

## **OTHER CONTRACT REQUIREMENTS**

### **1. Supplies or Services and Price**

#### **B001 DESCRIPTION OF WORK**

This is a Fixed-Price (FP), Indefinite-Delivery/Indefinite-Quantity (IDIQ) type Single Award contract wherein work will be accomplished through issuance of task order(s) on DD Form 1155 (DD1155) for which the contractor shall provide supervision, labor, equipment, and materials necessary to complete the work required, all in accordance with the specifications and drawings provided under this Airfield/Pavements IDIQ Contract, Misawa Air Base (MAB), Japan and the scope of work called for by individual task order (TO) encompasses repair, maintenance, and/or construction of airfield pavement, roads, parking lots, and their associated incidental work, such as, but not limited to, runway rubber removal, airfield striping, traffic striping, U-ditch, drainage pipes, manhole, electric conduit, cable, grounding, airfield eliminated sign, runway/taxiway light, earthwork, obstruction tree removal, installation of geotextile for erosion protection in the airfield of MAB. The contract will be effective for one-year base period, with four one-year options and maximum six-month option to extend services that may be exercised at the discretion of the Government, with a guaranteed minimum amount of ¥600,000 for the entire life of the contract. Quantities of each exhibit line items listed in Exhibit A thru E are the Government's estimated quantity per year (estimate only), not a maximum limit of the contract. The maximum limit of the contract is ¥5,200,000,000 for the entire life of the contract. Within this maximum limit, the Government reserves the right to increase the estimated quantities of respective contract year, as necessary. However, the contractor is reminded that the Government will not be committed to place TO(s) up to the maximum limit of the contract during the life of the contract.

#### **B002 STATUTORY COST LIMITATION**

Unspecified Minor Construction (UMC) - Operation and Maintenance (O&M) is subject to Statutory Cost Limitation (SCL) of \*\$1,000,000.00 or equivalent Japanese Yen amount IAW Section L, DFARS 252.236-7006, Cost Limitation. Amount of UMC - O&M, if included in the TO, shall not exceed the said SCL. For the purpose of conversion from Yen amount to U.S. Dollar, respective fiscal years' Foreign Currency Fluctuation Defense (FCFD) budget rate will be announced to the contractors in the beginning of respective fiscal year.

#### **B003 CLAUSES AND PROVISIONS**

(a) Clauses and provisions from the Federal Acquisition Regulation (FAR) and supplements thereto are incorporated in this solicitation by reference and in full text. Those incorporated by reference have the same force and effect as if they were given in full text.

(b) Clauses and provisions in this document will be numbered in sequence, but will not necessarily appear in consecutive order.

(c) Section K, L and M, Attachment 6 and 7 of the solicitation, and para. 8 below will be physically removed from any resultant award, but will be deemed to be incorporated by reference, in that award.

### **2. Descriptions and Specifications**

#### **C001 SPECIFICATIONS, STANDARDS AND DRAWINGS (IAW FAR 11.201)**

The contractor shall furnish the services and supplies set forth in Section B of the solicitation/contract in accordance with the specifications, drawings and attachments listed in Section J, and scope of work, location plan and/or drawings called for by individual TO when issued.

### **3. Inspection and Acceptance**

#### **E001 INSPECTION AND ACCEPTANCE (IAW FAR 46.401(b) and 46.503)**

Inspection and acceptance will be at the destination(s) specified in F001, "Place of Performance" hereof.

#### **4. Deliveries or Performance**

##### **F001 PLACE OF PERFORMANCE**

Services under this contract are required to be performed at the following location(s):

Airfield, Misawa Air Base, Japan

#### **5. Contract Administration Data**

##### **G001 GOVERNMENT PERSONNEL**

The Contracting Officer will provide to the contractor, a listing of the names of the Administrative Contracting Officer, Contract Administrator, Contracting Officer's Representative (COR), and Government Inspector(s), their organizational codes and telephone numbers at the time of award or at the pre-construction conference.

##### **G002 INVOICE/PAYMENT**

Payment will be made by the office to be indicated in block 15 of DD1155 of individual TO in accordance with FAR 52.232-5, "Payments under Fixed-Price Construction Contracts", FAR 52.232-27, "Prompt Payment for Construction Contracts", and DFARS 252.232-7003, "Electronic Submissions of Payment Requests and Receiving Reports", after receipt of the payment request by the billing office designated in block 7 of DD1155.

