

# STATE OF ALASKA INVITATION TO BID (ITB)



## NUTRITIONAL ANALYSIS TESTING

2022-0813

AUGUST 18, 2021

### LABORATORY TO PERFORM ANALYSES

**IMPORTANT NOTICE:** You must register with the procurement officer listed below in order to receive notification of subsequent amendments to the solicitation. Failure to register with the procurement officer may result in the rejection of your offer.

**BIDDER'S NOTICE:** By signature on this form, the bidder certifies that they comply with the following:

- (1) the bidder has a valid Alaska business license or will obtain one prior to award of any contract resulting from this ITB. If the bidder possesses a valid Alaska business license, the license number must be written below or one the following forms of evidence submitted with the bid:
  - a canceled check for the business license fee;
  - a copy of the business license application with a receipt date stamp from the State's business license office;
  - a receipt from the State's business license office for the license fee;
  - a copy of the bidder's valid business license;
  - a sworn notarized affidavit that the bidder has applied and paid for a business license;
- (2) the price(s) submitted was arrived at independently and without collusion, under penalty of perjury, and that the bidder is complying with:
  - the laws of the State of Alaska;
  - the applicable portion of the Federal Civil Rights Act of 1964;
  - the Equal Employment Opportunity Act and the regulations issued thereunder by the state and federal Government;
  - the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the state and federal government;
  - the bid will remain open and valid for at least 90 days;
  - all terms and conditions set out in this Invitation to Bid (ITB).

If a bidder does not hold an Alaska Business License (1) at the time designated in the ITB for opening the state will disallow the Alaska Bidder Preference. Bids must also be submitted under the name as appearing on the bidder's current Alaska business license in order to receive the Alaska Bidder Preference. If a bidder fails to comply with (2) of this paragraph, the state may reject the bid, terminate the contract, or consider the contractor in default.

NAME Procurement Officer	_____ COMPANY SUBMITTING BID	*DOES YOUR BUSINESS QUALIFY FOR THE ALASKA BIDDER'S PREFERENCE? [ ] YES                      [ ] NO
Phone: (907) TDD: (907)	_____ AUTHORIZED SIGNATURE	*DOES YOUR BUSINESS QUALIFY FOR THE ALASKA VETERAN PREFERENCE? [ ] YES                      [ ] NO
Email:	_____ PRINTED NAME	*SEE ITB FOR EXPLANATION OF CRITERIA TO QUALIFY
_____ ALASKA BUSINESS LICENSE NUMBER	_____ DATE	_____ TELEPHONE NUMBER
_____ FEDERAL TAX ID NUMBER	_____ E-MAIL ADDRESS	

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# SECTION 1. INTRODUCTION & INSTRUCTIONS

## SEC. 1.01 PURPOSE OF THE ITB

The **ALASKA SEAFOOD MARKETING INSTITUTE (ASMI)** is soliciting proposals **ON BEHALF OF THE STATE OF ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION (ADEC), DIVISION OF ENVIRONMENTAL HEALTH FOR THE ANALYSIS OF NUTRIENT CONTENT IN ALASKAN WILD FISH, SHELLFISH, SEA LIFE, AND OTHER SAMPLES. THIS WORK IS TO BE CONTRACTED THROUGH AN ASSOCIATION OF OFFICIAL ANALYTICAL CHEMISTS INTERNATIONAL (AOAC INTERNATIONAL) AND/OR INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO) 17025 APPROVED LABORATORY. FULL PROFILES BASED ON A COMBINATION OF FDA COMPLIANT NUTRIENT DATA AS WELL AS ISOLATED NUTRIENT DATA PERTINENT TO SEAFOOD WILL BE ANALYZED. FOLLOWING FDA REQUIREMENTS FOR LABELING, SALMON, GROUND FISH, MOLLUSKS, ECHINODERMS, AND KELP SAMPLES WILL BE ANALYZED IN THE RAW PRODUCT FORM AND CRUSTACEAN SAMPLES WILL BE ANALYZED IN THE COOKED PRODUCT FORMS REFLECTING COMMERCIALY AVAILABLE ALASKA SEAFOOD PRODUCTS. SAMPLES AND METHODS MUST BE PROCESSED AND ANALYZED ACCORDING TO METHODOLOGIES WHICH WILL ALLOW FOR INTEGRATION WITH OFFICIAL FEDERAL DATABASES.**

## SEC. 1.02 DEADLINE FOR RECEIPT OF BIDS

Bids must be received no later than **2 pm** Alaska Time on **September 9, 2021**, at which time they will be publicly opened. Late bids or amendments will be disqualified and not opened or accepted for evaluation.

## SEC. 1.03 PRIOR EXPERIENCE

In order for a bid to be considered responsive the bidder must meet these minimum prior experience requirements:

- **Facility or owning entity must have been in operation for a minimum of 5 years generating nutritional data according to the Association of Official Analytical Chemists (AOAC) methodology. Similarly accredited methodology such as American Oil Chemists Society (AOCS) approved methodology will be considered by the Offeror but must be approved.**
- **Laboratory must be AOAC International and/or ISO/IEC 17025 accredited and provide valid proof of accreditation.**
- **Facility or owning entity must have at least 5 years of experience with analyzing seafood products.**

A bidder's failure to meet these minimum prior experience requirements will cause their bid to be considered non-responsive and rejected.

## SEC. 1.04 INVITATION TO BID (ITB) REVIEW

Bidders shall carefully review this ITB for defects and questionable or objectionable material. Comments concerning defects and questionable or objectionable material in the ITB should be made in writing and received by the procurement officer at least ten days before the bid opening date. This will allow time for an amendment to be issued if one is required. It will also help prevent the opening of a defective bid, upon which award cannot be made, and the resultant exposure of bidders' prices.

## SEC. 1.05 QUESTIONS PRIOR TO DEADLINE FOR RECEIPT OF BIDS

All questions must be in writing and directed to the procurement officer. The interested party must confirm telephone conversations in writing. Two types of questions generally arise. One may be answered by directing the questioner to a specific section of the ITB. These questions may be answered over the telephone. Other questions

may be more complex and may require a written amendment to the ITB. The procurement officer will make that decision.

## SEC. 1.06 SITE INSPECTION

The state may conduct on-site visits to evaluate the bidder's capacity to perform the contract. A bidder must agree, at risk of being found non-responsive and having its proposal rejected, to provide the state reasonable access to relevant portions of its work sites. Individuals designated by the procurement officer at the state's expense will make site inspection.

## SEC. 1.07 SUBMITTING BIDS

Bids may be emailed to [bmonagle@alaskaseafood.org](mailto:bmonagle@alaskaseafood.org). The email must contain the ITB number in the subject line of the email.

The **maximum** size of a single email (including all text and attachments) that can be received by the state is **20mb (megabytes)**. If the email containing the bid exceeds this size, the bid must be sent in multiple emails that are each less than 20 megabytes and each email must comply with the requirements described above.

