance with the following schedule, exclusive of the ANTHC review time:

1. Project Schedule (Submission No. 1). Within five (5) business days after delivery order, prepare and submit for review to the Environmental Review staff, an electronic copy of the project schedule.
2. Draft Report (Submission No. 2). Within sixty (60) calendar days after delivery order, submit an editable electronic copy of the draft report for review and comment to the Environmental Review staff.
3. ANTHC Review Comments. Unless otherwise specified within the Scope of Work issued with the delivery order, ANTHC review comments shall be provided to the Consultant within ten (10) calendar days following submission of the Draft Report.
4. Final Report (Submission No. 3). Within five (5) calendar days after the contractor's receipt of comments from the Environmental Review staff submit for approval to the Environmental Review staff three (3) bound printed copies of the report with original color images, an electronic (Adobe or other approved program) electronic medium with all the color images, and one original printed text with all the color images.

C. Report format.

1. The originals of all written submissions shall be printed on standard 8.5 x 11 inch wide white bond paper with one-and-one quarter (1.25) inch margin on the left side to allow for binding and one (1) inch margin on all other sides.
2. All narrative portions shall be presented in clear, Standard English with correct spellings and punctuation.
3. Archaeological reports shall follow the format as outlined in Alaska Office of History and Archaeology (DNR) Historic Preservation Series, Standards and Guidelines for Investigating and Reporting Archaeological and Historic Properties in Alaska, March, 2003.

REQUEST FOR PROPOSALS #ANTHC 12-R-15596
PRICE PROPOSAL
ARCHAEOLOGICAL & HISTORICAL CONSULTANT SERVICES

DESCRIPTION: Provide all tools, labor, equipment, parts, supplies, and supervisions necessary to perform Archaeological & Historical Consultant Services, on an as-needed basis.

Price Schedule
QUANTITIES LISTED ARE FOR PRICE EVALUATION PURPOSES ONLY

Item #	Labor Category	Raw Rate ¹	Indirect Rate ²	Proposed Profit (___%)	Loaded (Billing) Rate	Quantity (hours)	Extended Price (Unit price X Quantity)
1	Senior Archaeologist					1	
2	Staff Archaeologist					1	
3	Non-Archaeologist / Technician (Field Assistant)					1	
4	Oral History Interviewer (for Native Informants)					1	
TOTAL:							

NOTE: Proposer must include a price for all the above items. Failure to include a price for each item may result in the proposal being considered non-responsive, and rejected.

The ANTHC reserves the right to negotiate rates for additional labor categories. If an agreement on the additional category(ies) can not be reached, ANTHC reserves the right to negotiate with the next highest scoring proposal.

(Company Name)	
(Signature)	(Date)
(Type/Printed Name)	(Title)
(Address)	
(email)	(Phone #)

¹ If this is a blended rate, please identify how the rate was developed.

² This is your federal audited rate. If you do not have a federal audited rate then ANTHC will consider a State of Alaska DOT audited rate. Please identify the date and agency that conducted the audit and provide a copy of the audit.

RFP #ANTHC 12-R-15596

REIMBURSABLE COSTS

I. TRAVEL AND PER DIEM

The Consultant's travel and per diem costs shall be reimbursed as indicated below except for Delivery Orders based on a lump sum, in which case the lump sum fee shall include all travel and incidental costs. No separate travel and per diem reimbursement shall be provided for lump sum Delivery Order unless specifically authorized in writing.

- A. Air Travel. Costs shall be billed under REIMBURSABLE COSTS. Under normal circumstances, it is expected that costs will be based on the prevailing 7-day advance purchase prices for coach fare.
- B. Ground Transportation. Rentals shall be reimbursed at invoice cost and actual mileage charge, if any. Taxis shall be reimbursed at actual cost without markup.
- C. Lodging and Meals. ANTHC may, at its options, assume responsibility for lodging. If lodging is provided by ANTHC, no overhead will be allowed the Consultant. Otherwise, lodging and meals shall be billed under reimbursable costs.

II. PRINTING AND REPRODUCTION COSTS

The Consultant shall furnish three bound (3) copies, as well as one copy (1) in electronic format of all draft and final drawings, reports, maps, and other documents without charge, except where specified otherwise in individual Delivery Orders. Additional copies required by ANTHC in excess of this number or the number specified in the Delivery Order shall be billed under REIMBURSABLE COSTS. This item includes reproduction costs only and will not be interpreted to include personnel costs identified with printing and reproduction. The Consultant shall make reasonable efforts to minimize costs through prudent purchasing practices. Rush and/or expedited charges for printing and/or reproduction will not be paid by ANTHC, unless specifically approved by ANTHC.

III. OTHER COSTS

Materials, supplies, freight, communications, and equipment rental, **except** where these costs are incurred by the Consultant as part of a Delivery Order based on a lump sum fee, are reimbursable charges. For Delivery Orders based on a lump sum fee, these charges are included in the lump sum fee. Equipment rental requires prior approval by ANTHC.

IV. REIMBURSABLE COSTS

ANTHC shall reimburse the Consultant for reasonable charges plus not more than 5% total mark-up for Consultant overhead and profit for items listed herein as reimbursable costs. Other than the 5% total overhead and profit permitted by this clause, the Consultant shall not include any General and Administrative or other overhead or profit in billing for reimbursable costs.

- A. Additional copies in excess of number specified pursuant to Section II.
- B. Travel and related per diem costs incurred by Consultant as permitted by Section I.
- C. Lodging expenses will not be reimbursed at a higher per night rate (taxes excluded) than the Federal maximum amount for location. Excess lodging must be approved in advance.
- D. For Delivery Orders that are not based on a lump sum fee: materials, supplies, freight, communications, and equipment rental, subject to provisions of Section III.

This REIMBURSABLE COSTS provision shall not apply to costs for Delivery Orders on a lump sum fee basis.

REPRESENTATIONS AND CERTIFICATIONS OF BIDDER/OFFEROR

1. Type of Business Organization

The Bidder/Offeror, by checking the applicable box, represents that --

(a) It operates as

- ☐ a corporation incorporated under the laws of the State of _____,
- ☐ an individual,
- ☐ a partnership,
- ☐ a nonprofit organization, or
- ☐ a joint venture; or

(b) If the Bidder/Offeror is a **foreign entity**, it operates as

- ☐ an individual,
- ☐ a partnership,
- ☐ a nonprofit organization,
- ☐ a joint venture, or
- ☐ a corporation registered for business in the Country of _____

(c) The Bidder/Offeror is not

- ☐ on the List of Parties Excluded from Federal Procurement and Non-Procurement Programs, compiled, maintained, and distributed by the General Services Administration; and
- ☐ barred from bidding or contracting with the State of Alaska.

2. Parent Company Information

The Bidder/Offeror by checking the applicable box represents that --

- ☐ It is independently owned and operated and it is not owned or controlled by a parent company or parent organization.
 - ☐ It is not independently owned and operated; it is owned or controlled by a parent company or parent organization; and the full name and address of the Bidder/Offeror's parent company or parent organization is:
 - ☐ If not independently owned and operated, the parent company or parent organization's Taxpayer Identification Number (TIN) or Employer Identification Number (E.I. No.) is
-

3. Taxpayer Identification

(a) Definitions.

"Common parent," as used in this solicitation provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

"Corporate status," as used in this solicitation provision, means a designation as to whether the offeror is a corporate entity, an unincorporated entity (e.g., sole proprietorship or partnership), or a corporation providing medical and health care services.

"Taxpayer Identification Number (TIN)," as used in this solicitation provision, means the number required by the IRS to be used by the offeror in reporting income tax and other returns.

(b) All offerors are required to submit the information required in paragraphs (c) through (e) of this solicitation provision in order to comply with reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M and implementing regulations issued by the Internal Revenue Service (IRS). If the resulting contract is subject to the reporting requirements described in FAR 4.903, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) Taxpayer Identification Number (TIN). TIN: _____

- ☐ TIN has been applied for.
- ☐ TIN is not required because:
 - ☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.;
 - ☐ Offeror is an agency or instrumentality of a foreign government;
 - ☐ Offeror is an agency or instrumentality of a Federal, state, or local government;

REPRESENTATIONS AND CERTIFICATIONS OF BIDDER/OFFEROR

☐ Other. State basis for no TIN _____

(d) Corporate Status.

- ☐ Corporation providing medical and health care services, or engaged in the billing and collecting of payments for such services;
- ☐ Other corporate entity;
- ☐ Not a corporate entity:
- ☐ Sole proprietorship
- ☐ Partnership
- ☐ Hospital or extended care facility described in 26 CFR 501(c)(3) that is exempt from taxation under 26 CFR 501(a).

(e) Common Parent.

☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

Name and TIN of common parent:

Name _____ TIN _____

4. Contingent Fee Representation and Agreement

(Note: The offeror must check the appropriate boxes. For interpretation of the representation, including the term "bona fide employee," see the General Provision of this contract entitled, COVENANT AGAINST CONTINGENT FEES.)

