

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. Contract ID Code
Page 1 of Pages 41

2. Amendment/Modification No. 0001
3. Effective Date SEE BLOCK 16C
4. Requisition/Purchase Req. No. NFFM7210-12-06389
5. Project No. (if applicable)

6. Issued By Code AJ930073
NOAA/EASTERN REGION ACQUISITION
200 GRANBY STREET
SUITE 815
NORFOLK, VA 23510
7. Administered By (if other than item 6) Code SEE BLOCK 6

8. Name and Address of Contractor (No., Street, County, and Zip Code)
MRAG AMERICAS, INC.
10051 5TH ST N STE 105
SAINT PETERSBURG, FL
33702-2211
Vendor ID: 00001978
DUNS: 004426206
CAGE: 1SK87
9A. Amendment of Solicitation No.
9B. Date (See Item 11)
10A. Modification of Contract/Order No.
EA133F-12-CQ-0014
10B. Date (See Item 13)
July 1, 2012

Code Facility Code

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is restated as set forth in item 14. The hour and date specified for receipt of Offers is extended is not extended. Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as restated, by one of the following methods:
(a) By completing items 8 and 15, and returning 1 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)
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(1) THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACT/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

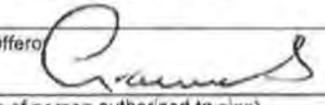
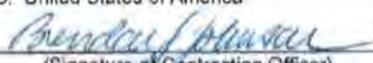
- A. This change order is issued pursuant to: (Specify authority) The changes set forth in item 14 are made in the Contract Order No. in item 10A.
- B. The above numbered Contract/Order is modified to reflect the administrative changes (such as changes in paying office, appropriation date, etc.) Set fourth 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)
FAR 43.103(a) Bilateral and FAR 52.212-4(c) Changes

E. IMPORTANT: Contractor is not, is required to sign this document and return 1 copies to the issuing office.

14. Description of Amendment/Modification (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

Modification 0001 to EA133F-12-CQ-0014 makes changes as follows: (1) Section B.2 Schedule of Items and Prices is restated, (2) Section B.3.2. Travel is restated, (3) Section C.4.3.2 Training and Debriefings is restated, (4) Section C.4.3.6 Vessel Selection is restated, (5) Section C.4.3.7. Safety Requirements is restated, (6) Section C.4.3.10 Vessel Operations and Working Conditions is restated, (7) Section C.4.3.11 Data Quality is restated, (8) Section C.4.3.12 Vessel Compensation for Observer Food Reimbursement is restated, (9) Section C.4.3.13 Contractor Standards of Conduct is restated, (10) Section G.2 CAR 1352.245-70 Government Furnished Property (Apr 2010) is restated, (11) Section G.6 Contractor Property Management System Administration (EAD Local Clause) is incorporated, (12) Section G.7 Contractor Business Systems (EAD Local Clause) is incorporated, (13) Section G.8 Accounting System Administration (EAD Local Clause) is incorporated, (14) Section H.2.2 Contractor Conflict of Interest is deleted in its entirety, (15) Section H.2.2 Fisheries Observers Preventing Personal Conflict of Interest (EAD Local Clause) is incorporated, (16) Section H.2.3 Observer Conflict of Interest is deleted in its entirety, (17) Section H.6.2 Other Insurance Coverage is restated, (18) Section H.9 Observer Performance is restated, (19) Section H.14 Passport Requirements is restated, (20)

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.

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| 15A. Name and Title of Signer (Type or Print) Graeme B. Parkes, Vice President - Fisheries | 15A. Name and title of Contracting Officer (Type or Print) BRENDON JOHNSON CONTRACTING OFFICER 757-441-3344 brendon.johnson@noaa.gov |
| 15B. Contractor/Offeror  (Signature of person authorized to sign) | 15B. United States of America  (Signature of Contracting Officer) |
| 15C. Date Signed October 12 2012 | 16C. Date Signed 10/12/12 |

Insurance Coverage is restated, (18) Section H.9 Observer Performance is restated, (19) Section H.14 Passport Requirements is restated, (20) Section I.3 FAR 52.212-4 Contract Terms and Conditions – Commercial Items – Alternate I (Aug 2012) is restated, (21) Section I.4 Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items (Aug 2012) is restated, (22) Section I.9 FAR 52.222-2 Payment for Overtime Premiums (July 1990) is restated, (23) Section I.10 FAR 52.245-1 Government Property (Apr 2012) is incorporated, (24) Section I.11 FAR 52.245-9 Use and Charges (Apr 2012) is incorporated, (25) Section I.12 FAR 52.228-7 Insurance – Liability to Third Persons (Mar 1996) is incorporated, (26) Section J - Attachment 7 Observer Standards of Conduct is restated; (27) Section J – Attachment 18 Shadow Trip Program is restated, (28) Section J – Attachment 19 Data Quality Rating is restated, (29) Section J – Attachment 20 NEFOP Gear List is restated, (30) Section J – Attachment 27 – Contractor Standards of Conduct is deleted in its entirety, (31) Section J - Attachment 30 - IT Security Checklist is renumbered as Section J - Attachment 27- IT Security Checklist, (32) Section J – Attachment 31 Wage Determination 2004-0287 Revision 14 is deleted in its entirety, (33) Section J - Attachment 30 Wage Determination 2004-0287 revision 15 is incorporated, (34) Section J - Attachment 31 HR Bulletin 103 is incorporated, (35) Section J – Attachment 32 MRAG OCI Avoidance and Mitigation Plan is incorporated.

1) EA133F-12-CQ-0014 Section B.2 Schedule of Items and Prices is resated as follows:

B.2. SCHEDULE OF ITEMS AND PRICES

Contractor's rates for CLINS 0001, 0006, 0011, 0016, 0021 and 0026 shall be a "loaded" rate that is inclusive of all wages, fringe benefits, overhead, general and administrative expenses, and profit (no travel, training, or vessel meal reimbursements are to be included).

Year 1 Pricing – July 1, 2012 through June 30, 2013

| Item Number | Supplies/Services | Quantity | Unit | Unit Price | Extended Amount |
|-------------|---|----------|------|-----------------------------|-----------------------------|
| 0001 | Observer Sea Days In Accordance with B.3.1 | 6,480 | DA | | |
| 0001a | Sea Day Rate Observer I | 3240 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0001b | Sea Day Rate Observer II | 1944 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0001c | Sea Day Rate Observer III | 1296 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0002 | Travel In Accordance with B.3.2, C.4.3.5 and C.4.3.6 | 1 | LT | Estimated – \$400,000.00 | Estimated – \$400,000.00 |
| 0003 | Training In Accordance with B.3.3 and C.4.3.2 | 1 | LT | Estimated – \$300,000.00 | Estimated – \$300,000.00 |
| 0004 | Hourly Rate In Accordance with B.3.2, B.3.3, B.3.4, C.4.2.3 (h) and C.4.3.15 | 3000 | HR | | |
| 0004a | Hourly Rate Observer I | 1425 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0004b | Hourly Rate Observer I - Overtime | 75 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0004c | Hourly Rate Observer II | 855 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0004d | Hourly Rate Observer II - Overtime | 45 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0004e | Hourly Rate Observer III | 570 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0004f | Hourly Rate Observer III - Overtime | 30 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0005 | Vessel Meal Reimbursement In Accordance with SOW B.3.5 and C.4.3.12 | | LT | \$ | Estimated – \$150,000.00 |

Year 2 Pricing – July 1, 2013 through June 30, 2014

| Item Number | Supplies/Services | Quantity | Unit | Unit Price | Extended Amount |
|-------------|---|----------|------|-----------------------------|-----------------------------|
| 0006 | Observer Sea Days In Accordance with B.3.1 | 6,480 | DA | | |
| 0006a | Sea Day Rate Observer I | 3240 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0006b | Sea Day Rate Observer II | 1944 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0006c | Sea Day Rate Observer III | 1296 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0007 | Travel In Accordance with B.3.2, C.4.3.5 and C.4.3.6 | 1 | LT | Estimated – \$400,000.00 | Estimated – \$400,000.00 |
| 0008 | Training In Accordance with B.3.3 and C.4.3.2 | 1 | LT | Estimated – \$300,000.00 | Estimated – \$300,000.00 |
| 0009 | Hourly Rate In Accordance with B.3.2, B.3.3, B.3.4, C.4.2.3 (h) and C.4.3.15 | 3000 | HR | | |
| 0009a | Hourly Rate Observer I | 1425 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0009b | Hourly Rate Observer I - Overtime | 75 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0009c | Hourly Rate Observer II | 855 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0009d | Hourly Rate Observer II - Overtime | 45 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0009e | Hourly Rate Observer III | 570 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0009f | Hourly Rate Observer III - Overtime | 30 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0010 | Vessel Meal Reimbursement In Accordance with SOW B.3.5 and C.4.3.12 | | LT | \$ | Estimated – \$150,000.00 |