Please note that email transmission is not instantaneous. Similar to sending a hard copy bid, if you are emailing your bid, the state recommends sending it enough ahead of time to ensure the email is delivered by the deadline for receipt of bid.

It is the bidder's responsibility to contact the issuing agency by email at [bmonagle@alaskaseafood.org](mailto:bmonagle@alaskaseafood.org) or by phone at 907.465.5570 to confirm that the bid has been received. The state is not responsible for unreadable, corrupt, or missing attachments.

## SEC. 1.08 BID FORMS

Bidders shall use the front page of this ITB and any other forms identified in this ITB for submitting bids. All bids must be signed by an individual authorized to bind the bidder to the provisions of the ITB.

### BIDDER'S CERTIFICATION

By signature on the bid, the bidder certifies that they comply with the following:

- A. the laws of the State of Alaska;
- B. the applicable portion of the Federal Civil Rights Act of 1964;
- C. the Equal Employment Opportunity Act and the regulations issued thereunder by the state and federal government;
- D. the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the state and federal government;
- E. all terms and conditions set out in this ITB;
- F. the price(s) submitted was arrived at independently arrived and without collusion, under penalty of perjury; and
- G. that the bid will remain open and valid for at least 90 days.

If any bidder fails to comply with [a] through [g] of this paragraph, the state reserves the right to disregard the bid, terminate the contract, or consider the contractor in default.

**CONFLICT OF INTEREST**

Each bid shall include a statement indicating whether or not the company or any individuals working on the contract has a possible conflict of interest (e.g., currently employed by the State of Alaska or formerly employed by the State of Alaska within the past two years) and, if so, the nature of that conflict. The procurement officer reserves the right to **consider a bid non-responsive and reject it** or cancel the award if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the contract to be performed by the bidder.

**SEC. 1.09 PRICES**

The bidder shall state prices in the units of issue on this ITB. Prices quoted in bids must be exclusive of federal, state, and local taxes. If the bidder believes that certain taxes are payable by the state, the bidder may list such taxes separately, directly below the bid price for the affected item.

**SEC. 1.10 ASSISTANCE TO BIDDERS WITH A DISABILITY**

Bidders with a disability may receive accommodation regarding the means of communicating this ITB or participating in the procurement process. For more information, contact the procurement officer no later than ten days prior to the deadline for receipt of bids.

**SEC. 1.11 AMENDMENTS TO BIDS**

Amendments to or withdrawals of bids will only be allowed if acceptable requests are received prior to the deadline that is set for receipt of bids, in accordance with 2 AAC 12.140. No amendments or withdrawals will be accepted after the deadline unless the delay is due to an error of the contracting agency, in accordance with 2 AAC 12.160.

**SEC. 1.12 AMENDMENTS TO THE ITB**

If an amendment is issued, it will be provided to all who were notified of the ITB and to those who have registered with the procurement officer after receiving the ITB from the State of Alaska Online Public Notice website.

**SEC. 1.13 ITB SCHEDULE**

The ITB schedule set out herein represents the State of Alaska’s best estimate of the schedule that will be followed. If a component of this schedule, such as the deadline for receipt of bids, is delayed, the rest of the schedule may be shifted accordingly. All times are Alaska Time.

ACTIVITY	TIME	DATE
Issue Date / ITB Released		August 18, 2021
Pre-Bid Conference – N/A		
Deadline for Receipt of Bids / Bid Due Date	2 PM AK Time	September 9, 2021
Bid Evaluations Complete		September 10, 2021
Notice of Intent to Award		September 13, 2021
Contract Issued		September 23, 2021

This ITB does not, by itself, obligate the state. The state's obligation will commence when the contract is approved by the Alaska Seafood Marketing Institute’s Executive Director. Upon written notice to the contractor, the state may set a different starting date for the contract. The state will not be responsible for any work done by the contractor, even work done in good faith, if it occurs prior to the contract start date set by the state.

#### **SEC. 1.14 ALTERNATE BIDS**

Bidders may only submit one bid for evaluation. In accordance with 2 AAC 12.830 alternate bids (bids that offer something different than what is asked for) will be rejected.

#### **SEC. 1.15 SUPPORTING INFORMATION**

Bidders shall submit all required technical, specification, and other supporting information with their bid, so that a detailed analysis and determination can be made by the procurement officer that the product offered meets the ITB specifications and that other requirements of the ITB have been met. However, provided a bid meets the requirements for a definite, firm, unqualified, and unconditional offer, the state reserves the right to request supplemental information from the bidder, after the bids have been opened, to ensure that the products or services offered completely meet the ITB requirements. The requirement for such supplemental information will be at the reasonable discretion of the state and may include the requirement that a bidder will provide a sample product(s) so that the state can make a first-hand examination and determination.

A bidder's failure to provide this supplemental information or the product sample(s), within the time set by the state, will cause the state to consider the offer non-responsive and reject the bid.

#### **SEC. 1.16 FIRM, UNQUALIFIED, AND UNCONDITIONAL OFFER**

Bidders must provide enough information with their bid to constitute a definite, firm, unqualified and unconditional offer. To be responsive a bid must constitute a definite, firm, unqualified and unconditional offer to meet all the material terms of the ITB. Material terms are those that could affect the price, quantity, quality, or delivery. Also included as material terms are those which are clearly identified in the ITB and which, for reasons of policy, must be complied with at risk of bid rejection for non-responsiveness.

## SECTION 2. CONTRACT INFORMATION

### SEC. 2.01 CONTRACT TERM

The length of the contract will be from the date of award, approximately **September 23, 2021**, through **August 31, 2023** for the specific S-K federal grant but possible extension to June 30, 2025 for any additional nutritional analysis for other products or species.

### SEC. 2.02 CONTRACT ADMINISTRATION

The administration of this contract is the responsibility of the procurement officer or person appointed by the Alaska Seafood Marketing Institute.

### SEC. 2.03 CONTRACT FUNDING

The Alaska Seafood Marketing Institute (ASMI) and Alaska Department of Environmental Conservation (ADEC) in partnership with several other government agencies, have been awarded a research grant by the National Oceanic and Atmospheric Association's (NOAA) Saltonstall-Kennedy Grant Program for the providing of data on organic contaminants for seafood species from Alaska. The budget allots \$160,000 for nutrient analysis by a laboratory between approximately September 23, 2021 through August 31, 2023 for an estimated number of up to 50 samples as part of the grant study, though precise sampling protocols (including individual v. composite/homogenized numbers) are still being determined. Bids priced at more than **\$160,000** will be considered non-responsive. In addition, more samples may be submitted either for the SK project or for other purposes, using funds outside of the S-K grant which will not exceeding \$40,000.

Payment for the contract is subject to funds already appropriated and identified.

### SEC. 2.04 CONTRACT EXTENSION

Unless otherwise provided in this ITB, the state and the successful bidder/contractor agree: (1) that any extension of the contract excluding any exercised renewal options, will be considered as a month-to-month extension, and all other terms and conditions shall remain in full force and effect and (2) the procurement officer will provide written notice to the contractor of the intent to cancel the month-to-month extension at least thirty (30) days before the date of cancellation. A month-to-month extension may only be executed by the procurement officer via a written contract amendment.