(a) Representation. The offeror represents that, except for full-time bona-fide employees working solely for the offeror, the offeror:

- (1) ☐ has, ☐ has not employed or retained any person or company to solicit or obtain this contract; and
- (2) ☐ has, ☐ has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(b) Agreement. The offeror agrees to provide information relating to the above Representation as requested by the ANTHC and, when subparagraph (a) (1) or (a) (2) is answered affirmatively, to promptly submit to the Contracting Officer:

- (1) A complete Standard Form 119, Statement of Contingent or Other Fees, (SF 119); or
- (2) A signed statement indicating that the SF 119 was previously submitted to the same procurement officer, including the date and applicable solicitation or contract number, and representing that the prior SF 119 applies to this bid or offer.

5. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions

(This provision is applicable only if the amount of the bid exceeds \$100,000.)

(a) The definitions and prohibitions contained in the clause, at General Provisions 8 (Limitation on Payments to Influence Certain Federal Transactions), included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989--

- (1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;
- (2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and
- (3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

REPRESENTATIONS AND CERTIFICATIONS OF BIDDER/OFFEROR

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

6. Certification of Nonsegregated Facilities

(a) "Segregated facilities", as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(b) By submission of this offer, the Bidder/Offeror certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Bidder/Offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract.

(c) The Bidder/Offeror further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will --

- (1) Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;
- (2) Retain the certifications in the files; and
- (3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES.

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract under which the subcontractor will be subject to the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semi-annually, or annually).

7. Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters

(a) (1) The Offeror certifies, to the best of its knowledge and belief, that--

(i) The Offeror and/or any of its Principals--

(A) Are ☐ are not ☐ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have ☐ have not ☐, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are ☐ are not ☐ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.

(ii) The Offeror has ☐ has not ☐, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of

REPRESENTATIONS AND CERTIFICATIONS OF BIDDER/OFFEROR

the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the ANTHC, the Contracting Officer may terminate the contract resulting from this solicitation for default.

8. Clean Air and Water Certification

The Offeror certifies that--

(a) Any facility to be used in the performance of this proposed contract is ☐ is not ☐ listed on the Environmental Protection Agency (EPA) List of Violating Facilities;

(b) The Offeror will immediately notify the Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the EPA, indicating that any facility that the Offeror proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and

(c) The Offeror will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

9. Anti-Kickback Provisions

(a) The Contractor assures that regarding this contract, neither the Contractor, nor any of its employees, agents, or representatives has violated the provisions of the "Anti-Kickback" Act of 1986 (41 USC 51-58) or the Copland Anti-Kickback Act clause (18 USC 874, as supplemented by Department of Labor regulations at 29 CFR Pt. 3), which are incorporated by reference and made a part of this contract.

(b) The Contractor warrants that neither the Contractor nor any of its representatives has been required, directly or indirectly as an express or implied condition in obtaining or carrying out this contract, to employ or retain, any organization or person or to make a contribution, donation or consideration of any kind.

10. Certificate of Independent Price Determination

(a) The offeror certifies that--

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to--

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision _____

[insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision; and

REPRESENTATIONS AND CERTIFICATIONS OF BIDDER/OFFEROR

- (iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision.

(c) If the offeror deletes or modifies subparagraph (a)(2) of this provision, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

11. Drug Free Workplace

To the extent that any facilities, equipment, vessel, or vehicle to be provided under this bid/offer is to be used as a place of work by Owner employees, the Bidder/Offeror certifies that it does and will maintain such place of work as a drug free workplace in compliance with the Drug Free Workplace Act of 1988 (P.L. 100-690) subject to all the sanctions and penalties in that Act. To this end the Bidder/Offeror represents that it is in compliance with the requirements of the clause prescribed by the Federal Acquisition Regulations (FAR) 52.223-5. (A copy of the FAR 52.223-5 clause is available from the office issuing this solicitation upon request.)

12. Cooperation for Required Determination of Responsible Prospective Contractor Prior to Award of Contract

(a) (This subparagraph applicable to Construction only) Signing of the bid shall be deemed to be a certification by the bidder that:

- (1) Bidder is a construction contractor who owns, operates, or maintains a place of business, regularly engaged in construction, alteration or repair of buildings, structures, communication facilities, or other engineering projects, including furnishing and installing of necessary equipment; or
- (2) If newly entering into a construction activity, bidder has made all necessary arrangements for personnel, construction equipment, and required licenses to perform construction work; and
- (3) Upon request, prior to award, bidder will promptly furnish to ANTHC a statement of facts in detail as to bidder's previous experience (including recent and current contracts), organization (including company officers), technical qualifications, financial resources and facilities available to perform the contemplated work.

(b) The Bidder shall, upon request, promptly furnish ANTHC with a current certified statement of the Bidder's financial condition and such data as ANTHC may request with respect to the Bidder's operations. ANTHC will use this information to determine the Bidder's financial responsibility and ability to perform under the contract.

(c) Failure of a Bidder to comply with a request for information may be cause for rejection of the bid on responsibility grounds.

(d) ANTHC may make such investigations as they deem necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to ANTHC all such information and data for this purpose as ANTHC may request. ANTHC reserves the right to reject any bid if the evidence submitted by, or investigation of such bidder fails to satisfy ANTHC that such bidder is properly qualified and responsible to carry out the obligations of the contract and to complete the work contemplated therein.

13. Indian-Owned, Controlled, and Operated Business Representation

Alaska Native/American Indian: Any of the following natural persons:

(1) Any citizen of the United States who is a person of one-fourth degree or more Alaska Indian (including Tsimshian Indians not enrolled in the Metlakatla Indian Community) Eskimo, or Aleut blood, or combination thereof, including any Native as so defined either or both of whose adoptive parents are not Natives, and including, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group; or

(2) Any person of Indian descent who is a member of any Federally recognized Indian Tribe, or any descendant of a person of Indian descent who is or was (if deceased) a member of any Federally recognized Indian Tribe. For purposes of this subsection, Eskimos, Aleuts and other aboriginal peoples of Alaska shall be considered Indians.

Alaska Native/American Indian Entity: Any of the following entities as defined in this Section:

- (1) An Indian Organization; or
- (2) An Indian Organization Subsidiary; or
- (3) An Indian-Owned Economic Enterprise; or
- (4) A Native Corporation; or
- (5) A Native Corporation Subsidiary.

Indian Organization: Any of the following entities, as defined in this Section:

REPRESENTATIONS AND CERTIFICATIONS OF BIDDER/OFFEROR

- (1) An Indian Tribe, or
- (2) A Tribal Organization, or
- (3) An Inter-Tribal Consortium.

Indian Organization Subsidiary: Any corporation, non-profit, JV, subsidiary, partnership, LLP, LLC or other business association that is greater than 50% actively managed by an Indian Organization, that is greater than 50% owned by an Indian Organization, that expends at least 51% of the service costs of performing the contract on AN/AIs or AN/AI Entities, and is greater than 50% of whose profits (if any) inure to the benefit of an Indian Organization. These respective requirements shall be met if:

- (1) Greater than 50% of the total voting power of the governing board or its equivalent is Indian Organization-controlled; and
- (2) Greater than 50% of the total equity of the subsidiary is Indian Organization-contributed, with "equity" for purposes of this subsection to include
 - (a) the market value of the subsidiary's stock and all other capital, and
 - (b) the market value of the subsidiary's real and personal property; and
- (3) At least 51% of the subsidiary's service costs under the contract is expended on AN/AIs or AN/AI Entities, to include the cost of employee salaries and benefits and the cost of service subcontractors during the term of a contract; and
- (4) Greater than 50% of the profits (if any) inure to the benefit of an Indian Organization.

Indian-Owned Economic Enterprise: Any Indian-owned corporation, non-profit, JV, subsidiary, partnership, LLP, LLC or other business association that is greater than 50% actively AN/AI managed, that is greater than 50% AN/AI owned, that expends at least 51% of the service costs of performing the contract on AN/AIs or AN/AI Entities, and greater than 50% of whose profits (if any) inure to AN/AI benefit. These respective requirements shall be met if:

- (1) Greater than 50% of the total voting power of the governing board or its equivalent is AN/AI-controlled; and
- (2) Greater than 50% of the total equity of the enterprise is AN/AI-contributed, with "equity" for purposes of this subsection to include
 - (a) the market value of the enterprise's stock and all other capital, and
 - (b) the market value of the enterprise's real and personal property; and
- (3) At least 51% of the enterprise's service costs under the contract is expended on AN/AIs or AN/AI Entities, to include the cost of employee salaries and benefits and the cost of service subcontractors during the term of a contract; and
- (4) Greater than 50% of the profits (if any) inure to AN/AI benefit.

Indian Tribe: Any Indian Tribe, band, nation or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Inter-Tribal Consortium: A coalition of two or more separate Indian Tribes that join together for the purpose of participating in self-governance under the Indian Self-Determination Act, including Tribal Organizations.

