

Informal Request for Proposal

UAF Procurement & Contract Services



IRFP # 09Q0048SAS

PROFESSIONAL SERVICES:
Telecommunications baseline
analysis with strategic
technology and business plan.

Issued by:

Scott A. Snedden

Significant Information:	
Issue Date	November 26, 2008
Teleconference 800-893-8850 participant pin: 9298674	December 9, 2008 at 10:00 A.M.
Submittal Deadline	December 16, 2008 at 5:00 P.M. ADT

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INSTRUCTIONS TO OFFERORS

1. Offerors shall carefully review this solicitation without delay, for defects and questionable or objectionable matter. Questions, objections, or comments must be brought to the attention of purchasing agent. A protest filed based upon any omission, error, or the context of the solicitation will be disallowed if not brought to the attention of the purchasing agent prior to the scheduled IRFP submittal deadline. All verbal contact must be followed up with written notification.
2. The University reserves the right to accept or reject any and all IRFPs and to waive any informalities in the IRFP, and, unless otherwise specified by the offeror, to accept any or all item(s) in the IRFP.
3. The IRFP does not obligate the University to pay any costs incurred in the preparation or submission of such IRFPs, or to purchase or contract for material and/or services.
4. All IRFPs shall be offered F.O.B. Destination.
5. All equipment quoted shall be new and of the manufacturer's current model unless otherwise specified.
6. Use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.
7. Descriptive literature, brochures and/or data must accompany the quote when a substitute, but "equal" is offered. The University of Alaska will be the sole judge in determining "equals" in regard to price, quality, and performance.
8. Samples of items, when requested must be furnished free of expense to the University and if not destroyed by testing, will be returned at the offeror's request and expense immediately following award.
9. Time of proposed delivery must be stated in defined terms. If time varies for different items, the offeror shall so state.
10. In case of error in the extension of prices in the IRFP, the unit prices will govern. Written unit prices shall govern over a numeric unit price when both are present or called for by the quote schedule.
11. MULTIPLE, ALTERNATE, OR CONDITIONED OFFERS: Unless specifically allowed, multiple or alternate offers, or IRFPs conditioned upon receiving award of all or a portion of this and/or another contract shall be deemed nonresponsive and shall be rejected.
12. BASIS OF AWARD: Unless otherwise stated in the IRFP, award will be to the offeror with the highest ranked proposal whose proposal, conforming to all requirements of this IRFP, is/are determined to be the most advantageous to the University.
13. ANTICOMPETITIVE PRACTICES: Vendors certify by submittal of their IRFP that the prices submitted have been independently arrived at and without collusion.
14. ALASKA BIDDER PREFERENCE: IRFPs shall be awarded to a firm that qualifies as an Alaska Bidder if their IRFP is no more than five (5) percent higher than the lowest non-resident's rate quoted.
15. STATE CERTIFIED EMPLOYMENT PROGRAMS PREFERENCE: A ten percent (10%) preference shall be applied to quotes received from any state certified employment program.
16. ALASKA PRODUCT PREFERENCE: In the evaluation of the quote, Class I Alaskan products will be given a three percent (3%) preference; Class II products a five percent (5%) preference; and Class III products a seven percent (7%) preference. Offerors claiming this preference shall submit with their quote certification from the State of Alaska to substantiate their claim. Failure to submit such certification will result in no preference being granted.
17. APPLICATION OF PREFERENCE: If both the Alaska bidder's preference or the employment program preference and the Alaska product's preference apply, the procurement officer shall apply either the bidder's preference or employment program preference first and the products preference second.
18. BUSINESS CLASSIFICATION: The University of Alaska offers an equitable opportunity to small businesses and small businesses owned and controlled by the socially and economically disadvantaged, and to women owned businesses. The correct classification shall be entered in the space provided on this document. In the case of tie offers, equal in all terms, these classifications will be used to determine the successful offeror in accordance with University

Proposal Format

The Department wishes to discourage unnecessarily lengthy and costly proposal preparation; however, all proposals must contain the following information in the following format. Proposals should be limited to the requested information and shall consist of three parts – **Cover Letter, Response to Evaluation Criteria, & Cost Proposal. The proposal must include proof of having met minimum requirements.** Include a letter of transmittal containing the complete name; mailing address of the firm, email address and telephone number of the contact person for the proposal. Alaska Business License number (or a statement that the offeror will obtain an Alaska Business License prior to award of contract), a statement confirming that the proposal is valid for ninety (90) days from the closing date for receipt of proposals and a statement relating to any perceived or potential conflict of interest.

Evaluation Criteria

All proposals meeting the administrative requirements of the RFP will be forwarded to the technical evaluation committee and subjected to an evaluation of technical acceptability using the following criteria. The weighting of the technical evaluation criteria is also shown. The total weight of all technical criteria is 100.

