

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			1. CONTRACT ID CODE	PAGE OF PAGES	
			J	1	2
2. AMENDMENT/MODIFICATION NO. 0001	3. EFFECTIVE DATE 13-Jul-2004	4. REQUISITION/PURCHASE REQ. NO. W68SBV-4156-6604		5. PROJECT NO.(If applicable)	
6. ISSUED BY WALLA WALLA DISTRICT,COE-G4P CONTRACTING DIVISION 201 N THIRD AVENUE WALLA WALLA WA 99362-1876	CODE W912EF	7. ADMINISTERED BY (If other than item 6) WALLA WALLA DISTRICT, COE-G4P JANI LONG 509/527-7209 JANI.C.LONG@USACE.ARMY.MIL WALLA WALLA WA		CODE W912EF	
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and Zip Code)			X	9A. AMENDMENT OF SOLICITATION NO. W912EF-04-B-0017	
			X	9B. DATED (SEE ITEM 11) 28-Jun-2004	
				10A. MOD. OF CONTRACT/ORDER NO.	
				10B. DATED (SEE ITEM 13)	
CODE	FACILITY CODE		11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS		
<input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offer <input type="checkbox"/> is extended, <input checked="" type="checkbox"/> is not extended. Offer must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.					
12. ACCOUNTING AND APPROPRIATION DATA (If required)					
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.					
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.					
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(B).					
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:					
D. OTHER (Specify type of modification and authority)					
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.					
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.) TITLE: Ultrasonic Flow Meter Installation, Dworshak Dam and Lower Granite Dam  It has been determined necessary and in the best interest of the Government to amend this solicitation to include the following statement regarding the Nez Perce Tribal Employment Rights Office (TERO).  Amendment results in no other changes.					
Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.					
15A. NAME AND TITLE OF SIGNER (Type or print)			16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)		
			TEL: _____ EMAIL: _____		
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA		16C. DATE SIGNED	
_____ (Signature of person authorized to sign)		BY _____ (Signature of Contracting Officer)		13-Jul-2004	

## SECTION SF 30 BLOCK 14 CONTINUATION PAGE

**SUMMARY OF CHANGES**

## Question:

A fax was received from the Nez Perce Tribal Employment Rights Office (TERO) on June 28, 2004 stating that the TERO was applicable to projects at the Dworshak Dam. The fee would be 1.5% of the total contract award amount. Is this something the Corps is aware of? Is this a valid ordinance?

## Answer:

Bidders are to disregard the notification sent by the Nez Perce Tribal Employment Rights Officer (TERO) pertaining to a fee of 1.5% of the total contract award amount. The TERO does not apply in this instance. Please note the following for future inquiries:

The worksite for solicitations regarding work at the Dworshak Dam Powerhouse is located on fee-owned Federal land. There have been a number of court cases that have addressed this issue and all have held that a Tribe lacks regulatory authority/jurisdiction over non-tribal members for activities on land alienated to non-tribal members. (See, Nevada v. Hicks, 533 U.S. 353 (2001); Montana v. U.S., 450 U.S. 544 (1981); and State of Montana Department of Transportation v. King, 191 F.3d 1108 (9<sup>th</sup> Cir. 1999)). The Nez Perce TERO, therefore, does not apply to these solicitations or any contracts performed on Federal lands at Dworshak Dam.

(End of Summary of Changes)