Native Corporation: Any Alaska Native Claims Settlement Act Regional Corporation, Village Corporation, Urban Corporation or Group Corporation whose Settlement Common Stock and other stock held by holders of Settlement Common Stock and by Natives and descendants of Natives represents greater than 50% of both:

- (1) The total equity of the corporation, and
- (2) The total voting power of the corporation for the purposes of electing directors.

Native Corporation Subsidiary: Any corporation, non-profit, JV, subsidiary, partnership, LLP, LLC or other business association that is greater than 50% actively managed by a Native Corporation, that is greater than 50% owned by a Native Corporation, that expends at least 51% of the service costs of performing the contract on AN/AIs or AN/AI Entities, and greater than 50% of whose profits inure to the benefit of a Native Corporation. These respective requirements shall be met if:

- (1) Greater than 50% of the total voting power of the governing board or its equivalent is Native Corporation-controlled; and
- (2) Greater than 50% of the total equity of the subsidiary is Native Corporation contributed, with "equity" for purposes of this subsection to include
 - (a) the market value of the subsidiary's stock and all other capital, and
 - (b) the market value of the subsidiary's real and personal property; and

REPRESENTATIONS AND CERTIFICATIONS OF BIDDER/OFFEROR

- (3) At least 51% of the subsidiary's service costs under the contract is expended on AN/AIs or AN/AI Entities, to include the cost of employee salaries and benefits and the cost of service subcontractors during the term of a contract; and
- (4) Greater than 50% of the profits (if any) inure to the benefit of a Native Corporation.

Tribal Organization: The recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities.

Tribe: Any Indian Tribe as defined in this Section.

REPRESENTATION

Any firm that misrepresents itself as an Alaska Native/American Indian Entity in order to secure the award of a contract or purchase order shall be subject to suspension, debarment and prosecution under applicable law.

(a) Representation: The offeror represents that [] it is, [] is not 51% or more Alaska Native / American Indian Entity as defined in Section 13 above.

(b) (This is applicable **only** if this is an Alaska Native/American Indian Entities preference or set-aside). The specified degree of Alaska Native/American Indian ownership, control and management must be maintained during the period covered by this contract.

14. Bidder/Offeror Certification and Representation Signature

By signing below, the Bidder/Offeror represents that all of its statements, certifications, and representations, and other information supplied herein are true and correct as of the date of submittal of this bid/offer.

BIDDER/OFFEROR:

(Type or Print Company Name)

(Address of Bidder/Offeror)

AUTHORIZED SIGNATURE:

(Signature)

(Date)

(Printed Name)

GENERAL PROVISIONS

INDEX

1. Definitions
2. Contract Administration
3. Project Management
4. Force Majeure – Fixed Price
5. Excusable Delays, Extension of Performance Period - Cost-Reimbursement Contract
6. Termination or Suspension of Work - Cost-Reimbursement Contract
7. Anti-Kickback Provisions and Covenant Against Contingent Fees
8. Contract Work Hours and Safety Standards Act
9. Clean Air and Water
10. Independent Contractor
11. Comparative Fault
12. Insurance
13. Access to Facilities and Inspection by Contracting Agency
14. Examination and Retention of Records
15. Audit
16. Dissemination of Information
17. Ownership of Work Products
18. Subcontractors, Successors, and Assigns
19. Governing Laws
20. Patent Indemnity and Copyright Infringement
21. Ownership of Media Related Material
22. Officials Not to Benefit
23. Gratuities
24. Order of Precedence of Documents and Provisions
25. Assignment
26. Taxes
27. Nondiscrimination and Equal Employment Opportunity
28. Permits and Responsibilities
29. Variation in Estimated Quantity
30. Changes - Fixed Price Contract
31. Price Adjustment - Fixed Price Contract
32. Changes - Cost-Reimbursement Contract
33. Payments to the Contractor - Fixed Price Contract
34. Payments to the Contractor - Cost-Reimbursement Contract
35. Termination for Convenience - Fixed Price Contract
36. Termination for Default; Damages for Delay; Time Extensions - Fixed Price Contract
37. Disputes
38. Alternative Means of Dispute Resolution (ADR)
39. Fair and Uniform Services
40. Responsibility for Identification and Compliance with Applicable Laws
41. Confidentiality of Information
42. Publication and Publicity
43. Indian Child Protection and Family Violence Prevention Act (P.L. 101-630)
44. Alterations in General Provisions
45. Performance and Payment Bonds
46. ANTHC Smoke Free Campus Provision
47. Employment Non-Solicitation

GENERAL PROVISIONS

1. Definitions

- (a) **CHANGE** - A revision in the scope, cost, complexity, character, or duration of the services or provisions of this contract.
- (b) **CONTRACT ADMINISTRATOR** - The individual appointed by the Contracting Officer to administer the contract for the Contracting Agency. The contract administrator and the project manager are not required to be, but may be the same person.
- (c) **CONTRACTING AGENCY** - The Alaska Native Tribal Health Consortium. (Abbreviated form is ANTHC.) ANTHC is a consortium of tribal entities and qualifies as a "tribal organization" within the meaning of the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450b (f). ANTHC operates the Alaska Native Medical Center under a Compact of Self-Governance with the United States of America, as authorized pursuant to Public Law 105-83 § 325.
- (d) **CONTRACTING OFFICER** - The person who signed this contract on behalf of the Alaska Native Tribal Health Consortium, and includes a duly appointed successor or designated authorized representative.
- (e) **CONTRACTOR** - The entity providing services under this contract.
- (f) **MODIFICATION** - A written change to this contract.
- (g) **NOTICE TO PROCEED** - Written authorization from the Contracting Agency to the Contractor to provide all or specified services in accordance with an existing agreement.
- (h) **PRIMARY FUNDING SOURCE** - An agency of a federal government which furnishes funds for the Contractor's compensation under this contract and which may have established regulations and requirements binding upon the Contracting Agency and the Contractor.
- (i) **PROJECT MANAGER** - Contracting Agency's representative in charge of the project and the Contractor's primary point of contact with the Contracting Agency.
- (j) **SUBCONTRACTOR** - An entity or person engaged to provide a portion of the services by subcontract with the Contractor which is a party to this contract. Unless otherwise provided in this contract, the term "subcontracts" includes, but is not limited to, purchase orders and changes and modifications to purchase orders under this contract.

2. Contract Administration

- (a) The Contract Administrator for this contract is responsible for the contractual and administrative aspects of this Contract.
- (b) The Contract Administrator may be the same as the Contracting Officer. However, if they are two different individuals, the Contract Administrator may be changed by the Contracting Officer at any time. The Contractor will be notified in writing of any such change.
- (c) The Contract Administrator is authorized to make any commitments or otherwise obligate the Contracting Agency or authorize any changes which affect the contract price, terms or conditions, within the limits of his or her delegation of authority. Contractor requested changes must be referred to the Contract Administrator.

3. Project Management

The Contracting Officer will designate in writing a Project Manager at the time of contract award to monitor all technical aspects of the contract. The written designation will be issued to the Project Manager and to the Contractor setting forth the responsibilities and limitations of the designee. Notwithstanding the Contractor's responsibility for total management during the performance of the contract, the administration of the contract will require maximum coordination between the Contracting Agency and the Contractor. The Project Manager will be the Contracting Agency's primary point of contact during performance of the contract. The Project Manager will monitor all technical aspects of the contract. The type of actions within the purview of the Project Manager's authority are to assure that the Contractor performs the technical requirements of the contract, and to notify both the Contractor and the Contracting Officer of any deficiencies observed.

4. Force Majeure – Fixed Price

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

5. Excusable Delays, Extension of Performance Period - Cost-Reimbursement Contract

GENERAL PROVISIONS

(This provision is applicable only to cost-reimbursement type contracts)

(a) A party to this contract shall not be held responsible for failure to perform the terms of this contract when performance is prevented by causes beyond the control and without the fault or negligence of the party. An extension of time may be allowed in circumstances of such delay provided that (1) reasonable notice and full particulars are given to the other party, and (2) that the cause of such failure or omission (other than strikes and lockouts) is remedied so far as possible with reasonable dispatch.

(b) Circumstances or causes which may be deemed beyond the control of the party include acts of God, earthquakes, fire, flood, war, civil disturbances, governmentally imposed rules, regulations or moratoriums or any other cause whatsoever whether similar or dissimilar to the causes herein enumerated, not within the reasonable control of the party which through the exercise of due diligence, the party is unable to foresee or overcome. In no event shall any normal, reasonably foreseeable, or reasonably avoidable operational delay be used to excuse or alter a party's obligation for full and timely performance of its obligations under this contract.

6. Termination or Suspension of Work - Cost-Reimbursement Contract

(This provision is applicable only to cost-reimbursement type contracts)

(a) This contract may be terminated by either party upon 10 days written notice if the other party fails substantially to perform in accordance with its terms through no fault of the party initiating the termination (default termination). If the Contracting Agency terminates this contract, the Contracting Agency will pay the Contractor for work completed that can be substantiated in whole or in part, either by the Contractor to the satisfaction of the Contracting Agency, or by the Contracting Agency. If the Contracting Agency becomes aware of any nonconformance with this contract by the Contractor, the Contracting Agency will give prompt written notice thereof to the Contractor. Should the Contractor remain in nonconformance, the percentage of total compensation attributable to the nonconforming work may be withheld.