The individual members of the evaluation committee will rate each of the above criteria for each offeror's technical proposal on a scale of 1 to 10. The scaled rating multiplied by the weight will provide the weighted score for each criterion. The sum of the weighted scores for each proposal will result in a total weighted score from each member of the evaluation committee. The total weighted scores of all evaluators will be summed to determine an average total weighted score for each proposal. A ranking, from highest score to lowest score, of the technical proposals will be made based on the average total weighted score for each proposal.

The University provides the above weights to advise the Offeror of the relative importance assigned to the criteria. The scaled scoring is provided as an aid to the evaluators in assigning a tangible expression of their assessment of the Offer relative to each technical criterion and to identify an Offer's deficiencies and weaknesses. Based upon the results of the scoring the University may seek clarifications from all offerors in the competitive range. The competitive range shall include all offers receiving both a minimum score of 500 points in the technical evaluation AND, in sole discretion of the procurement officer, achieving a technical score high enough to remain under consideration for award when ranked with other offers received. This is not a strict mathematical formula and may not be challenged on that basis except in the case of obvious arithmetic errors.

Concurrently, the sealed Rate Response Forms will be opened by a responsible procurement officer. The procurement officer will coordinate the price ranking of the proposals. The ranking of the Rate Response Forms and the forms themselves will be provided to the evaluation committee after the completion of the technical evaluation.

The evaluation committee will then begin its overall evaluation of proposals in order to make a determination of the Offeror(s) whose proposal offers the overall best value. The committee will follow the procedures outlined below to make its determination of best value.

If the Offeror with the highest technical score is also the Offeror with the lowest price, then this Offeror's proposal represents the best value and the University may award to this Offeror. However, if the Offeror with the highest technical score is not also the Offeror with the lowest price then the evaluation committee will compare proposals in a series of paired comparisons. In comparing two proposals, if one proposal has both a higher technical score and the lower price, then the University will consider that proposal to be a better value. If one proposal has the higher technical score, but a higher price than the other proposal, then the evaluation committee will determine if the difference in the technical proposal is worth the difference in price. If the evaluation committee decides that the better technical proposal is worth the higher price, then the University will consider the Offeror with the better technical proposal and the higher price to be the better overall value. If the University decides that the better technical proposal is not worth the higher price, then the University will consider the Offeror with the lower technical proposal score and the lower price to be the better value. The evaluation committee will continue to make paired comparisons until it has identified the Offeror(s) whose proposal represents the best overall value.

Oral Presentations

The University may, at its discretion, request oral and/or written clarifications, or conduct oral and/or written discussions with some or all Offerors from the date of RFP closing to the time of issuance of the Notice of Intent to Award. The University reserves the right to make contract award without requesting clarification and/or discussions. Therefore, each initial proposal shall contain the Offeror's best terms from a price and technical standpoint.

Best and Final Offer

The University reserves the right to request clarifications and request a best and final offer (BAFO) from each Offeror within the competitive range. However, the University reserves the right to make award based exclusively on the submitted proposals without seeking a BAFO.

Technical Evaluation

Required	Criteria	Weight
☐	Understanding of the Project	<u>5</u>
Offerors must provide a comprehensive narrative statement that illustrates their understanding of the requirements of the project and the project schedule.		
Required	Criteria	Weight
☐	Methodology Used for the Project	<u>30</u>
Offerors shall provide a comprehensive narrative statement that sets out the methodology they intend to employ and illustrates how their methodology will serve to accomplish the work and meet the University's project schedule. This statement shall include a detailed project plan to include a breakdown of all tasks to include a technical and business plan.		
Required	Criteria	Weight
☐	Experience and Qualifications (of the firm and individuals assigned to this project)	<u>40</u>
Offerors shall provide an organizational chart specific to the personnel assigned to accomplish the work called for in this RFP, illustrate the lines of authority, designate the individual responsible and accountable for the completion of each component and deliverable of the RFP. Offerors shall provide a narrative description of the organization of the project team. Offerors shall provide a personnel roster that identifies each person who will actually work on the contract and provide the following information about each person listed: ✓ title ✓ resume ✓ experience with higher education institutions ✓ business modeling, strategic planning, with capital and lifecycle budgeting experience ✓ technology experience to include Nortel (Option 81C) phone system, PBX, VoIP multi-vendor solutions, variety of telecommunications solutions, enterprise IT architecture & infrastructure. ✓ list affiliations with third-party hardware and software vendors.		
Required	Criteria	Weight
☐	References (working relationships on previous projects)	<u>5</u>
Offerors shall provide a list of three current or former customers (preferably higher education institutions) for whom they have provided similar goods or services. The customer names, phone numbers and point of contacts shall be included. The University may contact these references to evaluate the Offerors' past performance.		
Required	Criteria	Weight
☐	Conformity with Project Schedule	<u>20</u>
Submit a Gantt chart or Pert diagram that outlines the project activities and schedule.		
	TOTAL OF ALL WEIGHTS	100

Cost Proposal

A. Consulting fees (lump sum) to perform each aspect of the project plan:

<i>Item</i>	<i>Description</i>	<i>Unit</i>	<i>Consulting Fee</i>
1	Technical Plan	Lump Sum	\$
2	Business Plan	Lump Sum	\$
		Total Cost→	\$

Fees based on job service categories and hourly rates for additional duties The price offered is a firm fixed price which includes all plant, labor, materials, travel and equipment to provide the services specified herein. No additional fees, including set-up fees, shall be charged.