##### **G003 TASK ORDER(S) ISSUING OFFICE**

TO(s) will be issued by the following office under this contract:

35th Contracting Squadron  
Bldg. 656, Misawa Air Base,  
Misawa-shi, Aomori-ken, Japan 033-0012

#### **6. Special Contract Requirements**

##### **H001 CONCILIATION**

(This clause is applicable to contracts which will be performed in Japan and or executed between the United States Forces Japan, and a Japanese Contractor)

Except as otherwise provided in this contract any disagreement arising under this contract which is not resolved by the parties to this contract may be submitted to the United States – Japan Joint Committee for conciliation in accordance with Paragraph 10, Article XVIII, of the Status of Forces Agreement under Article VI of the Treaty of Mutual Cooperation and Security between Japan and the United States of America. Requests by the contractor for conciliation shall be made in accordance with the following procedures:

(a) In the event the contractor desires conciliation after the decision of the Contracting Officer has been served upon him, he will first file his appeal from such findings of fact with the appropriate authority in accordance with the clause of this contract entitled DISPUTES, and within the time limits described therein before filing request for

conciliation with the Joint Committee and then request the appellate authority under the clause of this contract entitled DISPUTES, to suspend its action on his appeal until such time as the Joint Committee has had an opportunity for effecting conciliation.

(b) The request for conciliation will be submitted by the contractor through the nearest local Japanese Defense Facilities Bureau, to the Contract Conciliation panel of the Joint Committee. Upon the filing of the request with the Joint Committee, the contractor will immediately notify the Contracting Officer in writing that the request for conciliation has been filed.

(c) In the event the disagreement submitted to the Joint Committee under subparagraph (b) above has been resolved through conciliation, it will be the responsibility of the contractor to notify the appellate authority designated in the clause of this contract entitled DISPUTES, of the settlement of the dispute and to withdraw his appeal.

(d) In the event the contractor who has submitted a request for conciliation to the Joint Committee under subparagraph (b) above desires, notwithstanding tendency of this request for conciliation, that action by the appropriate authority under the clause of this contract entitled DISPUTES, be resumed on his appeal, it is his responsibility to so request the said authority in writing. The Joint Committee shall be immediately informed by the contractor of this action taken hereunder.

(e) No request for conciliation can be submitted to the Joint Committee in the case of a dispute upon which the final decision of the appropriate authority under the clause of this contract entitled DISPUTES, has been rendered. Pending the hearing of conciliation panel the contractor shall proceed diligently with the decision. The provisions of this clause shall not prejudice any right which the parties to the contract may have to file a civil suit.

## H002 REQUIRED INSURANCE

(This paragraph applies only when contractor's owned vehicles are being operated on Misawa Air Base)

(a) The contractor shall procure and maintain during the entire period of his/her performance under this contract, the following minimum vehicle insurance:

Property Damage – ¥2,000,000

(b) Prior to the commencement of work hereunder, the contractor shall furnish to the Contracting officer a certificate or written statement of the above required insurance. The contractor is required to notify the Contracting Officer immediately upon cancellation or of any material change in the policies adversely affecting the interests of the Government.

(c) The contractor agrees to insert the substance of this clause including this paragraph c, in all subcontracts hereunder.

## H003 PERFORMANCE BOND

(a) This is a TO based IDIQ contract under which the contractor is required to submit an executed performance bond on the basis of individual TO payable to the contractor. The TO of guaranteed minimum obligation record purpose stated in the solicitation at para. (b) of Section G, to be retained by the Government, is excluded from the requirement of performance bond.

(b) Upon receipt of individual TO that its award amount exceeds \$150,000.00 or equivalent Japanese Yen amount, the contractor shall furnish an executed performance bond to the Contracting Officer as follows:

(i) Within 30 CD from the receipt date of TO by the contractor, unless otherwise a period longer than 30 CD is specified in the task order; and

(ii) In a penal sum of performance bond equal to 100 percent of TO award amount, properly executed on Standard Form 25.

In case that the procedural matters of the surety (non-life insurance company in the case of Japan) affecting submission of the bond stipulated above arises, the contractor shall immediately report such fact in writing to the Contracting Officer for his/her determination.