### SEC. 2.05 CONTRACT CHANGES – UNANTICIPATED AMENDMENTS

During the course of this contract, the contractor may be required to perform additional work. That work will be within the general scope of the initial contract. When additional work is required, the state will provide the contractor a written description of the additional work and request the contractor to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work. Cost and pricing data must be provided to justify the cost of such amendments per AS 36.30.400.

The contractor will not commence additional work until the procurement officer has secured required state approvals necessary for the amendment and issued a written contract amendment.

### SEC. 2.06 SUBCONTRACTORS

Subcontractors will not be allowed.



## SEC. 2.07 JOINT VENTURES

Joint ventures will not be allowed.

## SEC. 2.08 CONTRACT PERFORMANCE LOCATION

The location(s) the work is to be performed, completed and managed at the **LOCATION (S)** of the selected bidder's laboratory facility.

The state **WILL NOT** provide workspace for the contractor. The contractor must provide its own workspace.

By signature on their bid, the bidder certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States.

If the bidder cannot certify that all work will be performed in the United States, the bidder must contact the procurement officer in writing to request a waiver at least 10 days prior to the deadline for receipt of bids.

The request must include a detailed description of the portion of work that will be performed outside the United States, where, by whom, and the reason the waiver is necessary.

Failure to comply with these requirements may cause the state to reject the bid as non-responsive, or cancel the contract.

## SEC. 2.09 RIGHT TO INSPECT PLACE OF BUSINESS

At reasonable times, the state may inspect those areas of the contractor's place of business that are related to the performance of a contract. If the state makes such an inspection, the contractor must provide reasonable assistance.

## SEC. 2.10 SCOPE OF WORK AND SPECIFICATIONS

### (a) OVERVIEW

The Alaska seafood industry supports more than 60% of the U.S. seafood supply and exports seafood products globally. Two major driving factors that influence the ability for Alaska seafood to compete in the global market are food safety and nutrient content. Consumers and trade partners are increasingly demanding more detailed information for seafood contaminants and nutrient content of all Alaska seafood species, including new commercially harvested mariculture products.

Due to the more general nature of nutritional data that exists for many of the species harvested for Alaska, it is necessary to generate federally compliant nutritional data specifically derived from Alaska-origin samples. The overarching goal is to establish a robust, trusted, public accessible, and consistent dataset of all Alaska seafood nutrient information to provide a competitive advantage for Alaska seafood in the global marketplace. Using this dataset, we will develop a comprehensive seafood nutrition database to address seafood consumption guidance for public health and improve value and marketability of Alaska fish, shellfish, and kelp products. In addition, ASMI is increasingly in need of nutritional information for additional product forms, species, and seafood types which may fall outside the scope of the SK Grant, and is also seeking additional nutritive analysis on an as-needed basis.

## (b) GENERAL REQUIREMENTS

The goal of this ITB is to determine the levels of specific nutritional compounds that exist in samples of tissues from fish, shellfish, sea life, and other organisms caught in Alaska's waters and other environmental media to allow greater specificity of data. Contractors must have demonstrated ability to meet experiential requirements outlined in Prior Experience (Section 1.03).

The Contractor shall manage nutritional laboratory testing for the entirety of the grant period and optional renewals/additional testing as needed over the contract term. The Contractor shall perform all work associated with the performance and delivery of the contract resulting from this ITB. For the duration of the contract any conflicting technical requirements will be resolved in negotiation with the ASMI Seafood Technical Program Director or the Alaska State Veterinarian. Any changes to the schedules, specifications, or products must be addressed in writing and approved by mutual agreement of the parties.

Target fish samples will be collected from seafood processors, commercial harvesters or producers directly to ensure sample origin and representation of the real world supply chain. Every effort will be made to obtain representative samples at the peak of the commercial fishery. Fish will be frozen as soon as possible and shipped to the ADEC Environmental Health Lab (EHL) for processing. Relative information about the samples, such as location (region), date, harvest method, collectors, physical parameters (length, weight, sex, age), etc. will be recorded and entered into the pertinent database.

Prior to samples arriving at the Contractor laboratory, fish will be processed at the EHL according to EHL standard operating procedures and Fish Monitoring Program quality assurance project plan (QAPP, see attachments). Proper sample handling and decontamination of equipment will be carried out to ensure sample integrity is maintained. Samples sent to the Contractor may be of whole fish and sea life, skinless fillets, eggs, or composites of several whole body samples including other environmental samples. The above pre-preparation is subject to change if the contractor provides guidance of differing standards or requirements needed in order for results to be successfully implemented into US federal nutrition databases.

Tissues used for the grant study will include those that are commonly consumed, skinless fillet for fish and all soft tissue for oysters for example, roe (fish eggs) or composites that include tissue from several individuals. The FMP QAPP identifies a max holding time of 1 year for frozen samples prior to analysis.

## (c) SCOPE OF WORK

The Contractor shall perform required analyses for each sample that shall include, but is not limited to, amino acid profile, fatty acid profile, vitamins and minerals, and an FDA compliant nutrition package including omega reporting for each sample, with each specific analysis specified in **Attachment 1**. The Contractor shall perform testing using the listed reference methodology. If the reference method is not possible or recommended, reasoning and alternatives must be presented, with methods accredited by AOAC International preferred. Reasoning and validity of the chosen method must be presented and agreed to by the ASMI Seafood Technical Program Director before proceeding with other methodologies. Internal methods utilized for preparation should be discussed as part of the submission. Standardized calculations where needed are also requested as stipulated in Attachment 1. The Contractor shall fill out a price per sample and turnaround time (TAT) for each requested test, as well as a summary price for all tests per sample.

The list of analyses to be performed in Attachment 1 was constructed to match the nutrients identified by thorough consultation to avoid unnecessary and redundant testing while providing adequate information for

differentiation of Alaska seafood resources and acceptance into major government databases. If a lab identifies tests it feels should be added, the Contractor shall clearly identify such in its bid, along with the appropriate methodology for measurement, cost, and reasoning for the additional recommendations. Similarly, the Contractor may recommend omission of certain tests, so long as reasoning is provided and it can be demonstrated that this suggestion will not compromise project aims.

The Contractor's laboratory or another contact deemed acceptable will be available during the Environmental Health Laboratories' normal business hours of 8:00 a.m. to 5:00 p.m. Alaskan Time

The Contractor's laboratory shall perform analytical services on, including but not limited to, tissue of fish, shellfish, marine mammals, sea life, and other marine organisms.