(b) The Contracting Agency may at any time terminate (convenience termination) or suspend work under this contract for its needs or convenience. In the event of a convenience termination or suspension for more than 3 months, the Contractor will be compensated for authorized services and authorized expenditures performed to the date of receipt of written notice of termination or suspension plus reasonable termination settlement costs as determined by the Contracting Agency. No fee or other compensation for the uncompleted portion of the services will be paid except for already incurred costs applicable to this contract which the Contractor can establish would have been compensated for over the life of this contract and because of the termination or suspension would have to be absorbed by the Contractor.

(c) If federal funds support this contract, and the Contracting Agency's prime contract or grant agreement is terminated by the federal sponsor, resulting accordingly in termination of this contract, settlement for default or convenience termination must be approved by the primary funding source and shall be in conformance with the applicable sections of 25 U.S.C. 450 et seq.

(d) In the event of termination or suspension, the Contractor shall deliver all work products, reports, estimates, schedules and other documents and data prepared pursuant to this contract to the Contracting Agency.

(e) Upon termination by the Contracting Agency for failure of the Contractor to fulfill its contractual obligations, the Contracting Agency may take over the work and may award another party a contract to complete the work under this contract.

(f) If after termination for failure of the Contractor to fulfill its contractual obligations, it is determined that the Contractor had not failed to fulfill contractual obligations, or that such failure was excusable under criteria set forth in the provision hereof entitled, "Excusable Delays, Extension of Performance Period," the termination shall be deemed to have been for the convenience of the Contracting Agency. In such event, settlement costs and the contract price may be adjusted as provided in this clause for convenience termination.

7. Anti-Kickback Provisions and Covenant Against Contingent Fees

(a) The Contractor assures that regarding this contract, neither the Contractor, nor any of its employees, agents, subcontractors, or representatives has violated the provisions of the "Anti-Kickback" Act of 1986 (41 USC 51-58) which is incorporated by reference and made a part of this contract.

(b) The Contractor warrants that it has not employed or retained any organization or person, other than a bona fide employee, to solicit or secure this contract and that it has not paid or agreed to pay any organization or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the Contracting Agency has the right to annul this contract without liability or, in its discretion, to deduct from the allowable compensation the full amount of such commission, percentage, brokerage or contingent fee.

GENERAL PROVISIONS

(c) The Contracting Agency warrants that neither the Contractor nor the Contractor's representative has been required, directly or indirectly as an express or implied condition in obtaining or carrying out this contract, to employ or retain any organization or person or to make a contribution, donation or consideration of any kind.

(d) At all times during and under the terms of this Agreement, with regard to those Contractors who either perform or authorize Medicaid or Medicare health care services on behalf of the Contracting Agency or are otherwise involved in the monitoring of health care services of the Contracting Agency, the Contractor hereby makes the following representations and warranties: (1) in addition to General Provision #40, Contractor is in compliance with the provisions of all applicable laws and regulations pertaining to its scope of work; (2) neither the Contractor, nor its employees or agents are in violation of any laws, including any of the Health Care Laws. For purpose of this provision, "Health Care Laws" means (a) all applicable federal and state fraud, waste and abuse laws, including, but not limited to the Anti-Kickback Statute, [42 USC 1320a-7(b)], section 6032 of the Deficit Reduction Act of 2005, the civil False Claims Act (31 USC §3729 et seq), and the Stark law (42 U.S.C.S. §1395nn). Contractor, including its employees, agents and independent contractors should be aware of Contractor's and Contracting Agency's policies regarding detection and prevention of health care fraud and abuse. In accordance with section 6032 of the Deficit Reduction Act of 2005, the Contractor shall review and comply with the essential elements of Contracting Agency's policy on fraud, waste and abuse (see <http://www.anthc.org/cs/contracting/>) and to require its contractors and agents performing services pursuant to this Agreement to comply with such policy and Health Care Laws. The Contractor should encourage all of its employees, agents and contractors to be aware of the Health Care Laws regarding whistleblower protection and non-retaliation. Contracting Agency requires Contractor to exercise due diligence in the prevention, detection, and correction of fraud, waste, and abuse, and to promptly report any suspected fraud, waste, and abuse through appropriate channels. Contractor may report issues to their supervisor, and/or Contracting Agency's Corporate Compliance and Integrity Services by calling the Ethics & Compliance Hotline at 1-877-772-6743.

8. Contract Work Hours and Safety Standards Act

(This provision is applicable if the contract amount exceeds \$2500 or if for construction, the contract amount exceeds \$2,000.)

The Contractor and its subcontractors shall comply with federal labor standards provisions of the Contract Work Hours and Safety Standards Act - Overtime Compensation (40 U.S.C. 327- 333).

9. Clean Air and Water

(This provision is applicable if the contract amount exceeds \$100,000.)

(a) The Contractor shall comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C.1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and EPA regulations (40 CFR Part 15) which prohibit the use under federal contracts or grants, facilities included on the Environmental Protection Agency (EPA) List of Violating Facilities.

(b) The Contractor warrants that any facilities to be used in the performance of this contract are not listed on the EPA List of Violating Facilities.

(c) The Contractor will include a provision substantially the same as this, including this paragraph (c) in every non-exempt subcontract.

10. Independent Contractor

(a) The Contractor and its agents and employees shall act in an independent capacity and not as officers or agents of the Contracting Agency in the performance of this contract except that the Contractor may function as the Contracting Agency's agent as may be specifically set forth in this contract.

(b) Any and all employees of the Contractor, while engaged in the performance of any work or services required by the Contractor under this contract, shall be considered employees of the Contractor only and not of the Contracting Agency and any and all claims that may or might arise under the worker's compensation act on behalf of said employees, while so engaged and any and all claims made by a third party as a consequence of any negligent act or omission on the part of the Contractor's employees, while so engaged in any of the services to be rendered herein, shall be the sole obligation and responsibility of the Contractor.

(c) This contract may be declared null and void should the Contracting Agency determine that by Internal Revenue Service criteria the Contractor is an employee of the Contracting Agency.

11. Comparative Fault

Contractor shall be responsible for its own damages or injuries to Contractor as result of its own employees, property or person acting for or on behalf of Contractor from whatever cause. All actions or claims including costs and expenses resulting from injuries or damages or death sustained by any person or property arising for the Contractor's performance of

GENERAL PROVISIONS

this contract which are caused by the joint negligence of the Contractor and the Owner shall be apportioned as a comparative fault basis. Any such joint negligence on the part of the Owner must be a direct result of active involvement by the Owner.

12. Insurance

(This provision is applicable in absence of but not in lieu of or in addition to insurance provisions contained in the Special Provisions or elsewhere specified in the contract.)

(a) The Contractor shall not commence work under this contract until satisfactory evidence has been provided to the Contracting Agency that the Contractor can cover the requirements set forth in this provision with regard to the Contractor and subcontractors when engaged in any work performed under this contract. A Contractor who is a state institution of higher education or a state or local government entity may satisfy the requirements of subsections (b) (2) through (4) and (c) of this provision by submittal of a certification of self-insurance which attests it is self-insured for the required coverage limits in accordance with the laws of the state in which it is established.

(b) Without limiting Contractor's indemnification, it is agreed that Contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement policies of insurance (or the Contractor shall maintain self-insurance if certified in strict accordance with subsection (a) of this provision) covering the following types and limits:

(1) **Workers' Compensation Insurance:** The Contractor must maintain Workers Compensation Insurance for his own employees in the amount required under Statutory Limits for those states in which employees are working and Employer's Liability Insurance not less than \$500,000 each employee, each accident. The Contractor shall also be responsible for ensuring that any subcontractors who directly or indirectly provide services under this contract maintain Workers' Compensation Insurance in the amount required under Statutory Limits. Where applicable, for both the contractor and subcontractor, coverage for all federal acts (i.e., U.S.L. & H. and Jones Act) must also be included.

(2) **Comprehensive (Commercial) General Liability Insurance:** The Contractor shall maintain a Commercial General Liability (CGL) Insurance policy, per project, for Bodily Injury and Property Damage, at least as broad as the current ISO policy occurrence form, with coverage limits not less than \$1 million combined single limit per occurrence and \$2 million combined single limit aggregate. The policy shall include Premises/Operations, Products/Completed Operations, and Advertising and Personal Injury. The policy shall include coverage endorsements for broad contractual liability, broad form property damage, and independent contractors. The policy shall name ANTHC as an additional insured and grant a waiver of subrogation on behalf of ANTHC for this project.