Year 3 Pricing – July 1, 2014 through June 30, 2015

| Item Number | Supplies/Services | Quantity | Unit | Unit Price | Extended Amount |
|-------------|--|----------|------|-----------------------------|-----------------------------|
| 0011 | Observer Sea Days In Accordance with B.3.1 | 6,480 | DA | | |
| 0011a | Sea Day Rate Observer I | 3240 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0011b | Sea Day Rate Observer II | 1944 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0011c | Sea Day Rate Observer III | 1296 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0012 | Travel In Accordance with B.3.2, C.4.3.5 and C.4.3.6 | 1 | LT | Estimated – \$400,000.00 | Estimated – \$400,000.00 |
| 0013 | Training In Accordance with B.3.3 and C.4.3.2 | 1 | LT | Estimated – \$300,000.00 | Estimated – \$300,000.00 |
| 0014 | Hourly Rate In Accordance with B.3.2, B.3.3, B.3.4, C.4.2.3 (h) and C.4.3.15 | 3000 | HR | | |
| 0014a | Hourly Rate Observer I | 1425 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0014b | Hourly Rate Observer I - Overtime | 75 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0014c | Hourly Rate Observer II | 855 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0014d | Hourly Rate Observer II - Overtime | 45 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0014e | Hourly Rate Observer III | 570 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0014f | Hourly Rate Observer III - Overtime | 30 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0015 | Vessel Meal Reimbursement In Accordance with SOW B.3.5 and C.4.3.12 | | LT | \$ | Estimated – \$150,000.00 |

Year 4 Pricing – July 1, 2015 through June 30, 2016

| Item Number | Supplies/Services | Quantity | Unit | Unit Price | Extended Amount |
|-------------|--|----------|------|-----------------------------|-----------------------------|
| 0016 | Observer Sea Days In Accordance with B.3.1 | 6,480 | DA | | |
| 0016a | Sea Day Rate Observer I | 3240 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0016b | Sea Day Rate Observer II | 1944 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0016c | Sea Day Rate Observer III | 1296 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0017 | Travel In Accordance with B.3.2, C.4.3.5 and C.4.3.6 | 1 | LT | Estimated – \$400,000.00 | Estimated – \$400,000.00 |
| 0018 | Training In Accordance with B.3.3 and C.4.3.2 | 1 | LT | Estimated – \$300,000.00 | Estimated – \$300,000.00 |
| 0019 | Hourly Rate In Accordance with B.3.2, B.3.3, B.3.4, C.4.2.3 (h) and C.4.3.15 | 3000 | HR | | |
| 0019a | Hourly Rate Observer I | 1425 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0019b | Hourly Rate Observer I - Overtime | 75 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0019c | Hourly Rate Observer II | 855 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0019d | Hourly Rate Observer II - Overtime | 45 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0019e | Hourly Rate Observer III | 570 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0019f | Hourly Rate Observer III - Overtime | 30 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0020 | Vessel Meal Reimbursement In Accordance with SOW B.3.5 and C.4.3.12 | | LT | \$ | Estimated – \$150,000.00 |

Year 5 Pricing – July 1, 2016 through June 30, 2017

| Item Number | Supplies/Services | Quantity | Unit | Unit Price | Extended Amount |
|-------------|--|----------|------|-----------------------------|-----------------------------|
| 0021 | Observer Sea Days In Accordance with B.3.1 | 6,480 | DA | | |
| 0021a | Sea Day Rate Observer I | 3240 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0021b | Sea Day Rate Observer II | 1944 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0021c | Sea Day Rate Observer III | 1296 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0022 | Travel In Accordance with B.3.2, C.4.3.5 and C.4.3.6 | 1 | LT | Estimated – \$400,000.00 | Estimated – \$400,000.00 |
| 0023 | Training In Accordance with B.3.3 and C.4.3.2 | 1 | LT | Estimated – \$300,000.00 | Estimated – \$300,000.00 |
| 0024 | Hourly Rate In Accordance with B.3.2, B.3.3, B.3.4, C.4.2.3 (h) and C.4.3.15 | 3000 | HR | | |
| 0024a | Hourly Rate Observer I | 1425 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0024b | Hourly Rate Observer I - Overtime | 75 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0024c | Hourly Rate Observer II | 855 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0024d | Hourly Rate Observer II - Overtime | 45 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0024e | Hourly Rate Observer III | 570 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0024f | Hourly Rate Observer III - Overtime | 30 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0025 | Vessel Meal Reimbursement In Accordance with SOW B.3.5 and C.4.3.12 | | LT | \$ | Estimated – \$150,000.00 |

Six Month Option Extension Pricing – July 1, 2017 through January 31, 2018

| Item Number | Supplies/Services | Quantity | Unit | Unit Price | Extended Amount |
|-------------|--|----------|------|-----------------------------|-----------------------------|
| 0026 | Observer Sea Days In Accordance with B.3.1 | 3,240 | DA | | |
| 0026a | Sea Day Rate Observer I | 1620 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0026b | Sea Day Rate Observer II | 972 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0026c | Sea Day Rate Observer III | 648 | DA | \$ [REDACTED] | \$ [REDACTED] |
| 0027 | Travel In Accordance with B.3.2, C.4.3.5 and C.4.3.6 | 1 | LT | Estimated – \$200,000.00 | Estimated – \$200,000.00 |
| 0028 | Training In Accordance with B.3.3 and C.4.3.2 | 1 | LT | Estimated – \$150,000.00 | Estimated – \$150,000.00 |
| 0029 | Hourly Rate In Accordance with B.3.2, B.3.3, B.3.4, C.4.2.3 (h) and C.4.3.15 | 1500 | HR | | |
| 0029a | Hourly Rate Observer I | 712 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0029b | Hourly Rate Observer I - Overtime | 38 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0029c | Hourly Rate Observer II | 427 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0029d | Hourly Rate Observer II - Overtime | 23 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0029e | Hourly Rate Observer III | 285 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0029f | Hourly Rate Observer III - Overtime | 15 | HR | \$ [REDACTED] | \$ [REDACTED] |
| 0030 | Vessel Meal Reimbursement In Accordance with SOW B.3.5 and C.4.3.12 | | LT | \$ | Estimated – \$75,000.00 |

2) Section B.3.2. Travel is restated as follows:

B.3.2 TRAVEL

Cost reimbursement is authorized only for actual travel of observers, including the observer hourly rate, associated with trainings and vessel deployment, **vessel cancellations at the dock** and other work required under this contract (C.4.3.5). **Cost Reimbursement for “No Shows” and “Cancellations” will be handled in accordance with Paragraph C.4.3.6.**

3) Section C.4.3.2 Training and Debriefings is restated as follows:

C.4.3.2 Training and Debriefings

Attachment 31, HR Bulletin 103, provides policy and guidance on training for non-government employees. At least 95% of new observer recruits are expected to pass the required training course (Section J, Attachment 12, NEFOP Training Standards) and the required physical examination (Section J, Attachment 5, Physical Standards & Acknowledgement of Risk).

Training costs are reimbursable and are intended to include all costs associated with observer training (both initial training and refresher trainings), including, but not limited to, salary during the training period, per diem (meals & reimbursements and lodging), miscellaneous equipment for use during training (as authorized or requested by the Government – Section B Supplies or Services and Prices/Costs Training CLIN 0003, CLIN 0008, CLIN 0013, CLIN 0018, CLIN 0023, and CLIN 0028).

Observer candidates shall undergo an initial 3-week certification training session with NMFS. A series of tests will be administered during this training that candidates must pass prior to certification. Candidates must demonstrate their potential to collect accurate field data, and react to unfamiliar situations at sea in a professional manner. NMFS personnel as well as specialists in other areas such as vessel safety shall conduct training. Refresher training sessions will be conducted when data logs or protocols change, at the discretion of the COTR, or when there has been over six months service interruption for the observer. Observers shall be required to attend an annual refresher course for data collection, species identification, and vessel safety.