Prior to analyzing the initial samples, sample blanks and equipment blanks may be shipped to the analytical laboratory for analysis to identify any potential background contamination or sample cross-contamination during processing. The Contractor shall provide sample containers and shipping supplies for these samples. The Contractor may be asked for input on best practices guidance regarding additional measures required to ensure samples remain uncompromised specifically for nutritional analysis. The laboratory shall receive samples via air shipment Monday through Saturday 8:00am to 17:00pm at the Contractor's location. The contractor may advise as to alternative or additional methods of ensuring sample result accuracy and suitability for meeting of project goal of data's acceptance to federal databases.

To be considered responsive, the Contractor shall identify in its bid the protocols in place for chain-of-custody procedures, sample receipt, sample login, and sample tracking. The chain-of-custody shall include sample receipt date, time, temperature, commercial courier tracking number, and condition. The Contractor shall also identify in its bid that it has separate dedicated areas for receiving, preparing, and storing samples respectively. The Contractor shall demonstrate its ongoing capability to perform the required analysis, as well as provide evidence of acceptable performance. Evidence of acceptable performance shall be deemed acceptable at ASMI and ADEC's sole discretion. The Contractor shall also provide evidence of current lab certification of ISO 17025 or equivalent. Equivalent certification is deemed acceptable at ASMI and ADEC's sole discretion.

As part of its bid, the Contractor shall create a sample protocol for receiving fish portions or whole fish and how they would be prepped, and what would be needed in advance to best prepare for this work (approximate fish portion weights, pictures, etc.)

The Contractor shall process according to USDA, FDA, or other ASMI/ADEC EHL approved alternate proposed methodology intact samples including, but not limited to, whole fish under clean conditions to minimize contamination to provide accurate and precise results.

The Contractor shall thaw and re-homogenize tissue samples prior to sub-sampling and extraction. The Contractor shall perform sample extraction and the chemical analysis of the extract within 45 business days of receipt of the sample. The Contractor shall provide a complete and final data report to ASMI and ADEC within 60 calendar days from the date of sample receipt by the Contractor.

The laboratory shall store and maintain samples and sample extracts in the dark at -20°C for at least one year from date of receipt. At the sole discretion of ASMI and ADEC, the samples and extracts shall be returned to the State of Alaska DEC Office of the State Veterinarian at the end of the study. ASMI or ADEC EHL shall reimburse the contractor for returned shipments at cost with proof of receipt form commercial courier. If not returned, the Contractor shall be responsible for sample disposal at the end of the study. The temperature of the facility's freezer(s) shall be monitored 24 hours a day to ensure sample integrity. ASMI and ADEC shall have access to temperature logs upon request.

See Attachment 1 for list of analyses to be completed for each sample. Potential contractors should fill out a price per sample per analysis as part of their bid, as well as a summary cost per sample for all tests performed.

#### (d) LABORATORY OPERATIONS/QUALITY CONTROL PROCEDURES

The quality control procedures and laboratory methods required are intended to provide a common foundation among this project and other studies being conducted in Alaska and elsewhere. To this end, appropriate data validation will be required. This will result in reliable data comparable to the data generated by other investigators.

The Contractor shall maintain chain of custody procedures with proper documentation upon receipt of samples. Sample condition, including, but not limited to, temperature, should be recorded at the time of receipt. Samples should be stored in the dark at -20°C or less at all times other than for testing purposes.

The Contractor shall provide Standard Operating Procedures (SOP) and Quality Assurance/Quality Control (QA/QC) for each analytical method included according to methodology for each compound. The contractor must affirm the acceptability of each test as being acceptable for the project aims and for inclusion in federal databases.

Initial calibration curves shall be established for all instruments according to QA/QC. The Contractor shall perform a calibration verification daily and include the results for the day that samples are run. The Contractor must provide documentation that acceptable precision and accuracy limits have been achieved for all analyses. The contract laboratory will need to perform a calibration verification daily and include the results for the day that samples were run.

The data from each sample batch shall be reviewed by the Contractor laboratory QA/QC officer for errors. The review will be used to guarantee that the data quality criteria for the analysis have been met. If the data quality criteria have not been met, all samples in the batch not meeting the criteria shall be reanalyzed. Corrective actions shall be taken before processing subsequent samples, and ASMI/ADEC shall be notified of what actions were taken and why.

The contract laboratory shall demonstrate its sample tracking management system. All analytical results and calculations shall be stored in computer-based databases and archived by the contract laboratory. The data shall be provided to ASMI/ADEC in electronic formats such as .pdf or other electronic data deliverable as approved by the ASMI Seafood Technical Director. The electronic format shall be compatible with the DEC database, a Microsoft SQL Server. ADEC database consultation will be provided on request to the Contractor's laboratory to assist with correct formatting.

The Contractor's laboratory shall supply documentation showing current accreditation from the United States Department of Agriculture(USDA), United States Food and Drug Administration (FDA), ISO 17025, AOAC International, and/or other nationally recognized organizations. To be considered responsive, Contractor shall submit in its bid documented proof of accreditation is current and provided to ASMI and ADEC for the duration of this contract.

Acceptable performance (precision and accuracy) shall also be shown through regular replicate analysis of Certified Reference Materials or a comparable proficiency testing program upon approval of the ASMI Seafood Technical Director

#### (e) DELIVERABLES

The contractor shall provide the following deliverables:

- A. Within 45 days of signing the contract, the Contractor shall provide the ASMI Technical Director a written report defining the SOP for chain-of-custody and sample processing.
- B. Email reports shall be sent to the ASMI Seafood Technical Director within 48 hours confirming the receipt of every sample batch. This report shall include a copy of the chain-of-custody form, description of the condition of the samples on receipt, and description of the storage prior to analysis.
- C. All analyses complete and a written report in electronic format, .pdf via compact disk, flash drive, or equivalent, as well as electronic download of data in spreadsheet format, .xls via email attachment to ADEC and ASMI within 45 business days after receiving each sample batch, listing the tabulated analytical data results, with units and qualifiers clearly specified. Excel spreadsheets with sample and quality control results must be received within the 60-day period. Two compact disc (CD) or flashdrive copies of the results, along with complete supporting information, are required to be postmarked for delivery to ASMI within 60 days. This report should document incidences when quality assurance requirements were not met and samples were reanalyzed. The written report shall include the following:
  - a. the sample results, with units clearly specified,
  - b. all the raw supporting data from the analysis of fish tissue for the specified analyses,
  - c. the signed chain-of-custody forms and packing slips,
  - d. a case narrative signed by the laboratory manager or designee certifying the accuracy and validity of all the data reported, describing any changes to protocols, and describing problems encountered during the analyses, along with the corrective action forms to document their resolution,
  - e. bench sheets for sample preparation indicating dates, times, methods of preparation and analysis, with the analyst's signature, and
  - f. a formula showing how measurement results were calculated, with examples of actual calculations of sample results.
  - g. Other/alternatives may be proposed if the Contractor can prove deliverable acceptability by USDA federal nutrition databases and discussed beforehand.
  - h. Quarterly reports of the project at-large, with cumulative data for the project. Timeframes and exact dates of these reports may be flexible so long as it is discussed with the ASMI Seafood Technical Director and/or the Alaska State Veterinarian.