(3) **Professional Liability Insurance:** Covering all errors, omissions, or negligent or wrongful acts of the Contractor, subcontractor, or anyone directly or indirectly employed by them, made in the performance of this contract which result in financial loss to the Contracting Agency. Limits required per the following schedule:

<u>Contract Amount</u>	<u>Minimum Required Limits</u>
All Dollar Amounts	\$1,000,000 per Occurrence/\$2,000,000 Annual Aggregate

(4) **Automobile Liability Insurance:** The Contractor shall maintain a commercial automobile liability insurance policy covering all owned, hired, and on-owned vehicles to be used on the project with coverage limit not less than \$1,000,000 per person/\$1,000,000 per occurrence combined single limit bodily injury and property damage.

(c) Coverage shall be maintained for the duration of this contract plus one year following the date of final payment. Failure to comply with this provision may preclude other contracts and agreements between the Contractor and the Contracting Agency. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the Contractor's policy contains higher limits, the Contracting Agency shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the Contract Administrator prior to contract award and must provide for a 30-day prior notice to the Contracting Agency of cancellation, non-renewal, or material change, name ANTHC as an additional insured, and provide waivers of subrogation against ANTHC. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach and grounds for termination of the Contractor's services.

13. Access to Facilities and Inspection by Contracting Agency

The Contracting Agency has the right to inspect, in the manner and at reasonable times it considers appropriate during the period of this contract, all facilities and activities of the Contractor as may be engaged in the performance of this contract. The Contractor shall provide reasonable access to accommodate such inspections at its own and subcontractor's facilities. The substance of this clause shall be incorporated in subcontracts by the Contractor.

14. Examination and Retention of Records

The Contractor shall, at any time during normal business hours and as often as the Contracting Agency, the Comptroller General of the United States, or their agents may deem necessary, make available for examination all of its records with

GENERAL PROVISIONS

respect to all matters covered by this contract for a period ending three (3) years after the date of final payment under this or any subcontract whichever is later. Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this contract in such form and at such times as the Contracting Agency, the Comptroller General of the United States, or their agents may reasonably require. The Contractor shall permit the Contracting Agency, the Comptroller General of the United States, or their agents to examine and make copies of such records, invoices, materials, payrolls, records of personnel, and other data relating to all matters covered by the contract. The Contractor shall include the substance of this provision in all subcontracts.

15. Audit

(a) The Contracting Agency and its primary funding source may at reasonable times and places, audit the books and records of the Contractor and its subcontractors and may review the Contractor's accounting system, overhead rates, and internal control systems to the extent they relate to costs or cost principles applicable to this contract. The audit will be scheduled at a mutually agreeable time. The Contractor shall include the substance of this provision in all subcontracts.

(b) As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(c) Cost or pricing data. If the Contractor has been required to submit cost or pricing data in connection with the pricing of any modification to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to--

- (1) The proposal for the modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the modification; or
- (4) Performance of the modification.

(d) Availability. The Contractor shall make available at its office at all reasonable times the materials described in this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract.

(1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.

(2) Records pertaining to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to the performance of this contract shall be made available until disposition of such appeals, litigation, or claims.

(e) The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (e), in all subcontracts expected to exceed \$10,000.

16. Dissemination of Information

There shall be no dissemination or publication, except within and between the Contracting Agency, the Contractor, and any subcontractors, of information or deliverables developed under this contract without prior written approval of the Contracting Agency's Contract Administrator or its President, Chief Executive Officer.

17. Ownership of Work Products

Work products and non-expendable property produced or purchased under this contract, are the property of the Contracting Agency, except as otherwise specifically stated in the contract. Payments to the Contractor for services hereunder include full compensation for all such products produced or acquired by the Contractor and its subcontractors.

18. Subcontractors, Successors, and Assigns

(a) The Contracting Agency must concur in the selection of all subcontractors for services to be engaged in performance of this contract.

(b) If any Scope of Work under this contract includes named firms or individuals, then such firms or individuals shall be employed for the designated services, unless the contract is changed by modification.

(c) The Contractor shall not assign, sublet or transfer any interest in this contract without the prior written consent of the Contracting Agency, which may be withheld for any reason.

(d) The Contractor binds itself, its partners, its subcontractors, assigns and legal representatives to this contract and to the successors, assigns and legal representatives of the Contracting Agency with respect to all covenants of this contract.

GENERAL PROVISIONS

(e) The Contractor shall include provisions appropriate to effectuate the purposes of these General Provisions in all subcontracts executed to perform services under this contract which exceed a cost of \$10,000.

19. Governing Laws

(a) In the absence of controlling federal law, this contract is governed and will be construed by the laws of the State of Alaska.

(b) In the absence of controlling federal law to the contrary, any civil action arising from this contract will be brought in the Anchorage Venue District of the Third Judicial District of the State of Alaska. Provided however, nothing in this provision will be construed to limit or in any way prejudice the Contracting Agency's claim to protection from suit based on Public Law 101-512 § 314, as amended by Pub. L. 103-138 § 308, or other common law immunities.

20. Patent Indemnity and Copyright Infringement

The Contractor shall indemnify and save harmless the Alaska Native Tribal Health Consortium, its Board of Directors, and its officers and employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the Alaska Native Tribal Health Consortium. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the contract price includes all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

21. Ownership of Media Related Material

Contractor agrees that all Work Product (defined below) shall be upon its creation the sole property of ANTHC. To the extent any Work Product is subject to copyright, Contractor agrees that such Work Product shall be considered "work for hire" within the meaning of the United States Copyright Act, whether or not used by ANTHC, and that ANTHC shall be considered the "author" of such Work Product within the meaning of the Act. All copyrights in the Work Product shall be owned exclusively by ANTHC on their creation, and Contractor expressly disclaims any interest in them. In the event, and to the extent, that any Work Product subject to copyright is found as a matter of law not to be "work for hire" within the meaning of the United States Copyright Act, Contractor hereby assigns to ANTHC the sole and exclusive right, title, and interest in the Work Product, copyrights to, and all copies of, the Work Product, in any medium and without further consideration, and agrees to assist ANTHC to register, and from time to time to enforce, the copyrights. Regardless of whether the Work Product is subject to copyright, Contractor hereby assigns and agrees to assign to ANTHC all right, title, and interest to the Work Product, including without limitation all trademark, patent, and other intellectual property rights. Contractor agrees to execute such documents as may be necessary, in ANTHC's judgment, to evidence and/or secure ANTHC's ownership rights and assignments under this paragraph. As used in this paragraph, "Work Product" means all work product, tangible and intangible, created by Contractor in the course of its work for ANTHC, and includes without limitation all writings; all photographic images, whether negatives, prints, transparencies, digital data, or otherwise; all videos and films, including without limitation all raw footage and edit masters; all software and data; all discoveries and inventions; all intermediate works, including without limitation all notes, outlines, and the like; all reproductions of any of the foregoing in any media whatsoever; and all derivative works based on any of the foregoing.

22. Officials Not to Benefit

No member of or delegate to Congress, or other officials of the federal, State, political subdivision or local government, shall be admitted to any share or part of this contract or any benefit to arise therefrom. Contractor staff who fall under this article will be excluded from it, if it is determined by the Contracting Agency that they are essential to the work involved and that the benefits derived do not exceed that which is provided for in the contract for the work involved.

(a) Prohibitions. (1) Section 1352 of Title 31, United States Code, among other things, prohibits a recipient, including contractors and subcontractors of the recipient, of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(b) The Act also requires Contractors to furnish a disclosure if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

(c) The Contractor agrees that it will not act in violation of the conditions of this clause.

GENERAL PROVISIONS

23. Gratuities

(a) If the Contracting Agency finds after a notice and investigation that the Contractor or any of the Contractor's agents or representatives offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of the Contracting Agency or any federal agency in an attempt to secure a contract or favorable treatment in awarding, amending or making any determinations related to the performance of this contract, the Contracting Agency may, by written notice to the Contractor, terminate this contract. The Contracting Agency may also pursue other rights and remedies that the law or the contract provides. However, the facts on which the Contracting Agency bases such findings may be reviewed in proceedings under the Disputes provision of this contract.

(b) In the event this contract is terminated as provided in paragraph (a), the Contracting Agency may pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and any other damages to which it may be entitled by law.

24. Order of Precedence of Documents and Provisions

In the event of any inconsistency between provisions of this contract, the inconsistency shall be resolved by giving precedence in the following order:

- (a) Contract form;
- (b) Schedules;
- (c) Scope of Work and/or Specifications;
- (d) Special Provisions;
- (e) General Provisions;
- (f) Other Attachments.

25. Assignment

(a) Rights under this contract are not transferable, or otherwise assignable without the express prior written consent of the Alaska Native Tribal Health Consortium Contracting Officer.

(b) The Contractor shall include provisions appropriate to effectuate the purpose of this provision in all subcontracts under this contract.

26. Taxes

As a condition of performance of this contract, the Contractor shall pay all federal, state and local taxes incurred by the Contractor and shall require their payment by any subcontractor or other persons in the performance of this contract.

27. Nondiscrimination and Equal Employment Opportunity

(This clause shall not take precedence over and shall be subordinate to Indian Preference provisions elsewhere in this contract.)

The Contractor shall comply with all applicable state and federal rules governing equal employment opportunity and non-discrimination. The Contractor shall include this provision in all subcontracts under this contract.