Three trainings are scheduled for each year (preliminary dates are scheduled in April, July and September). The contractor shall provide NMFS with at least 45 calendar days prior notice when a training session is needed and identify any foreign nationals that may be attending training (it takes a minimum of 30 working days for foreign national clearance) as referenced in Section F.5.9. For extenuating circumstances, additional trainings may be scheduled at the Government’s discretion. Attendance by a key personnel at training is required for at least two days each week of training.

The contractor shall submit to NMFS, at least 30 calendar days before the beginning of the training, the following information as referenced in Section F.5.10:

- a list of the potential candidates names for review by NMFS
- a hard copy (mailed to the COTR) of each candidates resume
- a hard copy (mailed to the COTR) of the candidates college transcript
- a hard copy (mailed to the COTR) of reference checks from three individuals for each candidate (name of individual providing reference, association with observer, how long they have known the candidate, contact information (phone number, e-mail), and information about the observer’s past performance)

The contractor shall submit to NMFS, at least 14 calendar days before the beginning of the training, the following information as referenced in Section F.5.11:

- an updated list of candidates
- a medical report for each candidate substantiating the individual’s medical qualifications for the job
- online security clearance electronic forms must be initiated by candidates (Section J, Attachment 13, Security Background Instructions)

The contractor shall submit to NMFS, at least 7 calendar days before the beginning of the training, the following information as referenced in Section F.5.12:

- final list of candidates attending upcoming training session
- CPR and First AID Certificate

NMFS may require additional information regarding observer candidates and should be consulted regarding any proposed candidate for which there is some question regarding qualifications. Should substitution of observers be required, the contractor shall also provide their pertinent information to the COTR prior to such substitution. The Government retains the right to reject any observer proposed by the contractor if his or her qualifications do not meet the qualifications specified in paragraph C.4.2.2, Qualifications, or if their work has been performed at an unsatisfactory level on previous projects, or if their behavior on other projects has been disruptive.

The contractor shall provide the status of its observer training approvals completed and in process in its Monthly Status Report (Section F.5.1).

NMFS training curriculum is detailed in the NEFOP training agenda (Section J, Attachment 14, NEFOP Training Agenda).

An observer's first 4 deployments and the resulting data shall be immediately edited and approved after each trip by NMFS prior to any further deployments by that observer (Section J, Attachment 15, NEFOP Training Trip Policy). During the observer's first 4 deployments, in order for them to go on their next trip, their data must be received, edited and the observer must be "cleared" by NMFS to sail on their next trip. This notification will be sent via e-mail to the observer's provider. The observer cannot be deployed until the e-mail notification has been sent by NMFS. If the data quality is considered acceptable the observer will become certified. If the data quality is not considered acceptable, the observer will not be certified by NMFS at that time.

The first trip an observer takes after completing the initial 3-week training course will be accompanied by either a NMFS member or a certified trip trainer. Certified trip trainers are current observers under this contract and are certified by NMFS. In order to become a trip trainer, the contractor must request to NMFS the names of the observer they would like certified. NMFS would then assign a NMFS staff member to accompany the trip trainer candidate on a future trip. If approved by NMFS the observer would become a trip trainer. Contractor responsibilities consist of finding vessels that are willing to take two (2) observers, setting up the logistics of the trip, and communicating with NMFS regularly providing updates on the status of the trip (Section J, Attachment 16, Trip Trainer Certification Program).

Observer trip trainers taking their training assignment trips with NMFS personnel may bill the cost of a seaday under CLIN 0003, CLIN 0008, CLIN 0013, CLIN 0018, CLIN 0023 or CLIN 0028. When two observers are on a vessel for the days a certified observer trip trainer is accompanying a new observer then the new observer should be billed under CLIN 0001, CLIN 0006, CLIN 0011, CLIN 0016, CLIN 0021 or CLIN 0026. The certified trainer would be billed as a seaday under CLIN 0003, CLIN 0008, CLIN 0013, CLIN 0018, CLIN 0023 or CLIN 0028. NMFS determines the number of trainers needed based on how many observers are currently working, what the demand for new observers is, and what the projected training schedule looks like. NMFS currently has 12 certified observer trip trainers and would expect to maintain that level. Observers certified as trip trainers must be geographically representative of the ports NEFOP observers cover to accommodate all new trainees.

Key personnel will be expected to attend any other periodic NMFS required trainings related to the NEFOP program that could impact observer protocols, such as program manual update trainings or changes to the Pre-Trip Notification System. One key personnel is required per all trainings, however, NMFS encourages all available staff attend periodic trainings that relate to changes in the NEFOP program or sampling protocols for their own education. A key personnel is required to attend two days per week of each training and all the days of refresher training.

Compensation for the observer's time at the refresher trainings and all other training as well as meals & reimbursement (M&I) and lodging will be reimbursed by NMFS (Section B – Supplies or Services and Prices/Costs Training CLIN 0003, CLIN 0008, CLIN 0013, CLIN 0018, CLIN 0023, and CLIN 0028). Costs for travel to and from the training center will not be covered by NMFS.

Per Diem and lodging during weekends are reimbursable during trainings that occur over the course of multiple weeks. Weekend observer salary costs are not covered under reimbursement, unless training (such as a weather-delayed training trip) occurs on a weekend day. A weekend make up day would be required if the building is closed during the week.

Observers shall be expected to remain as active observers or serve in other capacities directly related to the Northeast Fisheries Observer Program (e.g. program management) for at least one (1) year after training. The contractor shall reimburse the Government for training expenses for any observers terminating their observer employment with the contractor within one (1) year of completing the NMFS training. This will be done by issuing a credit for the next training session. For example, if three (3) observers leave the program prior to completing one (1) year of employment, at the next training, three (3) individuals' training costs (Section B Supplies or Services and Prices/Costs Training CLIN 0003, CLIN 0008, CLIN 0013, CLIN 0018, CLIN 0023, and CLIN 0028) and hourly wages associated with the training (Section B Supplies or Services and Prices/Costs Hourly Rate Observer CLIN 0004, CLIN 0009, CLIN 0014, CLIN 0019, CLIN 0024, and CLIN 0029) will not be billed to the Government.

Observers shall sign a non-disclosure statement (confidentiality agreement) at the commencement of training (Section J, Attachment 17, NEFSC Statement of Non-Disclosure) as referenced in Section F.5.25.

NMFS may request an observer be accompanied by a NMFS staff member on a future trip. The contractor shall assist with the setting up these shadow trips (Section J, Attachment 18, Shadow Trip Program).

The contractor shall make observers available to NMFS (Enforcement and FSB staff) for the purposes of routine debriefings, requested meetings regarding data quality issues, investigating circumstances of alleged refusals by vessels to take an observer or other violations of the Magnuson-Stevens Fishery Conservation Act (MSA), Marine Mammal Protection Act (MMPA), or the Endangered Species Act (ESA) recorded by the observer in the course of his/her duties (Section B Supplies or Services and Prices/Costs Training CLIN 0003, CLIN 0008, CLIN 0013, CLIN 0018, CLIN 0023, and CLIN 0028) and hourly wages associated with the training (Section B Supplies or Services and Prices/Costs Hourly Rate Observer CLIN 0004, CLIN 0009, CLIN 0014, CLIN 0019, CLIN 0024, and CLIN 0029). All observers shall call their editor/debriefer prior to making a trip in a fishery or program covered for the first time.

4) Section C.4.3.6 Vessel Selection is restated as follows:

C.4.3.6 Vessel Selection

The contractor shall strictly adhere to all sampling design requirements specified for the Northeast Fisheries Observer Program (NEFOP). NMFS will provide the contractor with a set of specific guidelines regarding vessel selection and placement considerations by various fisheries. The contractor shall make contact with vessels selected either by NMFS to arrange for observer coverage and deployment scheduling as necessary. When the contractor/observer makes initial contact with the vessel, the contractor/observer shall verify with the captain that he has sufficient life raft capacity for an additional person (observer). If not, the contractor shall immediately attempt to have one of the NMFS issued valise life rafts available for the observer for that trip. If one is not available, and the captain still intends to sail without the observer, an SDR shall be issued to the captain of the vessel (Section J, Attachment 22, Safety Deficiency Report). The contractor shall locate vessels and deploy observers to vessels. Fishing activity dictates vessel departures and arrivals. Since vessel schedules change, observers must be prepared for sudden sea assignments of extended and uncertain duration.