## **SEC. 2.11 F.O.B. POINT**

The F.O.B. point for this ITB will be the location of the contractor's laboratory facility. The state EHL and fishery processors will ship samples to the Contractor's location and the contractor will take custody, responsibility, and liability for samples at the time of delivery to their listed location.

## **SEC. 2.12 SHIPPING DAMAGE**

The state will not accept or pay for damaged goods. The contractor must file all claims against the carrier(s) for damages incurred to items in transit from the point of origin to the ultimate destination. The state will provide the contractor with written notice when damaged goods are received. The state will deduct the cost of the damaged goods from the invoice prior to payment. The contractor must file all claims against the carrier(s) for reimbursement of the loss.

### SEC. 2.13 DELIVERY TIME

Analyses are to be complete within 45 business days of sample receipt, with relevant deliverables and reports due in 60 calendar days. Please see section 2.10 (e) for more detailed delivery instructions.

### SEC. 2.14 INSPECTION & MODIFICATION - REIMBURSEMENT FOR UNACCEPTABLE DELIVERABLES

The contractor is responsible for proving all products or the completion of all work set out in the contract. All products or work is subject to inspection, evaluation, and approval by the state. The state may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. The state may instruct the contractor to make corrections or modifications if needed in order to accomplish the contract's intent. The contractor will not unreasonably withhold such changes.

Substantial failure of the contractor to perform the contract may cause the state to terminate the contract. In this event, the state may require the contractor to reimburse monies paid (based on the identified portion of unacceptable products or work received) and may seek associated damages.

### SEC. 2.15 CONTINUING OBLIGATION OF CONTRACTOR

Notwithstanding the expiration date of a contract resulting from this ITB, the contractor is obligated to fulfill its responsibilities until warranty, guarantee, maintenance, and parts availability requirements have completely expired.

### SEC. 2.16 ESTIMATED QUANTITIES

The quantities referenced in this ITB are the state's estimated requirements and may vary more or less from the quantities actually purchased. The state does not guarantee any minimum or maximum purchase. Orders will be issued throughout the contract period on an as-needed basis.

### SEC. 2.17 CONTRACT PRICE ADJUSTMENTS

A contract resulting from this ITB will include the following price adjustment clause:

**Producer Price Index (PPI):** Contract prices will remain firm through **August 31, 2023**.

The contractor may request price adjustments, in writing, 30 days prior to the contract renewal date. Requests must be in writing and must be received thirty (30) days prior to the contract renewal date. If the contractor fails to request a PPI price adjustment 30 days prior to the contract renewal date, the adjustment will be effective 30 days after the state receives their written request.

All price adjustments must be approved by the procurement officer prior to the implementation of the adjusted pricing. Approval shall be in the form of a contract amendment issued by the procurement officer.

### SEC. 2.18 INFORMAL DEBRIEFING

When the contract is completed, an informal debriefing may be performed at the discretion of the procurement officer. If performed, the scope of the debriefing will be limited to the products provided or work performed by the contractor.

## SEC. 2.19 INDEMNIFICATION

The contractor shall indemnify, hold harmless, and defend the contracting agency from and against any claim of, or liability for error, omission or negligent act of the contractor under this agreement. The contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the contractor and the independent negligence of the contracting agency, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis.

“Contractor” and “contracting agency”, as used within this and the following article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term “independent negligence” is negligence other than in the contracting agency’s selection, administration, monitoring, or controlling of the contractor and in approving or accepting the contractor’s work.

## SEC. 2.20 INSURANCE

Without limiting the contractor's indemnification, it is agreed that the contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. 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 state shall be entitled to coverage to the extent of such higher limits.

Certificates of Insurance must be furnished to the procurement officer prior to contract approval and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the contractor's services. All insurance policies shall comply with and be issued by insurers licensed to transact the business of insurance under AS 21.

### **Proof of insurance is required for the following:**

- Workers' Compensation Insurance: The contractor shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the state.
- Commercial General Liability Insurance: covering all business premises and operations used by the contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per occurrence.
- Commercial Automobile Liability Insurance: covering all vehicles used by the contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per occurrence.

## SEC. 2.21 MANDATORY REPORTING

The contractor must provide a quarterly usage report to the procurement officer in an electronic format (Excel). The report must contain at least the following information:

- summary and breakdown of all tests performed to that time
- cost per test and per sample to that time, with unit prices for each test and each sample

- samples received and in process, if any at the time
- any changes or updates to the analytical methods or other procedures related to the project samples
- explanation of any ongoing or foreseeable problems or issues that affect the analysis of the project samples

These reports are due 30 days after the end of each quarter. The contractor's failure to provide these reports as required may result in contract default action.

**Reporting Period**

**Due Date**

State Fiscal Quarter 1 (Jul 1 - Sept 30):

Oct 31 (Exempt in 2021)

State Fiscal Quarter 2 (Oct 1 - Dec 31):

Jan 31

State Fiscal Quarter 3 (Jan 1 - Mar 31):

Apr 30

State Fiscal Quarter 4 (Apr 1 - Jun 30):

Jul 31



## SECTION 3. CONTRACT INVOICING AND PAYMENTS

### SEC. 3.01 BILLING INSTRUCTIONS

All invoices produced by the contractor must contain the following information at a minimum:

- 1. Sample Batch ID's with correlation table of client and contract lab ID's**
- 2. Types of Tests Performed**
- 3. Cost of Each Test (Unit Price)**
- 4. Number of Samples Tested**
- 5. Client Account ID**

Invoices must be billed to the ordering agency's address shown on the individual Contract Award. The state will make payment after it receives the goods or services and the invoice. Questions concerning payment must be addressed to the ordering agency.

### SEC. 3.02 PAYMENT FOR STATE PURCHASES

Payment for agreements under \$500,000 for the undisputed purchase of goods or services provided to a state agency, will be made within 30 days of the receipt of a proper billing or the delivery of the goods or services to the location(s) specified in the agreement, whichever is later. A late payment is subject to 1.5% interest per month on the unpaid balance. Interest will not be paid if there is a dispute or if there is an agreement that establishes a lower interest rate or precludes the charging of interest.

Any single contract payments of \$1 million or higher must be accepted by the contractor via Electronic Funds Transfer (EFT).

### SEC. 3.03 THIRD-PARTY FINANCING AGREEMENTS NOT ALLOWED

Because of the additional administrative and accounting time required of the state when third party financing agreements are permitted, they will not be allowed under this contract.

## SECTION 4. EVALUATION AND CONTRACTOR SELECTION

### SEC. 4.01 EVALUATION OF BIDS

After bid opening, the procurement officer will evaluate the bids for responsiveness. Bids deemed non-responsive will be eliminated from further consideration. An evaluation may not be based on discrimination due to the race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, disability, or political affiliation of the bidder.