Supplemental Consulting Services

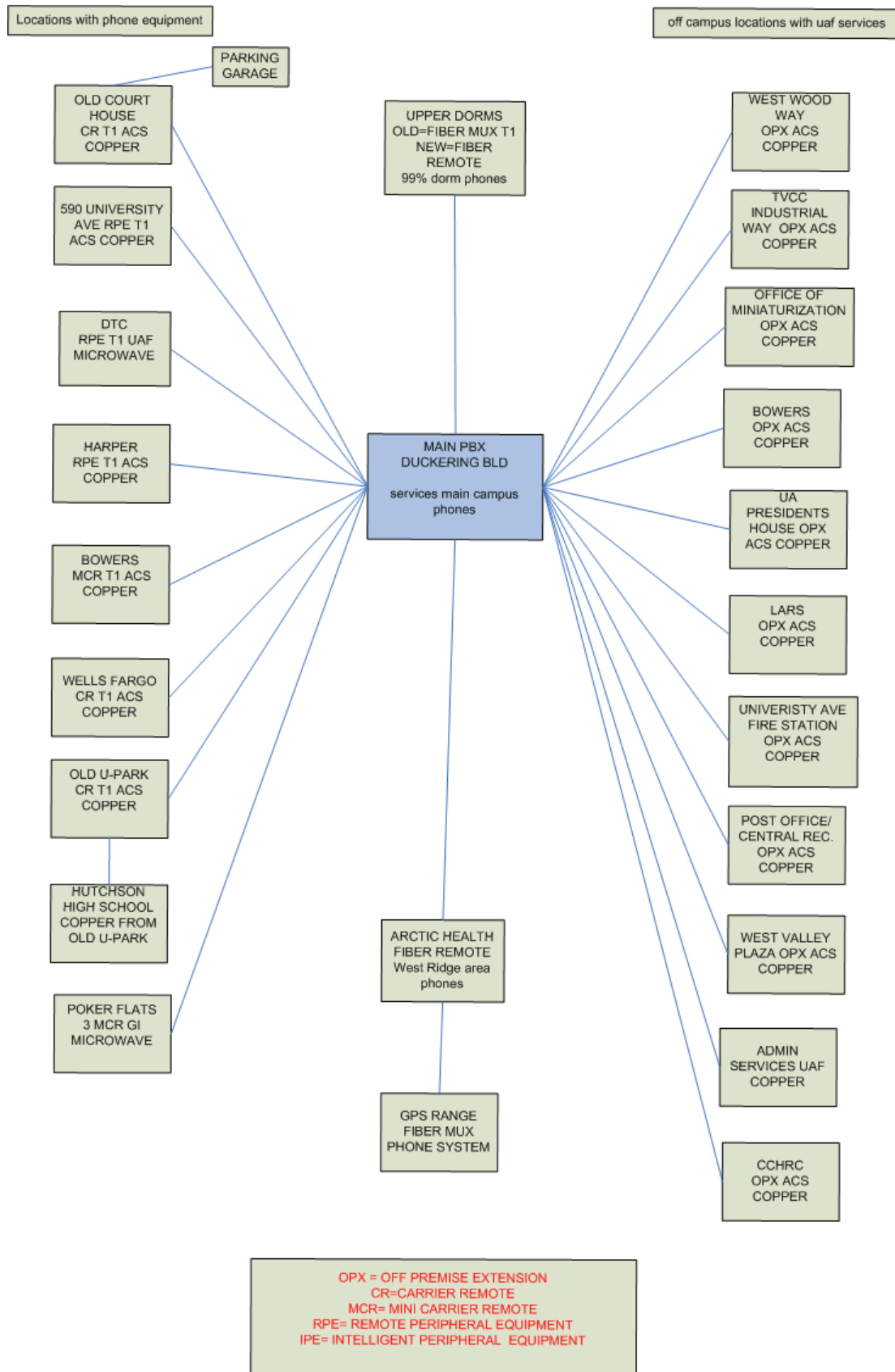
Provide an hourly fee schedule for any additional member of the team proposed, including names or titles as necessary to reflect the services you may provide that are not indicated on the previous table. Hourly rates will not be used in the evaluation process but are requested in the event services are necessary.