The contractor shall assign observers to vessels without regard to preference expressed by vessel owners or operators with respect to observer race, gender, age, religion, or sexual orientation nor shall the contractor consider observer's expressed preference. The contractor shall not assign observers who are showing symptoms of illness or who may be contagious. In the event that an observer falls severely ill or injured at sea, and the vessel must prematurely cease fishing to return the observer to port, the contractor shall propose a plan on how to work out a fair reimbursement for the vessel's fuel expenses.

Various regulated fisheries have a requirement for a vessel's representative to notify the NEFOP prior to making each fishing trip. Notification is required prior to the planned departure in a specific time frame, *e.g.*, forty-eight (48) or seventy-two (72) hours. The vessel is then randomly assigned, by NMFS, an observer or issued a waiver, relieving them of the requirement to carry an observer for that specific trip.

The contractor shall provide personnel or an automated answering service to handle notifications twenty four (24) hours a day, seven (7) days a week, for certain fisheries (*i.e.*, herring fishery). Depending on regulations enacted by the NMFS, the notification requirement may require e-mails, telephone calls, or inputting into a website from the vessel's representative. Some fisheries are required to notify NMFS, NMFS is responsible for the selection and informs the vessel and the contractor of trip details. Alternatively, some fisheries are required to notify the contractor directly, in which case the contractor is responsible for the selection and informs the vessel and NMFS of the selection status. The contractor shall be provided with guidance regarding which notification method will be used by each fishery, in addition to the method in which to correspond with the industry.

For fisheries that notify the contractor directly, a spreadsheet shall be maintained which shall include a listing of which vessels have been assigned an observer and which have been granted a waiver as referenced in Section F.5.13. Specific information needed for each spreadsheet will vary by fishery. NMFS will provide a list of specific fields needed for each spreadsheet (for example: date sailed, trip length, gear, area fished, port). This spreadsheet will be forwarded by email each day to NMFS. NMFS will provide an email mailing list for each fishery, changes to the listing must be approved by the COTR.

For fisheries that notify NMFS directly, the contractor will be notified of trip selection via the website. The contractor may accept or decline trips within twelve (12) hours. The reasons to decline a trip must be related to limited observer availability or reported safety concerns. The contractor must take the trip once they have claimed acceptance. If there is an unforeseen emergency that results in changing the contractor's acceptance of a trip, it shall be reported to the COTR. If a trip is accepted by a contractor, the contractor would make contact with the vessel for trip logistics. If a vessel informs the contractor that they are cancelling a trip selected to carry an observer, the contractor shall report that to NMFS twenty-four

(24) hours after the scheduled sail date. The COTR shall be notified of all circumstances in which observers were late or missed a scheduled trip for all fisheries as referenced in Section F.5.14.

Vessels must be covered randomly, without repeated deployments on the same vessels by the same observer, unless waived by the COTR. For trips outside closed areas and other special access fishing programs there shall be no more than two (2) back to back trips by the same observer on the same vessel AND there shall be no more than two (2) trips on the same boat within one month. A vessel selection list may be provided by NMFS which will rank vessels in the order they should be covered. In the event the vessels are difficult to locate the contractor shall send and track a NMFS approved selection letter to vessel owners who are involved in fisheries with mandatory observer coverage.

Cost Reimbursement is authorized for observers for the time associated with a "no show". The maximum amount of time for a no show is up to 2.5 hours. The observer must arrive 30 minutes prior to the scheduled departure time and remain at the designated area for up to 2 hours following the scheduled departure time. **Travel to and from the site and per diem are not included unless conditions in C.4.3.5 are met.** Any costs billed for a "no show" will be billed against CLIN 0004, CLIN 0009, CLIN 0014, CLIN 0019, CLIN 0024 or CLIN 0029. There will be no reimbursement for situations in which it is the observer's fault for missing the trip or no attempt was made to communicate with the captain prior to taking the trip. A travel voucher (Section J, Attachment 21, Observer Travel Voucher) is required for proper reimbursement.

Cost Reimbursement is authorized for Observers for the time associated with a "cancellation" in instances where trips are cancelled at the dock or when an observer is enroute to the vessel and cancellations occurs. The maximum amount of time for a cancellation is up to 2.5 hours. Travel to and from the site and per diem are not included unless conditions in C.4.3.5 are met. Any costs billed for a "Cancellation" will be billed against CLIN 0004, CLIN 0009, CLIN 0014, CLIN 0019, CLIN 0024, and CLIN 0029. A travel voucher (Section J, Attachment 21, Observer Travel Voucher) is required for proper reimbursement.

- 5) Section C.4.3.7. Safety Requirements is restated as follows:

C.4.3.7 Safety Requirements

Vessels must be in compliance with the Observer Health and Safety Regulations before an observer is deployed (http://www.nefsc.noaa.gov/fsb/Misc/Obs_Health_&_Safety_Regs.FR.11.01.07.pdf). Vessels must pass the Pre-Trip Vessel Safety Checklist (**Section J, Attachment 21, Observer Travel Voucher**) that will be performed by the observer with the assistance of the captain or designee prior to deployment. If the vessel fails to pass the Pre-Trip Vessel Safety Checklist, the observer shall not sail on the vessel and shall complete Safety Deficiency Report (Section J, Attachment 22, Safety Deficiency Report), which shall be provided to the captain and NMFS.

Valise life rafts will be issued to the contractor by NMFS upon award of the contract. It is expected that the contractor shall maintain the life rafts while in their care and ensure the life raft is up to date with service and inspections. When service and inspection dates are coming close to their expiration, the contractor shall contact NMFS to schedule a drop off of the raft. If there is evidence that the life raft is not treated properly while in their care (i.e., dragged on the ground resulting in holes in the raft) then the contractor will be liable for the cost of a replacement raft.

Observer safety is of paramount importance to NEFOP. If at any time an observer feels that a vessel is unsafe prior to departure, they may decline the trip and report this on the Pre-Trip Vessel Safety Checklist (**Section J, Attachment 23**) to NMFS.

- 6) Section C.4.3.10 Vessel Operations and Working Conditions is restated as follows:

C.4.3.10 Vessel Operations and Working Conditions

Fishing vessels routinely operate out of ports from North Carolina to Maine (**Section J, Attachment 24, Location of NEFOP Trips in 2010**). Trips can range from 1-14 days in duration. The vessels operate in ocean waters, 3-200 miles offshore in all weather conditions. Vessels are generally 30-150 feet in length. Crew members and observers live and sleep in cramped quarters, often in damp conditions and share common facilities. On some vessels, the crew does not speak English. Observers must be willing to travel occasionally to cover locations other than their primary ports.

Crew members and observers live and sleep in cramped quarters, often in damp conditions, sharing toilet and shower facilities when available. Observer Health and Safety Regulations require sleeping areas for the observer to be equal to those of the crew. Some vessels have no shower and may lack permanent toilets or bunks. Although vessels may not have separate facilities for women, federal regulations require reasonable privacy for female observers. Female observers on a vessel with an all-male crew must be accommodated with adequate privacy which can be ensured by installing a curtain or other temporary divider, in a shared cabin. Because of the size and responsiveness of these vessels to sea conditions, motion sickness can be debilitating for some individuals and should be seriously considered in all prospective observer candidates. Most vessels carry no trained medical personnel aboard and rely upon first aid knowledge of the boat's operator in consultation with land-based physicians via radio.

Food is provided on multiday trips for the observer and must be equal to the food being served to the rest of the crew. On single day trips, observers must bring their own food and water.

7) Section C.4.3.11 Data Quality is restated as follows:

C.4.3.11 Data Quality

The NMFS COTR will monitor all aspects of contractor performance as described below:

- Failure to deliver data from an observed sea day includes:
- All data must be delivered at the required time frame, as specified by NMFS.
- Data must not be fraudulent or of such poor quality as to be unusable (i.e. if determined to be fraudulent or unusable within 90 days of receipt of the data).

The contractor shall interact with vessels which have carried observers. They shall interview the captain; using NMFS issued workbooks with a pre-determined set of questions (**Section J, Attachment 25, Captain Interview Questions**), and determine if the observer performed his/her job in a professional manner and carried out all required tasks. Unless otherwise instructed by NMFS, a random selection of 10% of each observer's trips each quarter will have follow-up interviews. Format questions will be provided by NMFS. Trip Interview Reports will be provided to NMFS electronically within two working days of the interview as referenced in Section F.5.17. The contractor shall report, in writing to the COTR, all complaints made by the industry regarding observer activities, as well as any observer injuries aboard vessels or on docks to NMFS.