### SEC. 4.02 APPLICATION OF PREFERENCES

Certain preferences apply to all state contracts, regardless of their dollar value. The Alaska Bidder and Alaska Veteran preferences are the most common preferences involved in the ITB process. Additional preferences that may apply to this procurement are listed below. Guides that contain excerpts from the relevant statutes and codes, explain when the preferences apply and provide examples of how to calculate the preferences are available at the following website:

<http://doa.alaska.gov/dgs/pdf/pref1.pdf>

- Alaska Products Preference - AS 36.30.332
- Recycled Products Preference - AS 36.30.337
- Local Agriculture and Fisheries Products Preference - AS 36.15.050
- Employment Program Preference - AS 36.30.321(b)
- Alaskans with Disabilities Preference - AS 36.30.321(d)

The Division of Vocational Rehabilitation in the Department of Labor and Workforce Development keeps a list of qualified employment programs and individuals who qualify as persons with a disability. As evidence of a business' or an individual's right to the Employment Program or Alaskans with Disabilities preferences, the Division of Vocational Rehabilitation will issue a certification letter. To take advantage of these preferences, a business or individual must be on the appropriate Division of Vocational Rehabilitation list prior to the time designated for receipt of proposals. Bidders must attach a copy of their certification letter to the proposal. **A bidder's failure to provide this certification letter with their proposal will cause the state to disallow the preference.**

### SEC. 4.03 ALASKA BIDDER PREFERENCE

An Alaska Bidder Preference of 5% will be applied to the total bid price. The preference will be given to a bidder who:

- 1) holds a current Alaska business license prior to the deadline for receipt of bids;
- 2) submits a bid for goods or services under the name appearing on the bidder's current Alaska business license;
- 3) has maintained a place of business within the state staffed by the bidder, or an employee of the bidder, for a period of six months immediately preceding the date of the bid;
- 4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, is a limited liability company (LLC) organized under AS 10.50 and all members are residents of the state, or is a partnership under AS 32.06 or AS 32.11 and all partners are residents of the state; and

- 5) if a joint venture, is composed entirely of ventures that qualify under (1)-(4) of this subsection.

#### **Alaska Bidder Preference Certification Form**

In order to receive the Alaska Bidder Preference, the bid must include the Alaska Bidder Preference Certification Form attached to this ITB. A bidder does not need to complete the Alaska Veteran Preference questions on the form if not claiming the Alaska Veteran Preference. A bidder's failure to provide this completed form with their bid will cause the state to disallow the preference.

#### **SEC. 4.04 ALASKA VETERAN PREFERENCE**

An Alaska Veteran Preference of 5%, not to exceed \$5,000, will be applied to the total bid price. The preference will be given to a bidder who qualifies under AS 36.30.990(2) as an Alaska Bidder and is a:

- a) sole proprietorship owned by an Alaska veteran;
- b) partnership under AS 32.06 or AS 32.11 if a majority of the partners are Alaska veterans;
- c) limited liability company organized under AS 10.50 if a majority of the members are Alaska veterans; or
- d) corporation that is wholly owned by individuals, and a majority of the individuals are Alaska veterans.

In accordance with AS 36.30.321(i), the bidder must also add value by actually performing, controlling, managing, and supervising the services provided, or for supplies, the bidder must have sold supplies of the general nature solicited to other state agencies, other government, or the general public.

#### **Alaska Veteran Preference Certification**

In order to receive the Alaska Veteran Preference, the bid must include the Alaska Bidder Preference Certification Form attached to this ITB. A bidder's failure to provide this completed form with their bid will cause the state to disallow the preference.

#### **SEC. 4.05 USE OF LOCAL FOREST PRODUCTS**

In a project financed by state money in which the use of timber, lumber and manufactured lumber is required, only timber, lumber and manufactured lumber products originating in this state from Alaska forests shall be used unless the use of those products has been determined to be impractical, in accordance with AS 36.15.010 and AS 36.30.322.

#### **SEC. 4.06 LOCAL AGRICULTURAL AND FISHERIES PRODUCT PREFERENCE**

When agricultural, dairy, timber, lumber, or fisheries products are purchased using state money, a seven percent (7%) preference shall be applied to the price of the products harvested in Alaska, or in the case of fisheries products, the products harvested or processed within the jurisdiction of Alaska, in accordance with AS 36.15.050.

#### **SEC. 4.07 ALASKA PRODUCT PREFERENCE**

A bidder that designates the use of an Alaska Product which meets the requirements of the ITB specifications and is designated as a Class I, Class II or Class III Alaska Product by the Department of Community & Economic Development (DCCED) may receive a preference in the bid evaluation in accordance with AS 36.30.332 and 3 AAC 92.010.

To qualify for the preference, the product must have received certification from DCCED, be listed in the current published edition of the Alaska Products Preference List, and the bidder must provide the qualified product on a 100% basis. There are no provisions under Alaska Statutes or Regulations that allow for a product

exchanges/substitutions or permit the product to be co-mingled with other products. Rather, AS 36.30.330 provides for a penalty for failing to use the designated Alaska products.

Products are classified in one of three categories:

- Class I products receive a 3% preference.
- Class II products receive a 5% preference.
- Class III products receive a 7% preference.

When the bids are evaluated, the preference percentage will be deducted from the product price. If a bidder fails to specify the brand being offered, no preference will be given. For more information on the Alaska Product Preference and to see the list of products currently on the Alaska Product Preference List, use the following web link:

<https://www.commerce.alaska.gov/web/dcra/AlaskaProductPreferenceProgram.aspx>

### **Brand Offered**

If offering a product that qualifies for the Alaska Product Preference, the bidder must indicate the brand of product they intent to provide. If a bidder is not offering a product that qualifies for the Alaska Product Preference, the bidder does not need to indicate a product brand.

### **Brand of Product Changes**

During the course of the contract including all renewal options, a contractor that offered a product that qualified for the Alaska Product Preference wishes to change the product brand, the contractor must first provide a written request, along with evidence that the replacement brand also qualifies for the Alaska Product Preference, for approval by the procurement officer. A contract amendment must be issued by the procurement officer to authorize the change.

If a bidder offers a product brand in the original bid that does not qualify for the Alaska Product Preference, a change in the product brand may be made at any time during the course of the contract, including all renewals, as long as the product band continues to meet the required specifications. A contract amendment is not required if the product brand originally offered did not qualify for the Alaska Product Preference.

## **SEC. 4.08 EMPLOYMENT PROGRAM PREFERENCE**

If a bidder qualifies for the Alaska Bidder Preference and is offering goods or services through an employment program as defined under AS 36.30.990(12), an Employment Program Preference of 15% will be applied to the total bid price.

In accordance with AS 36.30.321(i), the bidder must also add value by actually performing, controlling, managing, and supervising the services provided, or for supplies, the bidder must have sold supplies of the general nature solicited to other state agencies, other government, or the general public.

## **SEC. 4.09 ALASKANS WITH DISABILITIES PREFERENCE**

If a bidder qualifies for the Alaska Bidder Preference and is a qualifying entity as defined in AS 36.30.321(d), an Alaskans with Disabilities Preference of 10% will be applied to the total bid price.