Job Service Category, Name and Title	Hourly Rate
	\$
	\$
	\$
	\$
	\$

Note: The hourly fees provided above must include all labor, equipment, materials, and costs to perform the services outlined in this RFP. No additional charges, except incidental reimbursable costs and travel expenses including lodging, transportation, and per diem will be allowed.

C. Break down all other costs, for example travel and per diem costs.

Reference University travel policy at <http://www.alaska.edu/controller/travel/> .



Statement of Work

Preface:

The University of Alaska, Fairbanks (UAF) is in the planning phase of upgrading UAF's Telephone System. Currently, our telephone equipment consists of a Nortel Telephone Switch (Option 81c) utilizing Meridian Mail for voice mail. In addition to the main campus in Fairbanks, AK, there are several remote, community campuses that connect to it (and which will need to be integrated into any planned upgrade), specifically: Bethel, Dillingham, King Salmon, Kodiak, Kotzebue, and Nome. It has been proposed that we migrate to a Voice over Internet Protocol (VoIP) Telephone System. We need a Technical Plan and a Business Plan to enable us to prepare an Implementation Plan before we can proceed with this project.

Background:

Currently, UAF's cable plant is obsolete and not in compliance with current industry standards, specifically: those published by the Telecommunications Industry Association/Electronic Industries Alliance (TIA/EIA). UAF's current phone system is approximately 10 years old with portions of older remote peripheral equipment still in use at some of the off-campus locations. We currently service 6,155 phone lines (both on and off the main campus). There are approximately 29 on-campus office/classroom buildings, 8 residence halls, 9 off-campus locations that have phone electronics, and 11 locations served by off-premise extension lines through the local phone company.

Technical Plan Description:

Technical Plan will include, but is not limited to: (a) Evaluation of the current state-of-the-art Telephone Switch technology in the industry (research to include, but not limited to: VoIP, IP PBX, and Unified Messaging); (b) Survey of all telephone/hub rooms on/off campus along with a review of the inside/outside plant cabling (both copper and fiber) plus requirements for future capability and growth; and (c) Recommendation of specific vendor(s) and product(s) that would be applicable to UAF.

Business Plan Description:

A Business Plan will be consistent with the Technical Plan and will include, but is not limited to: (a) Financial considerations applicable to UAF's acquisition of a VoIP-enabled Telephone Switch, namely: Should we buy or lease the equipment? If leased, what should be the lease duration and terms? If purchased, what would be the useful life of the equipment? Will there be sufficient upgrade options for the next 10 years in terms of capacity and features?; (b) Capital and Life-Cycle Operating Cost budgets for each identified technology alternative; and (c) Recharge considerations applicable to utilizing the new Telephone Switch.

It is deemed important that an external organization (working with UAF staff) prepare both plans to present an unbiased report to UAF management.

Timeline:

In addition, time is of the essence in the selection of an appropriate consulting organization to prepare the indicated plans. Key timeline milestones are delivery of the Draft Technical Plan, Draft Business Plan (April 1, 2009) and Final Technical Plan, Final Business Plan (June 15, 2009).

Deliverables:

(1) Draft of the Technical Plan and Business Plan are due by April 1, 2009; (2) Finals of the Technical Plan and Business Plan are due by June 15, 2009.

Ownership

All material produced in whole or in part under this contract shall remain the property of the University of Alaska during and after completion of the contract.

Appendix A:

PROFESSIONAL SERVICES CONTRACT

PROFESSIONAL SERVICES CONTRACT

between

and

UNIVERSITY OF ALASKA FAIRBANKS

Procurement & Contract Services

P.O. Box 757940

Fairbanks, AK 99775-7940

(Contractor)

(Address)

(City, State, Zip Code)

(Contract Number)

(Date of Contract)

The UNIVERSITY OF ALASKA, hereafter referred to as the CONTRACTING AGENCY and _____ hereafter referred to as the CONTRACTOR mutually agree as follows. This Contract sets forth the terms and conditions under which the CONTRACTING AGENCY proposes to use the services of the CONTRACTOR for

(Short Name of Services or Project)

This is a Contract of the type indicated by a check mark below:

- ☐ This is a fixed price type contract. (Applicable if marked) ☐ This is a cost-reimbursement type contract (Applicable if marked)

1. SCOPE OF WORK.

The work or service to be performed by the CONTRACTOR for the CONTRACTING AGENCY under this Contract (hereinafter collectively referred to as "Work") is more fully described in Schedule A attached hereto.

2. PERIOD OF PERFORMANCE

Performance of the Work shall commence on _____ or the date specified in University of Alaska Purchase Order, whichever is later, and continue through _____, unless terminated earlier under the provisions of this Contract.

This Contract may be renewed or extended, subject to funding limitations and other provisions specified herein.