An observer's ability to work will be based on his/her certification. If an observer does not adhere to NMFS protocols or meet the Observer Standards of Conduct (Section J, Attachment 7, Observer Standards of Conduct), they may be placed on pre-probation, probation or decertified, as described in the NMFS policy statement regarding certification (**Section J, Attachment 26, NEFOP Observer Performance Monitoring, Review, Probation and Decertification**).

NMFS will provide the contractor with a data quality rating for each observer (Section J, Attachment 19, Data Quality Rating).

8) Section C.4.3.12 Vessel Compensation for Observer Food Reimbursement is restated as follows:

C.4.3.12 Vessel Compensation for Observer Food Reimbursement

Contractors shall compensate vessels at a rate of \$40 per day (for every completed 24 hour period) to cover observer accommodation and food costs while aboard the vessel for trips lasting longer than one (1) day (i.e. 24 hours) (Section B Supplies or Services and Prices/Costs Vessel Meal Reimbursement CLIN 0005, CLIN 0010, CLIN 0015, CLIN 0020, CLIN 0025, and CLIN 0030). The contractor shall provide NMFS with an example of the vessel reimbursement form the contractor develops as referenced in Section F.5.18. The contractor shall provide a report for all vessel meal reimbursements provided within the last monthly period. The contractor is encouraged to make all vessel compensation payments through Electronic Funds Transfer. If the contractor makes vessel meal reimbursement payment through check, the contractor shall provide proof that the check has been cashed within 90 days of vessel receipt of the check. If a check has not been cashed within 90 days of vessel receipt, the contractor shall cancel the check and provide an offset to NOAA in the amount of the original check less any check cancellation fees (Section F.5.19). The contractor shall provide evidence for all check cancellation fees to the COTR.

9) Section C.4.3.13 Contractor Standards of Conduct is restated as follows:

C.4.3.13 Contractor Standards of Conduct

The Contractor shall comply with the requirements of Clause H.2.2 Fisheries Observers Preventing Personal Conflicts of Interest. The contractor shall assign observers without regard to any preference expressed by representatives of vessels based on, but not limited to, observer race, gender, age, religion or sexual orientation.

10) Section G.2 CAR 1352.245-70 Government Furnished Property (Apr 2010) is restated as follows:

G.2 CAR 1352.245-70 GOVERNMENT FURNISHED PROPERTY (APR 2010)

The Government will provide the following item(s) of Government property to the contractor. The contractor shall be accountable for, and have stewardship of, the property in the performance of this contract. This property shall be used and maintained by the contractor in accordance with provisions of the “Government Property” clause included in this contract. Additional gear list is included in Section J, Attachment 20, NEFOP Gear List.

| Item Number | Description | Quantity | Delivery Date | Property/Tag No. (if applicable) |
|-------------|---|------------------|------------------|----------------------------------|
| 0001 | Satellite phone (for emergency situations only) | As Needed | As Needed | To be Determined |
| 0002 | Panasonic Rugged laptop computer (when programming is complete and tested) | As Needed | As Needed | To be Determined |
| 0003 | Peterson’s Guide to Atlantic Coast Fishes | As Needed | As Needed | To be Determined |
| 0004 | Peterson’s Guide to the Atlantic Seashore | As Needed | As Needed | To be Determined |
| 0005 | Beached Birds, A COASST Field Guide to the North Atlantic | As Needed | As Needed | To be Determined |
| 0006 | National Geographic Field Guide to Birds of North America | As Needed | As Needed | To be Determined |
| 0007 | Marel Motion Calibrated Platform Scale | As Needed | As Needed | To be Determined |
| 0008 | Fish Measuring Strips | As Needed | As Needed | To be Determined |
| 0009 | Tyvek tags, pre-printed for samples | As Needed | As Needed | To be Determined |
| 0010 | Write-in-rain notebooks | As Needed | As Needed | To be Determined |
| 0011 | Age envelopes (non-lined) | As Needed | As Needed | To be Determined |
| 0012 | Age envelope liners (cut up paper) | As Needed | As Needed | To be Determined |
| 0013 | Diaries | As Needed | As Needed | To be Determined |
| 0014 | Measuring stick (probe for determining depth of fish pile for volume estimates) | As Needed | As Needed | To be Determined |
| 0015 | Tyvek tags, blank | As Needed | As Needed | To be Determined |
| 0016 | Marine mammal yellow tags | As Needed | As Needed | To be Determined |
| 0017 | Sea turtle tags | As Needed | As Needed | To be Determined |
| 0018 | Sea turtle pliers | As Needed | As Needed | To be Determined |
| 0019 | Observer Program Manual | As Needed | As Needed | To be Determined |
| 0020 | Observer Biological Sampling Manual | As Needed | As Needed | To be Determined |
| 0021 | Observer cheat sheets Observer Training Manual Regulatory compliance folder | As Needed | As Needed | To be Determined |
| 0022 | Marine mammals and turtles field guides | As Needed | As Needed | To be Determined |
| 0023 | Requiem shark field guide | As Needed | As Needed | To be Determined |
| 0024 | Fishes of the Gulf of Maine – Bigelow (recommended but not required at sea) | As Needed | As Needed | To be Determined |
| 0025 | Copies of blank logs, worksheets, and workbooks | As Needed | As Needed | To be Determined |
| 0026 | Marine mammal digital temperature probe, 1F Taylor model #9842 | As Needed | As Needed | To be Determined |
| 0027 | Marine mammal work slate | As Needed | As Needed | To be Determined |
| 0028 | Marine mammal sampling bag | As Needed | As Needed | To be Determined |
| 0029 | Scallop board measuring Strips | As Needed | As Needed | To be Determined |
| 0030 | Access to Observer Databases and Reports | As Needed | As Needed | To be Determined |
| 0031 | Lifeboat | As Needed | As Needed | To be Determined |

(End of clause)

11) Section G.6 Contractor Property Management System Administration (EAD Local Clause) is incorporated as follows:

G.6 CONTRACTOR PROPERTY MANAGEMENT SYSTEM ADMINISTRATION (EAD LOCAL CLAUSE)

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

“Acceptable property management system” means a property system that complies with the system criteria in paragraph (c) of this clause.

“Property management system” means the Contractor’s system or systems for managing and controlling Government property.

“Significant deficiency” means a shortcoming in the system that materially affects the ability of officials of the Department of Commerce to rely upon information produced by the system that is needed for management purposes.

(b) *General:* The Contractor shall establish and maintain an acceptable property management system. Failure to maintain an acceptable property management system, as defined in this clause, may result in disapproval of the system by the Contracting Officer and/or withholding of payments.

(c) *System criteria:* The Contractor’s property management system shall be in accordance with paragraph (f) of the contract clause at Federal Acquisition Regulation 52.245-1.

(d) *Significant deficiencies:*

(1) The Contracting Officer will provide an initial determination to the Contractor, in writing, of any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor’s property management system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing.

(3) The Contracting Officer will evaluate the Contractor’s response and notify the Contractor, in writing, of the Contracting Officer’s final determination concerning—

- (i) Remaining significant deficiencies;
- (ii) The adequacy of any proposed or completed corrective action; and
- (iii) System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.

(e) If the Contractor receives the Contracting Officer’s final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies.

(f) *Withholding payments:* If the Contracting Officer makes a final determination to disapprove the Contractor’s property management system, and the contract includes the clause, Contractor Business Systems, the Contracting Officer will withhold payments in accordance with that clause.

12) Section G.7 Contractor Business Systems (EAD Local Clause) is incorporated as follows:

G.7 CONTRACTOR BUSINESS SYSTEMS (EAD LOCAL CLAUSE)

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

“Acceptable contractor business systems” means contractor business systems that comply with the terms and conditions of the applicable business system clauses listed in the definition of “contractor business systems” in this clause.

“Contractor business systems” means—

- (1) Accounting system, if this contract includes the clause, Accounting System Administration;
- (2) Earned value management system, if this contract includes the clause, Earned Value Management System;
- (3) Estimating system, if this contract includes the clause, Cost Estimating System Requirements;
- (4) Material management and accounting system, if this contract includes the clause, Material Management and Accounting System;
- (5) Property management system, if this contract includes the clause, Contractor Property Management System Administration; and
- (6) Purchasing system, if this contract includes the clause, Contractor Purchasing System Administration.