28. Permits and Responsibilities

The Contractor shall be responsible for obtaining any necessary licenses and permits, and for complying with any applicable federal, state and municipal laws, codes, and regulations, in connection with the performance of the work under this contract.

29. Variation in Estimated Quantity

If the quantity of a unit-priced item in this contract is an estimated quantity and the actual quantity of the unit-priced item varies more than 15 percent above or below the estimated quantity, an equitable adjustment in the contract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in cost due solely to the variation above 115 percent or below 85 percent of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Contractor may request, in writing, an extension of time, to be received by the Contracting Officer within 10 days from the beginning of the delay, or within such further period as may be granted by the Contracting Officer before the date of final settlement of the contract. Upon the receipt of a written request for an extension, the Contracting Officer shall ascertain the facts and make an adjustment for extending the completion date as, in the judgment of the Contracting Officer, is justified.

30. Changes - Fixed Price Contract

(This provision is applicable only to fixed price contracts.)

GENERAL PROVISIONS

(a) The Contracting Officer may at any time, by written order, and without notice to any surety, make changes within the general scope of this contract in any one or more of the following:

- (1) Drawings, designs, or specifications.
- (2) Method of shipment or packing.
- (3) Place of inspection, delivery or acceptance.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the Contracting Officer shall make an equitable adjustment in the (1) price, performance or completion schedule, or both; and (2) other affected terms and shall modify the contract accordingly.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract. No claim by the Contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

(d) Any adjustment in contract price pursuant to this provision shall be determined in accordance with the Price Adjustment provision of this contract.

(e) Failure to agree to any adjustment shall be resolved in accordance with the Disputes provision of this contract. However, failure to agree to an adjustment shall not excuse the Contractor from proceeding with the contract as changed. By proceeding with the work, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(f) Except as otherwise provided in this contract, no payment for any extras, for either services or materials, will be made unless such extras and the price therefore have been authorized in writing by the Contracting Officer.

31. Price Adjustment - Fixed Price Contract

(This provision is applicable only to fixed price contracts.)

(a) Any adjustment in contract price pursuant to a provision of this contract shall be made in one or more of the following ways:

(1) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

(2) by unit prices specified in the contract or subsequently agreed upon;

(3) by costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as specified in the contract or subsequently agreed upon;

(4) in such other manner as the parties may mutually agree; or

(5) in the absence of agreement between the parties, by a unilateral determination by the Contracting Officer of the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as reasonably and equitably computed by the Contracting Officer. Adjustments made pursuant to this subsection, absent agreement between the parties may be a dispute under the Disputes provision of this contract.

(b) The Contractor shall provide cost and pricing data for any price adjustments pursuant this provision upon request by the Contracting Officer.

32. Changes - Cost-Reimbursement Contract

(This provision is applicable only to cost-reimbursement type contracts.)

(a) The Contracting Officer may at any time, by written order, and without notice to any surety, make changes within the general scope of this contract in any one or more of the following:

- (1) Drawings, designs, or specifications.
- (2) Method of shipment or packing.
- (3) Place of inspection, delivery or acceptance.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the Contracting Officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the contract accordingly.

GENERAL PROVISIONS

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract. No claim by the Contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

(d) Failure to agree to any adjustment shall be resolved in accordance with the Disputes provision of this contract. However, failure to agree to an adjustment shall not excuse the Contractor from proceeding with the contract as changed subject to the limitation set forth in paragraph (e) of this provision. By proceeding with the work, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(e) Notwithstanding the terms and conditions of paragraphs (a) and (b) above, the estimated total cost of this contract shall not be increased or considered to be increased except by specific written modification of the contract indicating the new contract estimated total amount. Until such a written modification is made, the Contractor shall not be obligated by any change directed under this provision to continue performance or incur costs beyond the then current total estimated dollar amount of the contract not including the prospective modification.

33. Payments to the Contractor – Fixed Price Contract

(This provision is applicable only to fixed-price contracts.)

(a) The Contractor shall not perform any services or deliveries of products without a contract which has been signed by the Contracting Officer. Accordingly, the Contracting Agency will not pay the Contractor for any goods, services or associated costs, if any, performed outside those which are authorized by the signed contract.

(b) The Contracting Agency will pay the contract price as hereinafter provided. The Contractor shall be paid, upon the submission of proper invoices, the prices stipulated herein for work products delivered and accepted or services rendered and accepted, less deduction, if any, as herein provided. Unless otherwise specified, payment will be made on partial deliveries accepted by the Contracting Agency when the amount due on such deliveries so warrants. Payments shall be made within 30 days of the proper submission of an invoice.

(c) Payments shall be based on approved Contractor's invoices submitted in accordance with this provision. The sum of payments shall not exceed allowable compensation stated in purchase order(s) and no payments shall be made in excess of the maximum allowable total for this contract.

(d) The Contractor shall submit a final invoice and required documentation within 90 days after final acceptance of goods or services by the Contracting Agency. The Contracting Agency will not be held liable for payment of invoices submitted after this time unless prior written approval has been given.

(e) In the event items on an invoice are disputed, payment on those items will be held until the dispute is resolved. An item is in "dispute" when a determination regarding an item has been made by the Contracting Officer that the performance called for and or price invoiced is not in compliance with the terms and conditions of the contract.

34. Payments to the Contractor - Cost-Reimbursement Contract

(This provision is applicable only to cost-reimbursement type contracts.)

(a) Payments shall be based on approved Contractor's invoices submitted in accordance with this article. The sum of payments shall not exceed allowable compensation stated in purchase order(s) and no payments shall be made in excess of the maximum allowable total for this contract. Payments shall be made within 30 days of the proper submission of an invoice.

(b) Contractor's invoices shall be submitted when services are completed, or monthly for months during which services are performed, as applicable, in a summary format, which details costs incurred for each item identified in the project budget. Backup documentation including but not limited to invoices, receipts, proof of payments, and signed time sheets, or any other documentation requested by the Contracting Agency's Contract Administrator, is required, and shall be maintained by the Contractor in accordance with cost principles applicable to this contract. Contractor invoices shall be signed by the Contractor's official representative, and shall include a statement certifying that the invoice is a true and accurate billing. Cost principles contained in OMB Circular A-87 or A-122 as applicable shall be used as criteria in the determination of allowable costs.

(c) In the event items on an invoice are disputed, payment on those items will be held until the dispute is resolved. Undisputed items will not be held with the disputed items.

(d) The Contractor shall submit a final invoice and required documentation within 90 days after final acceptance of services by the Contracting Agency. The Contracting Agency will not be held liable for payment of invoices submitted after this time unless prior written approval has been given.

35. Termination for Convenience - Fixed Price Contract

(This provision is applicable only to fixed-price contracts.)

GENERAL PROVISIONS

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Contracting Agency's interest. If this contract is terminated, the Contracting Agency shall be liable only for payment under the payment provisions of this contract for acceptable services and performance rendered before the effective date of termination, and the contract total price will be adjusted accordingly. Payments shall be made within 30 days of the proper submission of an invoice.

36. Termination for Default; Damages for Delay; Time Extensions - Fixed Price Contract

(This provision is applicable only to fixed-price contracts.)

(a) The Contracting Agency may, subject to the provisions of subsection (c) below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:

(1) If the Contractor fails to make delivery of the work products or to perform the services within the time specified herein or any extension thereof; or

(2) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

(b) In the event the Contracting Agency terminates this contract in whole or in part as provided in subsection (a) of this provision, the Contracting Agency may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, work products or services similar to those so terminated, and the Contractor shall be liable to the Contracting Agency for any excess costs for such similar work products or services; provided, that the Contractor shall continue the performance of this contract to the extent not terminated under this provision.

(c) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include acts of God or of the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies, work products, or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

(d) If this contract is terminated as provided in subsection (a) of this provision, the Contracting Agency, in addition to any other rights provided in this provision, may require the Contractor to transfer title and deliver to the Contracting Agency, in the manner and to the extent directed by the Contracting Officer, such completed and partially completed reports, materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights and any other work product as the Contractor has specifically produced or specifically acquired for the performance of such part of this contract as has been terminated; and the Contractor shall, upon direction of the Contracting Officer, protect and preserve the property in possession of the Contractor in which the Contracting Agency has an interest. Payment for completed work and work products delivered to and accepted by the Contracting Agency shall be at the contract price. Payment for partially completed work and work products delivered to and accepted by the Contracting Agency shall be in an amount agreed upon by the Contractor and the Contracting Officer; and failure to agree to such amount shall be a dispute concerning a question of fact which shall be resolved under the Disputes clause of this contract.

(e) The rights and remedies of the Contracting Agency provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(f) If after termination for failure of the Contractor to fulfill its contractual obligations, it is determined that the Contractor had not failed to fulfill contractual obligations, or that such failure was excusable under criteria set forth herein, the termination shall be deemed to have been for the convenience of the Contracting Agency. In such event, settlement costs and the contract price may be adjusted as provided in the Termination For Convenience provision of this contract.