3. AMOUNT OF CONTRACT.

In consideration for performance of the Work described herein, the CONTRACTING AGENCY will pay the CONTRACTOR a sum not to exceed

(Total Amount of Contract)

4. CONTRACT ADMINISTRATION. The CONTRACTING AGENCY'S Contract Administrator for this Contract is

Mailing Address

(Typed or Printed Name)

Phone (907)
:

FAX: (907)

5. FUNDING. Issuance of a University of Alaska Purchase Order shall constitute notice of funding for the Work covered by this Contract. Funding for this Contract shall be in accordance with the following provision.

FUNDING - CONTRACT SUBJECT TO THE AVAILABILITY OF FUNDS

(a) **Unless this Contract is accompanied by a University of Alaska Purchase Order, funds are not presently available for this Contract.** The CONTRACTING AGENCY'S obligation under this Contract is contingent upon the availability of funds from which payment for Contract purposes can be made. No legal liability on the part of the CONTRACTING AGENCY for any payment may arise until funds are made available to the University of Alaska for this Contract and until the CONTRACTOR receives notice of such availability, confirmed by issuance of a purchase order by the CONTRACTING AGENCY.

(b) If the Contract performance covers a period spanning more than the current fiscal year, the CONTRACTING AGENCY is not liable for payments in unfunded future years until funds are confirmed by a purchase order covering such periods as required by this provision. The period covered by funding will be specified in the applicable University of Alaska Purchase Order.

6. INVOICES AND TERMS OF PAYMENT.

(a) Payments for any good or service furnished under this Contract will be due 30 days after (i) receipt and acceptance of goods and/or services, (ii) receipt of proper billing, or (iii) receipt and approval of all documents required by the Contract, by the CONTRACTING AGENCY, whichever is latest. The provisions of this paragraph do not apply if a payment is in dispute under the Contract.

(b) Invoices will be sent to the address shown in the applicable University of Alaska Purchase Order. Payments will be sent to the address indicated on the CONTRACTOR'S invoice.

(c) Payment is considered made on the date when the payment is personally delivered to the CONTRACTOR or the agent of the CONTRACTOR, or on the date the payment is mailed.

(d) The CONTRACTOR on receiving final payment will execute a release, if required by the CONTRACTING AGENCY, in full of all claims against the University of Alaska arising out of or by reason of the services and work products furnished under this Contract.

7. PERSONNEL. The CONTRACTOR shall ensure that its employees, agents, and subcontractors observe and comply with applicable laws, rules, regulations, ordinances, and procedures and do not engage in activities objectionable to government authorities. The CONTRACTOR at its own expense will replace any of its employees, agents or subcontractors (1) whose conduct or behavior may be reasonably considered by the CONTRACTING AGENCY to be inimical to the maintenance of harmonious relations between the CONTRACTING AGENCY and such authorities, or (2) whom the CONTRACTING AGENCY may consider to be technically incompetent or otherwise objectionable. The CONTRACTOR shall include this provision, including this statement in every subcontract

8. APPROVAL OF SUBCONTRACTORS.

(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.

9. SAFETY. The CONTRACTOR shall comply with all federal, state and municipal laws, rules, regulations, and ordinances which are now or may become applicable to operations covered by this Contract or arising out of the performance of such operations, and shall comply, but not by way of limitation, with the Occupational Safety and Health Act of 1970 and will ensure that its employees, agents, and subcontractors, observe and comply with such laws, rules, regulations and procedures and do not engage in activities which are inconsistent with this provision. The CONTRACTOR shall include this provision, including this statement in every subcontract.

10. NONWAIVER. Either party's failing to enforce a provision of this Contract does not waive the provision or affect the validity of the Contract or a party's right to enforce any provision of the Contract.

11. JURISDICTION AND CHOICE OF LAW. Any civil action arising from this Contract shall be brought in the trial courts in the city nearest the CONTRACTING AGENCY department involved in the dispute. The law of the State of Alaska governs this Contract.

12. SEVERABILITY. Any provision of this Contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the Contract.

13. CONFLICT OF INTEREST. This Contract is subject to the provisions of the Alaska Executive Branch Ethics Act AS 39.52 et seq, University of Alaska Procurement Regulations, Alaska Administrative Code 23 AAC 05, and the CONTRACTING AGENCY may cancel this Contract if any person significantly involved in negotiating, drafting, securing or obtaining this Contract for or on behalf of the CONTRACTING AGENCY becomes an employee in any capacity of any other party or a consultant to any other party with reference to the subject matter of this Contract while the Contract or any extension hereof is in effect.

14. AUDIT. It is understood that if the primary source of the CONTRACTING AGENCY'S funds for this project is Federal, the Contract is subject to Federal audit, including access to, availability, and examination of CONTRACTOR records in accordance with the Contract General Provisions.