“Significant deficiency,” in the case of a contractor business system, means a shortcoming in the system that materially affects the ability of officials of the Department of Commerce to rely upon information produced by the system that is needed for management purposes.

(b) *General.* The Contractor shall establish and maintain acceptable business systems in accordance with the terms and conditions of this contract.

(c) *Significant deficiencies:*

(1) The Contractor shall respond, in writing, within 30 days to an initial determination that there are one or more significant deficiencies in one or more of the Contractor’s business systems.

(2) The Contracting Officer will evaluate the Contractor’s response and notify the Contractor, in writing, of the final determination as to whether the Contractor’s business system contains significant deficiencies. If the Contracting Officer determines that the Contractor’s business system contains significant deficiencies, the final determination will include a notice to withhold payments.

(d) *Withholding payments.*

- (1) If the Contracting Officer issues the final determination with a notice to withhold payments for significant deficiencies in a contractor business system required under this contract, the Contracting Officer will withhold five percent of amounts due from progress payments and performance-based payments, and direct the Contractor, in writing, to withhold five percent from its billings on interim cost vouchers on cost-reimbursement, labor-hour, and time-and-materials contracts until the Contracting Officer has determined that the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination. The Contractor shall, within 45 days of receipt of the notice, either correct the deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies.
- (2) If the Contractor submits an acceptable corrective action plan within 45 days of receipt of a notice of the Contracting Officer's intent to withhold payments, and the Contracting Officer, in consultation with the auditor or functional specialist, determines that the Contractor is effectively implementing such plan, the Contracting Officer will reduce withholding directly related to the significant deficiencies covered under the corrective action plan, to two percent from progress payments and performance-based payments, and direct the Contractor, in writing, to reduce the percentage withheld on interim cost vouchers to two percent until the Contracting Officer determines the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination. However, if at any time, the Contracting Officer determines that the Contractor has failed to follow the accepted corrective action plan, the Contracting Officer will increase withholding from progress payments and performance-based payments, and direct the Contractor, in writing, to increase the percentage withheld on interim cost vouchers to the percentage initially withheld, until the Contracting Officer determines that the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination.
- (3) Payment withhold percentage limits:
 - (i) The total percentage of payments withheld on amounts due under each progress payment, performance-based payment, or interim cost voucher, on this contract shall not exceed--
 - (A) Five percent for one or more significant deficiencies in any single contractor business system; and
 - (B) Ten percent for significant deficiencies in multiple contractor business systems.
 - (ii) If this contract contains pre-existing withholds, and the application of any subsequent payment withholds will cause withholding under this clause to exceed the payment withhold percentage limits in paragraph (e)(3)(i) of this clause, the Contracting Officer will reduce the payment withhold percentage in the final determination to an amount that will not exceed the payment withhold percentage limits.
- (4) For the purpose of this clause, payment means any of the following payments authorized under this contract:
 - (i) Interim payments under—
 - (A) Cost-reimbursement contracts;
 - (B) Incentive type contracts;
 - (C) Time-and-materials contracts;
 - (D) Labor-hour contracts.
 - (ii) Progress payments.
 - (iii) Performance-based payments.
- (5) Payment withholding shall not apply to payments on fixed-price line items where performance is complete and the items were accepted by the Government.
- (6) The withholding of any amount or subsequent payment to the Contractor shall not be construed as a waiver of any rights or remedies the Government has under this contract.
- (7) Notwithstanding the provisions of any clause in this contract providing for interim, partial, or other payment withholding on any basis, the Contracting Officer may withhold payment in accordance with the provisions of this clause.
- (8) The payment withholding authorized in this clause is not subject to the interest-penalty provisions of the Prompt Payment Act.
- (e) Correction of deficiencies.
 - (1) The Contractor shall notify the Contracting Officer, in writing, when the Contractor has corrected the business system's deficiencies.
 - (2) Once the Contractor has notified the Contracting Officer that all deficiencies have been corrected, the Contracting Officer will take one of the following actions:
 - (i) If the Contracting Officer determines that the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination, the Contracting Officer will, as appropriate, discontinue the withholding of progress payments and performance-based payments, and direct the Contractor, in writing, to discontinue the payment withholding from billings on interim cost vouchers under this contract associated with the Contracting Officer's final determination, and authorize the Contractor to bill for any monies previously withheld that are not also being withheld due to other significant deficiencies. Any payment withholding under this contract due to other significant deficiencies, will remain in effect until the Contracting Officer determines that those significant deficiencies are corrected.
 - (ii) If the Contracting Officer determines that the Contractor still has significant deficiencies, the Contracting Officer will continue the withholding of progress payments and performance-based payments, and the Contractor shall continue withholding amounts from its billings on interim cost vouchers in accordance with paragraph (e) of this clause, and not bill for any monies previously withheld.
 - (iii) If the Contracting Officer determines, based on the evidence submitted by the Contractor, that there is a reasonable expectation that the corrective actions have been implemented and are expected to correct the significant deficiencies, the

Contracting Officer will discontinue withholding payments, and release any payments previously withheld directly related to the significant deficiencies identified in the Contractor notification, and direct the Contractor, in writing, to discontinue the payment withholding from billings on interim cost vouchers associated with the Contracting Officer's final determination, and authorize the Contractor to bill for any monies previously withheld.

- (iv) If, within 90 days of receipt of the Contractor notification that the Contractor has corrected the significant deficiencies, the Contracting Officer has not made a determination in accordance with paragraphs (f)(2)(i), (ii), or (iii) of this clause, the Contracting Officer will reduce withholding directly related to the significant deficiencies identified in the Contractor notification by at least 50 percent of the amount being withheld from progress payments and performance-based payments, and direct the Contractor, in writing, to reduce the payment withholding from billings on interim cost vouchers directly related to the significant deficiencies identified in the Contractor notification by a specified percentage that is at least 50 percent, but not authorize the Contractor to bill for any monies previously withheld until the Contracting Officer makes a determination in accordance with paragraphs (f)(2)(i), (ii), or (iii) of this clause.
- (v) At any time after the Contracting Officer reduces or discontinues the withholding of progress payments and performance-based payments, or directs the Contractor to reduce or discontinue the payment withholding from billings on interim cost vouchers under this contract, if the Contracting Officer determines that the Contractor has failed to correct the significant deficiencies identified in the Contractor's notification, the Contracting Officer will reinstate or increase withholding from progress payments and performance-based payments, and direct the Contractor, in writing, to reinstate or increase the percentage withheld on interim cost vouchers to the percentage initially withheld, until the Contracting Officer determines that the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination.

(End of clause)

13) Section G.8 Accounting System Administration (EAD Local Clause) is incorporated as follows:

G.8 ACCOUNTING SYSTEM ADMINISTRATION (EAD LOCAL CLAUSE)

(a) Definitions. As used in this clause—

- (1) "Acceptable accounting system" means a system that complies with the system criteria in paragraph (c) of this clause to provide reasonable assurance that—
 - (i) Applicable laws and regulations are complied with;
 - (ii) The accounting system and cost data are reliable;
 - (iii) Risk of misallocations and mischarges are minimized; and
 - (iv) Contract allocations and charges are consistent with billing procedures.
- (2) "Accounting system" means the Contractor's system or systems for accounting methods, procedures, and controls established to gather, record, classify, analyze, summarize, interpret, and present accurate and timely financial data for reporting in compliance with applicable laws, regulations, and management decisions, and may include subsystems for specific areas such as indirect and other direct costs, compensation, billing, labor, and general information technology.
- (3) "Significant deficiency" means a shortcoming in the system that materially affects the ability of officials of the Department of Commerce to rely upon information produced by the system that is needed for management purposes.

(b) General: The Contractor shall establish and maintain an acceptable accounting system. Failure to maintain an acceptable accounting system, as defined in this clause, shall result in the withholding of payments if the contract includes the clause, Contractor Business Systems, and also may result in disapproval of the system.