In accordance with AS 36.30.321(i), the bidder must also add value by actually performing, controlling, managing, and supervising the services provided, or for supplies, the bidder must have sold supplies of the general nature solicited to other state agencies, other government, or the general public.

#### **SEC. 4.10 PREFERENCE QUALIFICATION LETTER**

Regarding the Employment Program Preference and the Alaskans with Disabilities Preference, the Division of Vocational Rehabilitation in the Department of Labor and Workforce Development maintains lists companies who qualify for those preferences. As evidence of a company's right to the preferences, the Division of Vocational Rehabilitation will issue a certification letter. To take advantage of the preferences, a bidder must be on the appropriate Division of Vocational Rehabilitation list at the time the bid is opened and must attach a copy of their certification letter to their bid. The bidder's failure to provide this certification letter with their bid will cause the state to disallow the preference.

#### **SEC. 4.11 EXTENSION OF PRICES**

In case of error in the extension of prices in the bid, the unit prices will govern; in a lot bid, the lot prices will govern.

#### **SEC. 4.12 METHOD OF AWARD**

Award will be made as one lot to the lowest responsive and responsible bidder. In order to be considered responsive, bidders must bid on all items.

#### **SEC. 4.13 CONTRACTOR SELECTION PROCESS**

Once the contracts are established this selection process will be used. When the state needs security services the lowest priced contractor for that location will be contacted first. If, for any reason, the lowest contractor is not available to perform the needed service, the state will contact the next lowest priced contractor for that location. This process will continue until a contractor who can perform the service is located. The location of the contractor initially contacted will be determined by the starting location of the call-out. For instance, if there was a need to transport a person from Anchorage to Fairbanks and then guard the person for two days in Fairbanks, the agency would contact Anchorage contractors, even though a substantial portion of the actual service would be performed in Fairbanks.

#### **SEC. 4.14 NOTICE OF INTENT TO AWARD**

After the responses to this ITB have been opened and evaluated, a tabulation of the bids will be prepared. This tabulation, called a Notice of Intent to Award, serves two purposes. It lists the name of each company or person that offered a bid and the price they bid. It also provides notice of the state's intent to award a contract(s) to the bidder(s) indicated. A copy of the Notice of Intent will be mailed to each company or person who responded to the ITB. Bidders identified as the apparent low responsive bidders are instructed not to proceed until a Purchase Order, Contract Award, Lease, or some other form of written notice is given by the procurement officer. A company or person who proceeds prior to receiving a Purchase Order, Contract Award, Lease, or some other form of written notice from the procurement officer does so without a contract and at their own risk.

## SECTION 5. GENERAL PROCESS AND LEGAL INFORMATION

### SEC. 5.01 ALASKA BUSINESS LICENSE AND OTHER REQUIRED LICENSES

Prior to the award of a contract, a bidder must hold a valid Alaska business license. However, in order to receive the Alaska Bidder Preference and other related preferences, such as the Alaska Veteran Preference and Alaskans with Disabilities Preference, a bidder must hold a valid Alaska business license prior to the deadline for receipt of bids. Bidders should contact the **Department of Commerce, Community and Economic Development, Division of Corporations, Business, and Professional Licensing, PO Box 110806, Juneau, Alaska 99811-0806**, for information on these licenses. Acceptable evidence that the bidder possesses a valid Alaska business license may consist of any one of the following:

- copy of an Alaska business license;
- certification on the bid that the bidder has a valid Alaska business license and has included the license number in the bid;
- a canceled check for the Alaska business license fee;
- a copy of the Alaska business license application with a receipt stamp from the state's occupational licensing office; or
- a sworn and notarized statement that the bidder has applied and paid for the Alaska business license.

You are not required to hold a valid Alaska business license at the time bids are opened if you possess one of the following licenses and are offering services or supplies under that specific line of business:

- fisheries business licenses issued by Alaska Department of Revenue or Alaska Department of Fish and Game,
- liquor licenses issued by Alaska Department of Revenue for alcohol sales only,
- insurance licenses issued by Alaska Department of Commerce, Community and Economic Development, Division of Insurance, or
- Mining licenses issued by Alaska Department of Revenue.

Prior the deadline for receipt of bids, all bidders must hold any other necessary applicable professional licenses required by Alaska Statute.

### SEC. 5.02 AUTHORITY

This ITB is written in accordance with AS 36.30 and 2 AAC 12.

### SEC. 5.03 COMPLIANCE

In the performance of a contract that results from this ITB, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws; be liable for all required insurance, licenses, permits and bonds; and pay all applicable federal, state, and borough taxes.

### SEC. 5.04 SUITABLE MATERIALS, ETC.

Unless otherwise specified in this ITB, all materials, supplies or equipment offered by a bidder shall be new, unused, and of the latest edition, version, model or crop and of recent manufacture.

## **SEC. 5.05 SPECIFICATIONS**

Unless otherwise specified in this ITB, product brand names or model numbers specified in this ITB are examples of the type and quality of product required, and are not statements of preference. If the specifications describing an item conflict with a brand name or model number describing the item, the specifications govern. Reference to brand name or number does not preclude an offer of a comparable or better product, if full specifications and descriptive literature are provided for the product. Failure to provide such specifications and descriptive literature may be cause for rejection of the offer.

## **SEC. 5.06 CONTRACTOR SITE INSPECTION**

The state may conduct on-site visits to evaluate the bidder's capacity to perform the contract. A bidder must agree, at risk of being found non-responsive and having its bid rejected, to provide the state reasonable access to relevant portions of its work sites. Individuals designated by the procurement officer at the state's expense will make site inspection.

## **SEC. 5.07 ORDER DOCUMENTS**

Except as specifically allowed under this ITB, an ordering agency will not sign any vendor contract. The state is not bound by a vendor contract signed by a person who is not specifically authorized to sign for the state under this ITB. Unless otherwise specified in this ITB, the State of Alaska Purchase Order, Contract Award and Delivery Order are the only order documents that may be used to place orders against the contract(s) resulting from this ITB.

## **SEC. 5.08 HUMAN TRAFFICKING**

By signature on their bid, the bidder certifies that the bidder is not established and headquartered or incorporated and headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: <http://www.state.gov/j/tip/>

Failure to comply with this requirement will cause the state to reject the bid as non-responsive, or cancel the contract.

## **SEC. 5.09 RIGHT OF REJECTION**

Bidders must comply with all of the terms of the ITB, the State Procurement Code (AS 36.30), and all applicable local, state, and federal laws, codes, and regulations. The procurement officer may reject any bid that does not comply with all of the material and substantial terms, conditions, and performance requirements of the ITB.

Bidders may not qualify the bid nor restrict the rights of the state. If a bidder does so, the procurement officer may determine the bid to be a non-responsive counter-offer and the bid may be rejected.