(c) Additional performance bond shall be required when the TO award amount is increased by more than \$10,000.00 or equivalent Japanese Yen amount as indicated in the TO modification. The contractor shall furnish an executed additional performance bond to the Contracting Officer, in a penal sum equal to the increase, within the period specified in the TO modification or the Contracting Officer's letter otherwise issued.

(d) Penal sum of bond shall be filled in Japanese Yen in line with the resultant Japanese Yen based TO award amount. Penal sum of bond indicated in U.S. Dollar will be conditionally acceptable, if the dollar penal sum is equivalent to the yen-based construction value as converted by use of the exchange rate at the time of the bond execution and such bond is accompanied by the surety's separate certification ensuring that the U.S. Dollars indicated in the bond shall be adjusted to the amount equivalent to the yen-based construction value in line with the exchange rate fluctuation.

(e) Failure by the contractor to submit the performance bond as stated above may constitute actionable grounds to invoke termination action pursuant to Section I, Contract clause, FAR 52.249-10 entitled "Default (Fixed-Price Construction)".

#### H004 SITE SURVEY AND TASK ORDER(S).

(a) The contractor shall commence the airfield on-site work called for by the task order after a Notice to Proceed (NTP) is issued, IAW the contract clause at FAR 52.211-10. Within three (3) weeks after receipt of the NTP, the contractor shall submit the required site survey schedule/plan to the Contracting Officer for his review and approval. As the submitted schedule/plan is approved by the Contracting Officer and all necessary airfield clearance and permit are obtained, the contractor can initiate the site survey on the airfield/runway.

(b) The contractor shall submit the site survey result report to the Contracting Officer within two (2) weeks after the date of the survey completion for the Government's examination and approval. In conjunction with the actual conditions of the airfield/runway of the project site validated by the site survey, if necessary, ELINs specified in the TO may be adjusted within the scope of the TO as determined by the Contracting Officer. Such adjustment including adjustment of the performance period, if necessary, will be made by a bilateral modification within the TO amount.

(c) Site Survey for FY End TO. In the event that award of TO occurs during the month of September and the performance for such TO will start in the subsequent month of October by crossing the U.S. fiscal year (1 Oct thru 30 Sep of the following year), the contractor shall submit the site survey result report and material submittals except for those required at or after the construction stage, to the Contracting Officer by 15 December of that year. Subject to the Government's approval of those report and submittals, the Government requires the contractor to submit a proof of material ordering or agreement/contract with the supplier(s) by 31 December of that year. After the winter period (15 Dec thru 15 Mar of the following year, refer to para. 3 below), the contractor shall verify on-site conditions if any damage incurs per severe weather during the winter period. In case such damage requires changes in the initial site survey result report, the contractor shall incorporate those changes into the final site survey result report to the Contracting Officer by 30 Apr of that year.

#### H005 NOTICE OF CONSTRUCTIVE CHANGES

No order, statement of direction of the Contracting Officer, an authorized representative of the Contracting Officer whether or not acting within the limits of his authority, or any other representatives of the Government, shall constitute a change order under the "Changes" clause of this contract or entitle the contractor to an equitable adjustment of the price or delivery schedule, unless such a change is issued in writing and signed by the Contracting Officer.

## **7. Contract Clauses**

### **I001 APPLICABILITY OF FAR 52.209-9**

FAR clause at 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters, applies to the resultant contract when the successful offeror checked "has" in paragraph (b) of FAR provision at 52.209-7, Information Regarding Responsibility Matters, in Section K of the solicitation. Otherwise, the said clause will be automatically deleted from the resultant contract.

### **I002 APPLICABILITY OF THE DEFENSE BASE ACT**

The contract includes FAR 52.228-3, Workers' Compensation Insurance (Defense Base Act), and FAR 52.228-4, Worker's Compensation and War-Hazard Insurance Overseas. FAR 52.228-3 applies to (1) all employees who are United States citizens and (2) all employees hired from within the United States and its territories, regardless of their nationality. FAR 52.228-4 applies to all other employees not previously specified.