37. Disputes

(a) Except as provided in the provision of this contract entitled Alternative Means of Dispute Resolution (ADR), all disputes arising under or relating to this contract shall be resolved under this clause and in accordance with the appeals procedures prescribed by ANTHC Procurement Policy.

(b) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that

GENERAL PROVISIONS

contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim until certified as required by subparagraph (d)(2) of this clause. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(c) (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within thirty (30) calendar days after accrual of the claim to the Contracting Officer for a written decision. A claim by the Contracting Agency against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) (i) Contractors shall provide the certification specified in subparagraph (d)(2)(iii) of this clause when submitting any claim--

(A) Exceeding \$100,000; or

(B) Regardless of the amount claimed, when using--

(1) Arbitration; or

(2) Any other alternative means of dispute resolution (ADR) technique as agreed by the Contracting Agency.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Alaska Native Tribal Health Consortium is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(d) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 30 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 30 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(e) The Contracting Officer's decision shall be final unless within 20 days after receipt, the Contractor appeals the decision to the ANTHC President/CEO in accordance with ANTHC Procurement Policy, or files a suit.

(f) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the ANTHC is presented to the Contractor, the parties, by mutual consent, may agree to use ADR. If the Contractor refuses an offer for alternative disputes resolution, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the request. When using arbitration, or when using any other ADR technique to which the Contracting Agency agrees, any claim, regardless of amount, shall be accompanied by the certification described in subparagraph (d)(2)(iii) of this clause, and executed in accordance with subparagraph (d)(3) of this clause.

(g) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

38. Alternative Means of Dispute Resolution (ADR)

(a) ADR as used in the Disputes clause means either third-party mediation or other alternative procedures mutually agreed upon by the parties to this contract as defined herein.

(b) For purposes of this contract, the term "third-party mediation" means a form of mediation whereby the Contractor and ANTHC nominate a third party who is not employed by or significantly involved with ANTHC or the Contractor to serve as a third-party mediator to mediate disputes under this contract.

(c) In addition to or as an alternative to remedies and procedures prescribed elsewhere, the parties to this contract may jointly:

(1) submit disputes under this contract to third-party mediation;

(2) submit the dispute to mediation processes provided for under the laws, policies, or procedures of ANTHC;

(3) submit the dispute to mediation processes provided for under other mutually agreed upon policies or procedures, including the laws of the State of Alaska.

GENERAL PROVISIONS

(d) The parties to this contract shall be bound by decisions made pursuant to processes set forth in subparagraph (c).

(e) The federal Contract Disputes Act of 1978 (41 U.S.C. 601-613) cited in subparagraph (a) of the FAR 52.233-1 Disputes clause does not apply to this contract.

39. Fair and Uniform Services

(This clause is applicable if this contract is for provision of beneficiary services.)

The Contractor will provide services under this contract in a fair and uniform manner to all patients and/or beneficiaries eligible to receive services from the Contracting Agency.

40. Responsibility for Identification and Compliance with Applicable Laws

The Contractor understands and agrees that federal and/or state appropriated funds may be used to pay for the goods or services provided under this contract. The Contractor further understands and agrees that it is responsible for identifying and ensuring compliance with all applicable state and federal laws and regulations.

41. Confidentiality of Information

(This clause is applicable to contracts that require access to or generation of confidential information as defined herein.)

(a) Confidential information, as used in this clause, means (1) information or data of a personal nature about an individual, or (2) proprietary information or data submitted by or pertaining to an institution or organization.

(b) In addition to the types of confidential information described in (a) (1) and (2) above, information which might require special consideration with regard to the timing of its disclosure may derive from studies or research, during which public disclosure of preliminary unvalidated findings could create erroneous conditions which might threaten public health or safety if acted upon.

(c) The Contracting Officer and the Contractor may, by mutual consent, identify elsewhere in this contract specific information and/or categories of information which the Alaska Native Tribal Health Consortium will furnish to the Contractor or that the Contractor is expected to generate which is confidential information from time to time during the performance of this contract. Failure to agree will be settled pursuant to the 'Disputes' clause.

(d) If it is established elsewhere in this contract that information to be utilized under this contract, or a portion thereof, is subject to the Privacy Act, the Contractor shall follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. 552a, and implementing regulations and policies, with respect to systems of records determined to be subject to the Privacy Act.

(e) Confidential information, as defined in (a) (1) and (2) above, that is information or data of a personal nature about an individual, or proprietary information or data submitted by or pertaining to an institution, or organization, shall not be disclosed without the prior written consent of the individual, institution, or organization.

(f) Written advance notice of at least 45 days will be provided to the Contracting Officer of the Contractor's intent to release findings of studies, or research, which have the possibility of adverse effects on the public or the Federal Agency, as described in (b) above. If the Contracting Officer does not pose any objections in writing within the 45-day period, the Contractor may proceed with disclosure. Disagreements not resolved by the Contractor and the Contracting Officer will be settled pursuant to the 'Disputes' clause.

(g) Whenever the Contractor is uncertain with regard to the proper handling of material under the contract, or if the material in question is subject to the Privacy Act or is confidential information subject to the provisions of this clause, the Contractor should obtain a written determination from the Contracting Officer prior to any release, disclosure, dissemination, or publication.

(h) Contracting Officer determinations will reflect the results of internal coordination with appropriate program and legal officials.

(i) Provisions of paragraph (e) of this clause shall not apply when the information is subject to conflicting or overlapping provisions in other Federal, State, or Local Laws.

42. Publication and Publicity

(This clause is applicable to contracts for research or studies or other data and for which publication is not prohibited by the clause entitled Confidentiality of Information.)

(a) Unless otherwise specified in this contract, the Contractor is encouraged to publish the results of its work under this contract. A copy of each article submitted by the Contractor for publication shall be promptly sent to the Project Manager. The Contractor shall also inform the Project Manager when the article or other publication is published, and furnish a copy of it as finally published.

GENERAL PROVISIONS

(b) The Contractor shall include in any publication resulting from work performed under this contract, a disclaimer reading as follows:

THE CONTENT OF THIS PUBLICATION DOES NOT NECESSARILY REFLECT THE VIEWS OR POLICIES OF THE ALASKA NATIVE TRIBAL HEALTH CONSORTIUM, NOR DOES MENTION OF TRADE NAMES, COMMERCIAL PRODUCTS, OR ORGANIZATIONS, IMPLY ENDORSEMENT BY THE ALASKA NATIVE TRIBAL HEALTH CONSORTIUM.

43. Indian Child Protection and Family Violence Prevention Act (P.L. 101-630)

The Contractor shall comply and assure compliance by all subcontractors at any tier under this contract, with the Indian Child Protection and Family Violence Prevention Act (P.L. 101-630). The Act requires that Minimum Standards of Character be established for certain positions covered by the Act to ensure that none of the individuals in these positions have been found guilty of, or entered a plea of nolo contendere or guilty to, any offenses under Federal, State, or tribal law involving crimes of violence, sexual assault, molestation, exploitation, contact or prostitution; or crimes against persons.

44. Alterations in General Provisions

Any deletion or modification of these General Provisions shall be specified in detail in subparagraphs added to this provision. Deletions or modifications of General Provisions, if any, are listed herein, and were made prior to the signature of the parties to the contract.

(a) Wherever in these general provisions the statement is made that "This provision is applicable only to cost-reimbursement type contracts," or "This provision is applicable only to fixed-price contracts," it shall also be deemed to mean that the provision is applicable only to cost-reimbursement type items or fixed-price items, respectively, within a contract.

45. Performance and Payment Bonds

(a) *Definitions.* As used in this clause --

"Contract price" means the award price of the contract or, for requirements contracts, the price payable for the estimated quantity; or for indefinite-delivery type contracts, the price payable for the specified minimum quantity.

(b) Unless the resulting contract price is \$100,000 or less, the successful offer shall be required to furnish performance and payment bonds to the Contracting Officer as follows:

(1) *Performance Bonds:*

- (i) The penal amount of performance bonds shall be 100 percent of the original contract price.
- (ii) The ANTHC may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.
- (iii) The ANTHC may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(2) *Payment Bonds:*

- (i) The penal amount of payment bonds shall equal --
 - (A) 50 percent of the contract price if the contract price is not more than \$1 million;
 - (B) 40 percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - (C) \$2.5 million if the contract price is more than \$5 million.
- (ii) If the original contract price is \$5 million or less, the ANTHC may require additional protection if the contract price is increased. The penal amount of the total protection shall meet the requirement of subparagraph (b)(2)(i) of this clause.
- (iii) The ANTHC may secure additional protection by directing the Contractor to increase the penal sum of the existing bond or to obtain additional bond.

(c) The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within the time period specified in the Bid Guarantee provision of the solicitation, or otherwise specified by the Contracting Officer, but in any event, before starting work.

(d) The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as a postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the *Federal Register*, or

GENERAL PROVISIONS

may be obtained from the U.S. Department of Treasury, Financial Management Services, Surety Bond Branch, 401 14th Street, NW, 2nd Floor, West Wing, Washington, DC 20227.