Minor informalities that:

- do not affect responsiveness;
- are merely a matter of form or format;
- do not change the relative standing or otherwise prejudice other offers;
- do not change the meaning or scope of the RFP;

- are trivial, negligible, or immaterial in nature;
- do not reflect a material change in the work; or
- do not constitute a substantial reservation against a requirement or provision;

may be waived by the procurement officer.

The state reserves the right to refrain from making an award if it determines that to be in its best interest.

**A bid from a debarred or suspended bidder shall be rejected.**

## **SEC. 5.10 STATE NOT RESPONSIBLE FOR PREPARATION COSTS**

The state will not pay any cost associated with the preparation, submittal, presentation, or evaluation of any bid.

## **SEC. 5.11 DISCLOSURE OF BID CONTENTS**

All bid prices become public information at the bid opening. After the deadline for receipt of bids, all other bid material submitted become the property of the State of Alaska and may be returned only at the state's option. AS 40.25.110 requires public records to be open to reasonable inspection. All other bid information will be held in confidence during the evaluation process and prior to the time a Notice of Intent to Award is issued. Thereafter, bids will become public information.

Trade secrets and other proprietary data contained in bids may be held confidential if the bidder requests, in writing, that the procurement officer does so, and if the procurement officer agrees, in writing, to do so. The bidder's request must be included with the bid, must clearly identify the information they wish to be held confidential, and include a statement that sets out the reasons for confidentiality. Unless the procurement officer agrees in writing to hold the requested information confidential, that information will also become public after the Notice of Intent to Award is issued.

## **SEC. 5.12 ASSIGNMENTS**

Per 2 AAC 12.480, the contractor may not transfer or assign any portion of the contract without prior written approval from the procurement officer. Bids that are conditioned upon the state's approval of an assignment will be rejected as non-responsive.

## **SEC. 5.13 FORCE MAJEURE (IMPOSSIBILITY TO PERFORM)**

The parties to a contract resulting from this ITB are not liable for the consequences of any failure to perform, or default in performing, any of its obligations under the contract, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the respective party.

For the purposes of this ITB, 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.



## **SEC. 5.14 DEFAULT**

In case of default by the contractor, for any reason whatsoever, the state may procurement the goods or services from another source and hold the contractor responsible for any resulting excess cost and may seek other remedies under law or equity.

## **SEC. 5.15 DISPUTES**

If the contractor has a claim arising in connection with the contract that it cannot resolve with the state by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620 – AS 36.30.632.

## **SEC. 5.16 SEVERABILITY**

If any provision of the contract or agreement is found to be invalid or declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and, the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular provision held to be invalid.

## **SEC. 5.17 CONTRACT CANCELLATION**

The state reserves the right to cancel the contract at its convenience upon **30** calendar days written notice to the contractor. The state is only liable for payment in accordance with the payment provisions of this contract for supplies or services provide before the effective date termination.

## **SEC. 5.18 GOVERNING LAW; FORUM SELECTION**

A contract resulting from this ITB is governed by the laws of the State of Alaska. To the extent not otherwise governed by Section 5.15 of this ITB, any claim concerning the contract shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

## **SEC. 5.19 SOLICITATION ADVERTISING**

Public notice has been provided in accordance with 2 AAC 12.220.

## **SEC. 5.20 QUALIFIED BIDDERS**

Per 2 AAC 12.875, unless provided for otherwise in the ITB, to qualify as a bidder for award of a contract issued under AS 36.30, the bidder must:

- 1) Add value in the contract by actually performing, controlling, managing, or supervising the services to be provided; or
- 2) Be in the business of selling and have actually sold on a regular basis the supplies that are the subject of the ITB.

If the bidder leases services or supplies or acts as a broker or agency in providing the services or supplies in order to meet these requirements, the procurement officer may not accept the bidder as a qualified bidder under AS 36.30.

## **SEC. 5.21 FEDERALLY IMPOSED TARIFFS**

Changes in price (increase or decrease) resulting directly from a new or updated federal tariff, excise tax, or duty, imposed after contract award may be adjusted during the contract period or before delivery into the United States via contract amendment.

- **Notification of Changes:** The contractor must promptly notify the procurement officer in writing of any new, increased, or decreased federal excise tax or duty that may result in either an increase or decrease in the contract price and shall take appropriate action as directed by the procurement officer.
- **After-imposed or Increased Taxes and Duties:** Any federal excise tax or duty for goods or services covered by this contract that was exempted or excluded on the contract award date but later imposed on the contractor during the contract period, as the result of legislative, judicial, or administrative action may result in a price increase provided:
  - a) The tax or duty takes effect after the contract award date and isn't otherwise addressed by the contract;
  - b) The contractor warrants, in writing, that no amount of the newly imposed federal excise tax or duty or rate increase was included in the contract price, as a contingency or otherwise.
- **After-relieved or Decreased Taxes and Duties:** The contract price shall be decreased by the amount of any decrease in federal excise tax or duty for goods or services under the contract, except social security or other employment [taxes](#), that the contractor is required to pay or bear, or does not obtain a refund of, through the contractor's fault, negligence, or failure to follow instructions of the procurement officer.
- **State's Ability to Make Changes:** The state reserves the right to request verification of federal excise tax or duty amounts on goods or services covered by this contract and increase or decrease the contract price accordingly.
- **Price Change Threshold:** No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

## SEC. 5.22 PROTEST

AS 36.30.560 provides that an interested party may protest the content of the ITB.

An interested party is defined in 2 AAC 12.990(a) (7) as "an actual or prospective bidder or offeror whose economic interest might be affected substantially and directly by the issuance of a contract solicitation, the award of a contract, or the failure to award a contract."

If an interested party wishes to protest the content of a solicitation, the protest must be received, in writing, by the procurement officer at least ten days prior to the deadline for receipt of bids.

AS 36.30.560 also provides that an interested party may protest the award of a contract or the proposed award of a contract.

If a bidder wishes to protest the award of a contract or the proposed award of a contract, the protest must be received, in writing, by the procurement officer within ten days after the date the Notice of Intent to Award the contract is issued.

A protester must have submitted a bid in order to have sufficient standing to protest the proposed award of a contract. Protests must include the following information:

- the name, address, and telephone number of the protester;
- the signature of the protester or the protester's representative;
- identification of the contracting agency and the solicitation or contract at issue;

- a detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and the form of relief requested.

Protests filed by telex or telegram are not acceptable because they do not contain a signature. Fax copies containing a signature are acceptable.

The procurement officer will issue a written response to the protest. The response will set out the procurement officer's decision and contain the basis of the decision within the statutory time limit in AS 36.30.580. A copy of the decision will be furnished to the protester by certified mail, fax or another method that provides evidence of receipt.

All bidders will be notified of any protest. The review of protests, decisions of the procurement officer, appeals, and hearings, will be conducted in accordance with the State Procurement Code (AS 36.30), Article 8 "Legal and Contractual Remedies."

## SECTION 6. ATTACHMENTS

### **Attachments:**

- 1) Analyses and Bids
- 2) Fish Monitoring Program Quality Assurance Project Plan (QAPP)