15. RENEWAL, EXTENSION, AND MODIFICATION OF CONTRACT. Any renewal, extension, or other change to this Contract shall not be effective unless approved in writing by the Procurement Officer for the University of Alaska.

16. PUBLICITY. The CONTRACTOR shall not release any information for publication or advertising purposes relative to the services furnished under this Contract without the prior written consent of the CONTRACTING AGENCY.

17. AGREEMENT. This Contract consists of this written agreement, clauses (1) through (17), and attachments as listed herein. The persons whose signatures are affixed and dated below, possess requisite authority to bind the parties to the obligations of this Contract.

Attachments (As indicated by check marks)

1. Appendix "A" Scope of Work

2. Appendix "B" Schedule of Items or
Services

3. Special Provisions

4. Professional Services Contract General
Provisions

5. Additional General Provisions

6. Policies of the University of Alaska Board of Regents and University of Alaska Regulations concerning Patents and
Copyrights

7. Other:

This Contract with attachments constitutes the entire agreement between the parties, and supersedes all previous communications, representations, or agreements regarding this subject, whether written or oral, between the parties. The persons whose signatures are affixed and dated below, possess requisite authority to bind the parties to the obligations of this Contract.

CONTRACTOR: _____

Tax I.D. No: _____

By: _____

Date: _____

(Authorized Signature)

(Name and Title of Signer -- Type or Print)

UNIVERSITY OF ALASKA FAIRBANKS

By: _____

Date: _____

(Procurement Officer Signature)

(Name and Title of Signer -- Type or Print)

Appendix B: Terms and Conditions

PROFESSIONAL SERVICES CONTRACT

GENERAL PROVISIONS

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1. Utilization of Small Business, Minority-owned, Woman-owned, and Economically Disadvantaged Small Business Concerns and Labor Surplus Area Firms
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3. Termination for Default; Damages for Delay; Time Extensions (Fixed Price Contract)
4. Anti-Kickback Provisions and Covenant Against Contingent Fees
5. Contract Work Hours and Safety Standards Act
6. Clean Air and Water
7. Independent Contractor
8. Indemnification and Hold Harmless Agreement
9. Insurance
10. Access to Facilities and Inspection by Contracting Agency
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14. Ownership of Work Products
15. Patents and Copyrights
16. Assignment
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20. Gratuities
21. Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Lower Tier Covered Transactions
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23. Contract Administration
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25. Disputes
26. Changes (Fixed Price Contract)
27. Price Adjustment (Fixed Price Contract)
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30. Payments to the Contractor (Cost-Reimbursement Contract)
31. Excusable Delays, Extension of Performance Period (Cost Reimbursement Contract)
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33. Definitions
34. Alterations In General Provisions

1. UTILIZATION OF SMALL BUSINESS, MINORITY-OWNED, WOMAN-OWNED, AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS AND LABOR SURPLUS AREA FIRMS

In the event the Contractor subcontracts any part of the work to be performed under this contract, the Contractor agrees to make good faith efforts to utilize small business concerns; woman-owned, minority-owned, and other economically disadvantaged small business enterprises; and federally identified labor surplus area firms to the maximum extent consistent with the efficient performance of this contract. The Contractor shall include this provision, including this statement, in every subcontract.

2. TERMINATION FOR CONVENIENCE (FIXED PRICE CONTRACT)

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

The Procurement 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.

3. 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 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 Procurement Officer may authorize in writing) after receipt of notice from the Procurement 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 Procurement 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 Procurement 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 Procurement 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 Procurement 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) As used in subsection (c) of this provision, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.

(g) 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.

4. ANTI-KICKBACK PROVISIONS AND COVENANT AGAINST CONTINGENT FEES

(a) The Contractor warrants that regarding this contract, neither the Contractor, nor any of its employees, agents, or representatives has violated, is violating, or will violate 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 contract price or allowable compensation the full amount of such commission, percentage, brokerage or contingent fee.

(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.

5. 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 applicable federal labor standards provisions of the Contract Work Hours and Safety Standards Act - Overtime Compensation (40 U.S.C.327-333).

6. 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, of 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.

7. 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 workers' 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 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.

8. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

(a) The Contractor shall indemnify, save harmless and defend the Contracting Agency, its Board of Regents, officers, agents, and employees from all liability, including costs and expenses, for all actions or claims resulting from injuries or damages sustained by any person or property arising directly or indirectly as a result of any error, omission, or negligent or wrongful act of the Contractor, subcontractor, or anyone directly or indirectly employed by them in the performance of this contract.

(b) All actions or claims including costs and expenses resulting from injuries or damages sustained by any person or property arising directly or indirectly from the Contractor's performance of this contract which are caused by the joint negligence of the Contracting Agency and the Contractor shall be apportioned on a comparative fault basis; however, any such joint negligence on the part of the Contracting Agency must be a direct result of active involvement by the Contracting Agency.