(c) System criteria: The Contractor's accounting system shall provide for—

- (1) A sound internal control environment, accounting framework, and organizational structure;
- (2) Proper segregation of direct costs from indirect costs;
- (3) Identification and accumulation of direct costs by contract;
- (4) A logical and consistent method for the accumulation and allocation of indirect costs to intermediate and final cost objectives;
- (5) Accumulation of costs under general ledger control;
- (6) Reconciliation of subsidiary cost ledgers and cost objectives to general ledger;
- (7) Approval and documentation of adjusting entries;
- (8) Management reviews or internal audits of the system to ensure compliance with the Contractor's established policies, procedures, and accounting practices;
- (9) A timekeeping system that identifies employees' labor by intermediate or final cost objectives;
- (10) A labor distribution system that charges direct and indirect labor to the appropriate cost objectives;
- (11) Interim (at least monthly) determination of costs charged to a contract through routine posting of books of account;
- (12) Exclusion from costs charged to Government contracts of amounts which are not allowable in terms of Federal Acquisition Regulation (FAR) part 31, Contract Cost Principles and Procedures, and other contract provisions;
- (13) Identification of costs by contract line item and by units (as if each unit or line item were a separate contract), if required by the contract;
- (14) Segregation of preproduction costs from production costs, as applicable;
- (15) Cost accounting information, as required—

- (i) By contract clauses concerning limitation of cost (FAR 52.232-20), limitation of funds (FAR 52.232-22), or allowable cost and payment (FAR 52.216-7); and
- (ii) To readily calculate indirect cost rates from the books of accounts;
- (16) Billings that can be reconciled to the cost accounts for both current and cumulative amounts claimed and comply with contract terms;
- (17) Adequate, reliable data for use in pricing follow-on acquisitions; and
- (18) Accounting practices in accordance with standards promulgated by the Cost Accounting Standards Board, if applicable, otherwise, Generally Accepted Accounting Principles.
- (d) Significant deficiencies:
 - (1) The Contracting Officer will provide an initial determination to the Contractor, in writing, of any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.
 - (2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's accounting system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing.
 - (3) The Contracting Officer will evaluate the Contractor's response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning—
 - (i) Remaining significant deficiencies;
 - (ii) The adequacy of any proposed or completed corrective action; and
 - (iii) System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.
- (e) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies.
- (f) Withholding payments: If the Contracting Officer makes a final determination to disapprove the Contractor's accounting system, and the contract includes the clause, Contractor Business Systems, the Contracting Officer will withhold payments in accordance with that clause.

(End of clause)

14) Section H.2.2 Contractor Conflict of Interest is deleted in its entirety.

15) Section H.2.2 Fisheries Observers Preventing Personal Conflict of Interest (EAD Local Clause) is incorporated as follows:

H.2.2. FISHERIES OBSERVERS PREVENTING PERSONAL CONFLICTS OF INTEREST (EAD LOCAL CLAUSE)

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

“Covered employee” means an individual who performs observer services as a Project Manager, Coordinator, Observer I, Observer II, and Observer III per the Statement of Work and is—

- (1) An employee of the contractor; or
- (2) A subcontractor that is a self-employed individual treated as a covered employee of the contractor because there is no employer to whom such an individual could submit the required disclosures.

“Non-public information” means any Government or third-party information that—

- (1) Is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) or otherwise protected from disclosure by statute, Executive order, or regulation; or
- (2) Has not been disseminated to the general public and the Government has not yet determined whether the information can or will be made available to the public.

“Personal conflict of interest” means a situation in which a covered employee has a financial interest, personal activity, or relationship that could impair the employee's ability to act impartially and in the best interest of the Government when performing under the contract. (A *de minimis* interest that would not “impair the employee's ability to act impartially and in the best interest of the Government” is not covered under this definition.)

- (1) Among the sources of personal conflicts of interest are—
 - (i) Financial interests of the covered employee, of close family members, or of other members of the covered employee's household;
 - (ii) Other employment or financial relationships (including seeking or negotiating for prospective employment or business); and
 - (iii) Gifts, including travel.
- (2) For example, financial interests referred to in paragraph (1) of this definition may arise from—
 - (i) Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;
 - (ii) Consulting relationships (including commercial and professional consulting and service arrangements, scientific and technical advisory board memberships, or serving as an expert witness in litigation);
 - (iii) Services provided in exchange for honorariums or travel expense reimbursements;
 - (iv) Research funding or other forms of research support;

(v) Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);

(vi) Real estate investments;

(vii) Patents, copyrights, and other intellectual property interests; or

(viii) Business ownership and investment interests.

(b) *Requirements.* The Contractor shall—

(1) Have procedures in place to screen covered employees for potential personal conflicts of interest, by—

(i) Obtaining and maintaining from each covered employee, when the employee is initially assigned to the task under the contract, a disclosure of interests that might be affected by the task to which the employee has been assigned, as follows:

(A) Financial interests of the covered employee, of close family members, or of other members of the covered employee's household.

(B) Other employment or financial relationships of the covered employee (including seeking or negotiating for prospective employment or business).

(C) Gifts, including travel; and

(ii) Requiring each covered employee to update the disclosure statement whenever the employee's personal or financial circumstances change in such a way that a new personal conflict of interest might occur because of the task the covered employee is performing.

(2) For each covered employee—

(i) Prevent personal conflicts of interest, including not assigning or allowing a covered employee to perform any task under the contract for which the Contractor has identified a personal conflict of interest for the employee that the Contractor or employee cannot satisfactorily prevent or mitigate in consultation with the contracting agency;

(ii) Prohibit use of non-public information accessed through performance of a Government contract for personal gain; and

(iii) Obtain a signed non-disclosure agreement to prohibit disclosure of non-public information accessed through performance of a Government contract.

(3) Inform covered employees of their obligation—

(i) To disclose and prevent personal conflicts of interest;

(ii) Not to use non-public information accessed through performance of a Government contract for personal gain; and

(iii) To avoid even the appearance of personal conflicts of interest;

(4) Maintain effective oversight to verify compliance with personal conflict-of-interest safeguards;

(5) Take appropriate disciplinary action in the case of covered employees who fail to comply with policies established pursuant to this clause; and

(6) Report to the Contracting Officer any personal conflict-of-interest violation by a covered employee as soon as it is identified. This report shall include a description of the violation and the proposed actions to be taken by the Contractor in response to the violation. Provide follow-up reports of corrective actions taken, as necessary. Personal conflict-of-interest violations include—

(i) Failure by a covered employee to disclose a personal conflict of interest;

(ii) Use by a covered employee of non-public information accessed through performance of a Government contract for personal gain; and

(iii) Failure of a covered employee to comply with the terms of a non-disclosure agreement.

(c) *Mitigation or waiver.*

(1) In exceptional circumstances, if the Contractor cannot satisfactorily prevent a personal conflict of interest as required by paragraph (b)(2)(i) of this clause, the Contractor may submit a request through the Contracting Officer to the Head of the Contracting Activity for—

(i) Agreement to a plan to mitigate the personal conflict of interest; or

(ii) A waiver of the requirement.

(2) The Contractor shall include in the request any proposed mitigation of the personal conflict of interest.

(3) The Contractor shall—

(i) Comply, and require compliance by the covered employee, with any conditions imposed by the Government as necessary to mitigate the personal conflict of interest; or

(ii) Remove the Contractor employee or subcontractor employee from performance of the contract or terminate the applicable subcontract.

(d) *Subcontract flowdown.* The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts—

(1) Of any value; and

(2) In which subcontractor employees will perform acquisition functions closely associated with inherently governmental functions (i.e., instead of performance only by a self-employed individual).

16) Section H.2.3 Observer Conflict of Interest is deleted in its entirety.

17)) Section H.6.2 Other Insurance Coverage is restated as follows:

H.6.2 OTHER INSURANCE COVERAGE

In addition to observer accident and health insurance, the contractor shall provide the following insurance (Section F.5.23):

See Section I.12, Clause FAR 52.228-7, Insurance – Liability to Third Persons. The contractor shall secure, pay the premiums for and keep in force until the expiration of this contract, and any renewal thereof, adequate insurance as provided below, such insurance to specifically include liability assumed by the contractor under this contract.