### **I003 APPLICABILITY OF DFARS 252.247-7024**

DFARS clause at 252.247-7024, Notification of Transportation of Supplies by Sea, applies to the resultant contract only when the successful offeror made a negative response to the inquiry in DFARS provision at 252.247-7022, Representation of Extent of Transportation by Sea, in Section K of the solicitation. Otherwise, the said clause will be automatically deleted from the resultant contract.

## **8. Representations, Certifications and Other Statements of Offerors.**

### **K001 EXEMPTION FROM JAPANESE CUSTOMS DUTIES AND TAXES PURSUANT TO STATUS OF FORCES AGREEMENT**

(a) Paragraph 2, article XI of the Status of Forces Agreement between Japan and the United States authorizes the United States entry into Japan free from Japanese customs duties and other charges, all materials, supplies and equipment imported for the official use of the United States Armed Forces or for the exclusive use of such forces or ultimately to be incorporated into articles or facilities used by such forces.

(b) Paragraph 3, Article XII of said Status of Forces Agreement authorizes the United States exemption from certain Japanese taxes for materials, supplies, equipment and services procured for official purpose in Japan by the United States Armed Forces or by authorized agencies of the United States Armed Forces. Currently these taxes are: (a) Consumption tax; (b) Gasoline tax and local road tax on gasoline; (c) Diesel oil tax.

(c) If you are the successful offeror, the Contracting Officer or his/her authorized representative will issue customs or tax exemption certificates as appropriate, relieving you from such customs duties or taxes in accordance with procedures agreed upon between the Government of Japan and the United States of America. Tax exemption certificates for motor fuel will be issued only after consumption of the motor fuel, either at the end of each month or upon termination of the contract. These can be applied against future purchases of motor fuel. They will be issued only to you as the prime contractor, so if you employ a subcontractor or supplier who uses motor fuel, you must purchase the motor fuel to secure the exemption.

(d) List below the customs duties or taxes which have been excluded from your proposal as required by the Taxes clause.

<u>Customs Duty or tax</u>	<u>Type of Commodity and percentage of tax</u>	<u>Amount of Duty or Tax Excluded</u>
Consumption Tax	8%	Y
Gasoline	Y53.80 per liter	Y
Diesel	Y32.10 per liter	Y

#### K002 CONTRACTOR'S CERTIFICATION

(a) Contract with Corporations. If the resultant contract is with a corporation, it shall be signed for the corporation by the person authorized to sign.

\_\_\_\_\_ by \_\_\_\_\_  
(Corporate Name) (Signature, Printed Name, Title)

(b) Contract with Joint Ventures. If the resultant contract is with joint ventures, the contract shall be signed by each participant in the joint venture in the manner prescribed in paragraph (a) above. In addition, to ensure a single point of contact for resolution of contractual matters and payments, the following certification shall be signed by each participant in the joint venture.

The parties hereto expressly understand and agree as follows:

(1) \_\_\_\_\_  
(Name) (Title) (Company)

is the principal representative of the joint venture. As such, all communications regarding the administration of the contract and the performance of the work there under may be directed to him or her. In the absence of:

\_\_\_\_\_  
(Name) (Title) (Company)

\_\_\_\_\_  
(Name) (Title) (Company)

is the alternate principal representative of the joint venture.

(2) Direction, approvals, required notices, and all other communications from the Government to the joint venture, including transmittal of payments by the Government, shall be directed to

\_\_\_\_\_

(Name)

(Title)

(Company)

Principal representative of the joint venture.

K003 CONSTRUCTION CONTRACTOR LICENSE

Offeror shall submit original and two (2) copies of general construction contractor license issued under applicable law of Japan together with the offer, to demonstrate compliance with the requirements of FAR 52.236-7, as modified, and DFARS 252.225-7042 incorporated in Section I of the solicitation.

For the purpose of this solicitation, the applicable law of Japan stated in para. K003 means the Japanese Construction Business Law, enacted on 24 May 1949 and revised on 24 Jun 2011, including its associated ordinance and directive issued by the Government of Japan or its political subdivision (Aomori Prefectural Government), under which the "general construction contractor license" required in para. K003 means the "special construction license" as defined and stipulated in the said law, ordinance, and directive.

In case of offer by the joint venture or the partnership, the special construction license of each member of the joint venture or each partner of the partnership must be submitted together with the offer to comply with the said law, ordinance, and directive. Such offer that fails in representation of the above required license will not be considered for award.