46. ANTHC SMOKE FREE CAMPUS PROVISION

Effective November 16, 2006, the Alaska Native Tribal Health Consortium (ANTHC) shall be a tobacco-free campus. Tobacco use in any form is prohibited on and within all buildings, facilities, vehicles and property whether owned, leased, controlled or used by ANTHC. This policy shall include all privately owned vehicles when located on such property and ANTHC owned or operated vehicles wherever located.

Contractor Employees and/or the employees of its sub-contractors shall not expose patients, visitors, or ANTHC employees to second-hand smoke and/or the smell of tobacco from their person when on ANTHC properties listed below. Said employees are further prohibited from having visible tobacco products on their persons while on or in ANTHC buildings, facilities and other properties, as identified below.

- Alaska Native Medical Center (ANMC), 4315 Diplomacy Drive, Anchorage Alaska
- Alaska Area Office Building, 4141 Ambassador Drive, Anchorage Alaska
- University Lake Building, 3925 Tudor Centre Drive, Anchorage Alaska
- ANTHC Offices, 4201 Tudor Centre Drive, Anchorage Alaska
- ANTHC Airport Kiosk, Ted Stevens International Airport, Anchorage Alaska
- Alaska Clinical Engineering Services (ACES) Office, 4831 Old Seward Highway, Anchorage Alaska
- Creekside Apartments, 3640 E. 42nd Avenue, Anchorage Alaska
- Regional Supply Service Center (Clinton Warehouse) 6130 Tuttle Place, #2, Anchorage Alaska
- ANTHC Administrative Office Building, 4000 Ambassador Drive, Anchorage Alaska
- Division of Environmental Health and Engineering (DEHE) Office Building, 1901 & 1915 Bragaw Street, Anchorage Alaska
- DEHE Lower Yard, 131 Orca Street, Anchorage Alaska
- DEHE Mechanical/Upper Yard, 242 Orca Street, Anchorage Alaska
- DEHE Electrical Shop/Upper yard, 222 Orca Street, Anchorage Alaska
- DEHE Office, 1867 Airport Way, Fairbanks Alaska
- Construction Yards located in Nome, Kotzebue, Bethel and Dillingham Alaska.

Contractors and subcontractors are encouraged but not mandated to refrain from exposing individuals to second hand smoke when performing work for ANTHC at locations other than noted above.

47. EMPLOYMENT NON-SOLICITATION

During the term of this Agreement, Contactor and for 12 months from the termination of this Agreement with ANTHC, Contractor shall not, either on her or his own account or agents or other representatives of Contactor or for any person, firm, partnership, corporation, or other entity (a) solicit, interfere with, or endeavor to cause any employee of ANTHC to leave his or her employment, or (b) induce or attempt to induce any such employee to breach her or his employment agreement with ANTHC.

SUPPLEMENTAL TERMS AND CONDITIONS FOR
CONTRACTS USING ARRA FUNDS

INSTRUCTIONS TO BIDDERS:

To the extent that this contract involves the use of American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 ("ARRA") funds, the following terms and conditions apply. As used in this Section, "Contractor" means the contractor receiving ARRA funds from the Alaska Native Tribal Health Consortium (ANTHC) under this agreement.

- 1. The Contractor specifically agrees to comply with each of the terms and conditions contained herein.*
- 2. Contractor understands and acknowledges that the federal stimulus process is still evolving and that new requirements for ARRA compliance may still be forthcoming from federal government and the State of Alaska. Accordingly, Contractor specifically agrees that both it and all subcontractors will comply with all such requirements during the contract period.*

1. DUNS NUMBER: All Contractors are required to provide the ANTHC with their unique Dun and Bradstreet "data universal numbering system" DUNS number prior to award.

2. AVAILABILITY OF FUNDING: Contractor agrees that programs supported with temporary federal funds made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, will not be continued with ANTHC financed appropriations once the temporary federal funds are expended.

3. BUY AMERICAN REQUIREMENT: Contractor agrees that in accordance with ARRA, Section 1605, neither Contractor or its subcontractors will use ARRA funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. The Contractor understands that this requirement may only be waived by the applicable federal agency in limited situations as set out in ARRA, Section 1605.

4. CONFLICTING REQUIREMENTS: Contractor agrees that, to the extent ARRA requirements conflict with ANTHC requirements, the ARRA requirements shall control.

5. FALSE CLAIMS ACT: Contractor agrees that it shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

SUPPLEMENTAL TERMS AND CONDITIONS FOR
CONTRACTS USING ARRA FUNDS

6. ENFORCEABILITY: Contractor agrees that if Contractor or one of its subcontractors fails to comply with all applicable federal and state requirements governing the use of ARRA funds, the ANTHC may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to the State of Alaska under all applicable state and federal laws.

7. INSPECTION OF RECORDS: Contractor agrees that it shall permit the ANTHC, the United States Comptroller General or his representative or the appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 or his representative to: (1) examine any records that directly pertain to, and involve transactions relating to, this contract; and (2) interview any officer or employee of Contractor or any of its subcontractors regarding the activities funded with funds appropriated or otherwise made available by the ARRA.

8. PROHIBITION ON USE OF ARRA FUNDS: Contractor agrees that none of the funds made available under this contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pools, or similar projects.

9. REPORTING REQUIREMENTS:

Pursuant to Section 1512 of the ARRA, agencies receiving ARRA funds must submit a report to the federal government no later than ten (10) calendar days after the end of each calendar quarter. This report must contain the information outlined below.

Accordingly, Contractor agrees to provide the ANTHC with the following information in a timely manner as provided in the contract:

- a. The total amount of ARRA funds received by Contractor during the Reporting Period;
- b. The amount of ARRA funds that were expended or obligated during the Reporting Period;
- c. A detailed list of all projects or activities for which ARRA funds were expending or obligated, including:
 - i. the name of the project or activity;
 - ii. a description of the project or activity;
 - iii. an evaluation of the completion status of the project or activity; and
 - iv. an estimate of the number of jobs created and the number of jobs retained by the project or activity;
- d. For any subcontracts equal to or greater than \$25,000:
 - i. The name of the entity receiving the subcontract;
 - ii. The amount of the subcontract;
 - iii. The transaction type;
 - iv. The North American Industry Classification System (NAICS) code or
 - v. Catalog of Federal Domestic Assistance (CFDA) number;

SUPPLEMENTAL TERMS AND CONDITIONS FOR
CONTRACTS USING ARRA FUNDS

- vi. Program source;
 - vii. An award title descriptive of the purpose of each funding action;
 - viii. The location of the entity receiving the subcontract;
 - ix. The primary location of the subcontract, including the city, state, congressional district and country; and
 - x. A unique identifier of the entity receiving the sub-contract and the parent entity of Contractor, should the entity be owned by another.
 - xi. The names and total compensation of the five most highly compensated officers of the company if it received: 1) 80% or more of its annual gross revenues in Federal awards; and 2) \$25M or more in annual gross revenue from Federal awards.
- e. For any subcontracts of less than \$25,000 or to individuals, the information required above may be reported in the aggregate and requires the certification of an authorized officer of Contractor that the information contained in the report is accurate.
- f. Any other information reasonably requested by the ANTHC or required by state or federal law or regulation.

Standard data elements and federal instructions for use in complying with reporting requirements under Section 1512 of the ARRA, are pending review by the federal government, and were published in the Federal Register on April 1, 2009 [74 FR 14824], and are to be provided online at www.FederalReporting.gov. The additional requirements will be added to the contract(s).

10.SUBRECEIPIENT REQUIREMENTS: Contractor agrees that it shall include these supplemental terms and conditions, including this requirement, in any of its subcontracts in connection with projects funded in whole or in part with funds available under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

11.WAGE REQUIREMENTS

Contractor agrees that, in accordance with Section 1606 of the ARRA, both it and its subcontractors shall fully comply with this section in that, notwithstanding any other provision of law, and in a manner consistent with the other provisions of the ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded in whole or in part with funds available under the ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality, as determined by the United States Secretary of Labor.

12.WHISTLEBLOWER PROTECTION

Contractor agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-federal Contractor of ARRA funds, including the ANTHC, and all contractors of the ANTHC, from discharging, demoting or otherwise

SUPPLEMENTAL TERMS AND CONDITIONS FOR
CONTRACTS USING ARRA FUNDS

discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of:

- (1) gross mismanagement of a contract relating to ARRA funds;
- (2) a gross waste of ARRA funds;
- (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds;
- (4) an abuse of authority related to implementation or use of ARRA funds; or
- (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds.

PLEASE NOTE THAT COMPLIANCE WITH APPLICABLE SECTIONS OF THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) WILL BE STRICTLY ENFORCED BY THE FEDERAL GOVERNMENT. THEREFORE, ALL CONTRACTORS AND SUBCONTRACTORS SHOULD BECOME FAMILIAR WITH THE SPECIFIC TERMS AND REPORTING REQUIREMENTS OF ARRA AS MAY BE APPLICABLE TO ARRA FUNDS RELATED TO THIS CONTRACT.