9. INSURANCE

(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 all 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 shall provide and maintain, for all employees of the Contractor engaged in work under this contract, Workers' Compensation Insurance as required by the laws of the state where the work is to be performed. The Contractor shall be responsible for Workers' Compensation Insurance for any subcontractor who directly or indirectly provides services under this contract. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection not less than \$100,000 per person, \$100,000 per occurrence. Where applicable, coverage for all federal acts (i.e., U.S.L. & H and Jones Act) must also be included.

(2) Comprehensive (Commercial) General Liability Insurance: With coverage limits not less than \$300,000 combined single limit per occurrence and annual aggregates where generally applicable and shall include premises-operations, independent contractors,

products/completed operations, broad form property damage, blanket contractual, and personal injury endorsements.

(3) Comprehensive Automobile Liability Insurance: Covering all owned, hired, and non-owned vehicles with coverage limit not less than \$100,000 per person/300,000 per occurrence bodily injury and \$50,000 property damage.

(4) 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:

Contract Amount	Minimum Required limits
Under \$100,000	\$100,000 per Occurrence/Annual Aggregate
\$100,000-\$499,999	\$250,000 per Occurrence/Annual Aggregate
\$500,000--\$999,999	\$500,000 per Occurrence/Annual Aggregate
\$1,000,000 or over	Negotiable--Refer to Contracting Agency,

(Specific Limits are set forth as Alterations in General Provisions.)

(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 beginning work and must provide for a 30-day prior notice to the Contracting Agency of cancellation, non-renewal, or material change. 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.

10. ACCESS TO FACILITIES AND INSPECTION BY UAF

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.

11. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

The Contractor agrees to comply with all applicable state and federal rules governing equal employment opportunity and non-discrimination, including, but not limited to: E.O. 11246 and E.O. 11625 (EEO), 41 CFR 60 (EEO), 49 CFR 21 (Non-Discrimination). The Contractor shall include this provision in all subcontracts.

12. AUDIT, EXAMINATION, AND RETENTION OF RECORDS

(a) 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 respect to all matters covered by this contract for a period ending three (3) years after date of final payment under this contract 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 or the Comptroller General may reasonably require. The Contractor shall permit the Contracting Agency, the Comptroller General, 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.

(b) 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.

(c) The Contractor shall include the substance of this provision, including this statement, in all subcontracts.

13. DISSEMINATION OF INFORMATION

(a) There shall be no dissemination or publication, except within and between the Contracting Agency, the Contractor, and any subcontractors, of information developed under this contract without prior written approval of the Contracting Agency's Contract Administrator.

(b) Alaska Statute AS 14.40.453 provides for the confidentiality of research conducted by the University of Alaska. The public records inspection requirements of AS 09.25.110 - 09.25.121 do not apply to writings or records that consist of intellectual property or proprietary information received, generated, learned, or discovered during research conducted by the University of Alaska or its agents or employees until publicly released, copyrighted, or patented, or until the research is terminated, except that the university shall make available the title and a description of all research projects, the name of the researcher, and the amount and source of funding provided for each project. (AS 14.40.453)

14. OWNERSHIP OF WORK PRODUCTS

Work products and non-expendable property produced or purchased under this contract are the property of the University of Alaska, 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.

15. PATENTS AND COPYRIGHTS

(a) Patent Rights and Copyright of Works Under Contract:

(1) Any discovery or invention resulting from work carried on with the funding of this contract shall be subject to the applicable provisions of the University of Alaska regulations and Board of Regents Policies.

(2) University of Alaska regulations and Board of Regents Policies shall govern regarding copyrightable materials developed in the course of or under this contract.

(b) Patent Indemnity and Copyright Infringement:

The Contractor shall indemnify and save harmless the University of Alaska, its Board of Regents, and its officers and employees from liability of any nature or kind, including costs 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 University of Alaska. 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 anyway involved in the work.

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

16. ASSIGNMENT

(a) Rights under this contract are not transferable, or otherwise assignable without the express prior written consent of the University of Alaska Chief Procurement Officer.

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

17. GOVERNING LAWS

This contract is governed by the laws of the State of Alaska, federal laws, local laws, regulations, and ordinances applicable to the work performed. The Contractor shall be cognizant and shall at all times observe and comply with such laws, regulations, and ordinances which in any manner affects those engaged or employed in the performance, or in any way affects the manner of performance, of this contract.

18. 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.

19. 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; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

20. GRATUITIES

(a) If the Contracting Agency finds after a notice and hearing 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, the State of Alaska, or any government agency in an attempt to secure a contract or subcontract 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 existence of the facts on which the Contracting Agency bases such findings shall be in issue and 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.

21. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - LOWER TIER COVERED TRANSACTIONS

The Contractor warrants that neither it nor any of its principals is presently debarred, suspended, proposed for debarment, or declared ineligible, or voluntarily excluded from participation in this transaction by any federal or state department or agency. The Contractor shall insert this provision in all subcontracts.

22. 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) The basic text portion of the Contract;
- (b) Appendix "B" Schedule of Items or Services;
- (c) General Provisions
- (d) Additional General Provisions;
- (e) Special Provisions;
- (f) Appendix "A" - Scope of Work
- (g) Other attachments to the Contract.

23. CONTRACT ADMINISTRATION

(a) The Contract Administrator is responsible for the technical aspects of the project and technical liaison with the Contractor. The Contract Administrator is also responsible for the final inspection and acceptance of all work required under the contract, including the review and approval of any and all reports, and such other responsibilities as may be specified in the Scope of Work or elsewhere in the contract.

(b) The Contract Administrator may be changed by the Contracting Agency at any time. The Contractor will be notified in writing by the Procurement Officer of any changes.

(c) The Contract Administrator is not authorized to make any commitments or otherwise obligate the Contracting Agency or authorize any changes which affect the contract price, terms, or conditions. No changes to price, terms, or conditions shall be made without the express prior authorization of the Procurement Officer.

(d) All Contractor requests for changes shall be in writing and shall be referred to the Contracting Agency Procurement Officer.

24. TAXES

(a) As a condition of contract performance, the Contractor shall pay when due all federal, state and local taxes and assessments applicable to the Contractor. The Contractor shall be responsible for

its subcontractor's compliance with the requirements of this provision, including this statement, in every subcontract.

(b) The University of Alaska is a tax-exempt institution.

25. DISPUTES

(a) Any disputes which may arise between the Contractor and the UAF, in any manner, concerning this contract, shall be resolved in accordance with Alaska Statutes 36.30620-632, AS 36.30.670-695, and University of Alaska regulations and procedures.

(b) Penalties for making misrepresentations and fraudulent claims relating to a procurement or contract controversy are prescribed in AS 36.30.687.

26. CHANGES (FIXED PRICE CONTRACT)

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

(a) The Procurement 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 Procurement 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 Procurement Officer decides that the facts justify it, the Procurement 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 therefor have been authorized in writing by the Procurement Officer.

27. 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 Procurement 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 Procurement 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 to the requirements of Alaska Statutes 36.30 and University of Alaska Procurement Regulations 23 AAC 05.

28. CHANGES (COST-REIMBURSEMENT CONTRACT)

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

(a) The Procurement 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 Procurement Officer shall make an equitable adjustment in the (1) estimated cost, performance or completion schedule, or both; (2) amount of any fixed fee; and (3) 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 Procurement Officer decides that the facts justify it, the Procurement 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.

29. PAYMENTS TO THE CONTRACTOR (FIXED PRICE CONTRACT)

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

(a) 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 deductions, 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.

(b) 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.

(c) The Contractor shall not perform any services or deliveries of products without a purchase order or other written notice to proceed with the work. 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 applicable purchase order. The Contracting Agency will exert every effort to obtain required approvals and to issue purchase orders in a timely manner.

(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 Procurement Officer that the performance called for and or price invoiced is not in compliance with the terms and conditions of the contract.

30. 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.

(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 the federal acquisition regulations, 48 CFR, Subpart 31.3 and OMB circular A-21 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.

31. EXCUSABLE DELAYS, EXTENSION OF PERFORMANCE PERIOD (COST REIMBURSEMENT CONTRACT)

(This provision is applicable only to cost-reimbursement 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.

32. TERMINATION OR SUSPENSION OF WORK (COST-REIMBURSEMENT CONTRACT)

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

(d) 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.

33. DEFINITIONS

(a) **CHANGE ORDER** - A written order signed by the Procurement Officer, directing the Contractor to make changes that the Changes provision of this contract authorizes the Procurement Officer to order without the consent of the Contractor.

(b) **CONTRACT ADMINISTRATOR** - The individual appointed to administer the contract for the Contracting Agency.

(c) **CONTRACT MODIFICATION** - A written alteration in specifications, delivery point, rate of delivery or performance, period of performance, price, quantity or other provisions of the contract accomplished by mutual action of the parties to the contract.

(d) **CONTRACTOR** - The entity providing services under this contract.

(e) **NOTICE TO PROCEED** - Written authorization from the Contracting Agency to the Contractor to provide all or specified services in accordance with the contract.

(f) **PROCUREMENT OFFICER** - The person who signed this contract on behalf of the University of Alaska, and includes a duly appointed successor or authorized representative.

(g) **SCOPE OF WORK** - Services and work products required of the Contractor by this contract.

(h) **SUBCONTRACTOR** - Entity engaged to provide a portion of the products or services by contract or purchase order with the Contractor which is a party to this contract. The term includes subcontractors of all tiers.

34. 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.