- (a) Maritime liability to cover “seaman’s” claims under the Merchant Marine Act (Jones Act) and General Maritime Law (\$5,000,000 minimum)
- (b) Coverage under U. S. Longshore and Harbor Worker’s Compensation Act (\$3,000,000 minimum)
- (c) Coverage as required by federal and state workers’ compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer’s liability section of the insurance policy, except when contract operations are so commingled with a contractor’s commercial operations that it would not be practical to require this coverage. Employer’s liability coverage of at least \$100,000 shall be required, except in states with exclusive or monopolistic funds that do not permit workers’ compensation to be written by private carriers.
- (d) Comprehensive bodily injury liability insurance with limits of not less than \$500,000 for each occurrence.
- (e) Property damage liability with a limit of not less than \$100,000 for each occurrence.
- (f) The contractor shall have automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage.
- (g) When aircraft are used in connection with performing the contract, the contractor shall have aircraft public and passenger liability insurance. Coverage shall be at least \$500,000 per person and \$500,000 per occurrence for bodily injury, other than passenger liability, and \$500,000 per occurrence for property damage. Coverage for passenger liability bodily injury shall be at least \$500,000 multiplied by the number of seats or passengers, whichever is greater.
- (h) In the event the contractor is given the responsibility of operating any government-owned vessel, the contractor shall have Protection and Indemnity insurance that includes Jones Act coverage on the vessels. That includes Captain and Crew coverage in the amount of \$1,000,000 with \$15,000,000 in Excess coverage. The contractor shall list the Government as an additional insured party on this policy. This insurance will be required only when the task order includes a requirement for the contractor to operate and maintain a Government-owned vessel.
- (i) Government transportation will be available in some instances for local travel and for travel to some remote sites for leg changes on cruises. The contractor shall assume full liability for their employees traveling in Government vehicles. The government will not be liable for any injury or death resulting from contractor employees riding in government vehicles.

Each policy of insurance shall contain an endorsement that any cancellation or material change in the coverage adversely affecting the Government’s interest shall not be effective unless the insurer or the contractor gives written notice of cancellation or change, as required by the Contracting Officer. When the coverage is provided by self-insurance, the contractor shall not change or decrease the coverage without the Contracting Officer’s prior approval.

A certificate of each policy of insurance shall be furnished to the Contracting Officer within ten (10) days after notice of award of any base, option period, certifying, among other things, that the policy contains the aforementioned endorsement (F.5.23). The insurance company providing the above insurance shall be satisfactory to the Government. Notices of policy changes and renewals shall be furnished to the Contracting Officer within twenty four (24) hours of contractor receipt (F.5.23).

18) Section H.9 Observer Performance is restated as follows:

H.9 OBSERVER PERFORMANCE

The NMFS COTR retains the right to prohibit an observer from participating in the Northeast Fishery Observer Program if any of the following occur:

- (a) Violation of the Observer Standards of Conduct in Section J, Attachment 7.
- (b) Failure to satisfactorily perform the duties specified in the SOW.
- (c) Failure to abide by the NEFOP Observer Performance Monitoring, Review, Probation, and Decertification standards (**Section J, Attachment 26**).

If NMFS deems the observer's data quality as poor, the contractor must follow the improvement steps outlined in its Quality Assurance Management Plan (Section F.5.3) to ensure correction and enable observer performance improvement. If deemed necessary by NMFS, an observer will be placed on pre-probation, probation or decertified as specified in Section J, Attachment 25, NEFOP Observer Performance Monitoring, Review, Probation, and Decertification standards. NMFS will contact the contractor and observer to inform them of their change of status within a week of their decision.

- (d) Unsatisfactory performance as an observer in a different observer program.

The NMFS COTR retains the right to reject any returning observer proposed by the contractor if their performance was at an unsatisfactory level on previous observer programs or if their behavior in previous observer programs was disruptive or jeopardized the credibility of the observer program.

19) Section H.14 Passport Requirements is restated as follows:

H.14 PASSPORT REQUIREMENTS

Passports may be required for some travel. When they are required, the contractor shall make all arrangements for obtaining the passports for those employees. The cost of the passports will be reimbursed by the Government. **Request for cost reimbursement should be billed under CLIN 0002, CLIN 0007, CLIN 0012, CLIN 0017, CLIN 0022 and CLIN 0027.**

20) Section I.3 FAR 52.212-4 Contract Terms and Conditions – Commercial Items – Alternate I (Aug 2012) is restated as follows:

I.3. FAR 52.212-4 CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS – Alternate I (AUG 2012)

(Reference <https://www.acquisition.gov/far>)

21) Section I.4 Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items (Aug 2012) is restated as follows:

I.4. FAR 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS (AUG 2012)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(2) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(3) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

X (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

X (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

- (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (June 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)
- (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Aug 2012) (Pub. L. 109-282) (31 U.S.C. 6101 note).
- (5) 52.204-11, American Recovery and Reinvestment Act—Reporting Requirements (Jul 2010) (Pub. L. 111-5).
- (6) 52.209-6, Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Dec 2010) (31 U.S.C. 6101 note).
- (7) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Jan 2012) (41 U.S.C. 2313).
- (8) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (May 2012) (section 740 of Division C of Pub. L. 111-117, section 743 of Division D of Pub. L. 111-8, and section 745 of Division D of Pub. L. 110-161).
- (9) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (Nov 2011) (15 U.S.C. 657a).
- (10) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JAN 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
- (11) [Reserved]
- (12)(i) 52.219-6, Notice of Total Small Business Set-Aside (Nov 2011) (15 U.S.C. 644).
- (ii) Alternate I (Nov 2011).
- (iii) Alternate II (Nov 2011).
- (13)(i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).
- (ii) Alternate I (Oct 1995) of 52.219-7.
- (iii) Alternate II (Mar 2004) of 52.219-7.
- (14) 52.219-8, Utilization of Small Business Concerns (Jan 2011) (15 U.S.C. 637(d)(2) and (3)).
- (15)(i) 52.219-9, Small Business Subcontracting Plan (Jan 2011) (15 U.S.C. 637(d)(4)).
- (ii) Alternate I (Oct 2001) of 52.219-9.
- (iii) Alternate II (Oct 2001) of 52.219-9.
- (iv) Alternate III (Jul 2010) of 52.219-9.
- (16) 52.219-13, Notice of Set-Aside of Orders (Nov 2011)(15 U.S.C. 644(r)).
- (17) 52.219-14, Limitations on Subcontracting (Nov 2011) (15 U.S.C. 637(a)(14)).
- (18) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- (19)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (OCT 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
- (ii) Alternate I (June 2003) of 52.219-23.
- (20) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Dec 2010) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (21) 52.219-26, Small Disadvantaged Business Participation Program— Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (22) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011) (15 U.S.C. 657 f).
- (23) 52.219-28, Post Award Small Business Program Rerepresentation (Apr 2012) (15 U.S.C. 632(a)(2)).
- (24) 52.219-29 Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Apr 2012).
- (25) 52.219-30 Notice of Set-Aside for Women-Owned Small Business (WOSB)Concerns Eligible Under the Women-Owned Small Business Program (Apr 2012).
- (26) 52.222-3, Convict Labor (June 2003) (E.O. 11755).
- (27) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Mar 2012) (E.O. 13126).
- (28) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).
- (29) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).
- (30) 52.222-35, Equal Opportunity for Veterans (Sep 2010)(38 U.S.C. 4212).
- (31) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).
- (32) 52.222-37, Employment Reports on Veterans (SEP 2010) (38 U.S.C. 4212).
- (33) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
- (34) 52.222-54, Employment Eligibility Verification (JUL 2012). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

__ (35)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

__ (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

__ (36) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007) (42 U.S.C. 8259b).

__ (37)(i) 52.223-16, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (DEC 2007) (E.O. 13423).

__ (ii) Alternate I (DEC 2007) of 52.223-16.

X (38) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011) (E.O. 13513).

X (39) 52.225-1, Buy American Act—Supplies (Feb 2009) (41 U.S.C. 10a-10d).

__ (40)(i) 52.225-3, Buy American Act—Free Trade Agreements—Israeli Trade Act (May 2012) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, Pub. L. 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, and 110-138).

__ (ii) Alternate I (Mar 2012) of 52.225-3.

__ (iii) Alternate II (Mar 2012) of 52.225-3.

__ (iv) Alternate III (Mar 2012) of 52.225-3.

X (41) 52.225-5, Trade Agreements (May 2012) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

X (42) 52.225-13, Restrictions on Certain Foreign Purchases (June 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

__ (43) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

__ (44) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

__ (45) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

__ (46) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

X (47) 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).

__ (48) 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration (May 1999) (31 U.S.C. 3332).

__ (49) 52.232-36, Payment by Third Party (Feb 2010) (31 U.S.C. 3332).

X (50) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

__ (51)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

__ (ii) Alternate I (Apr 2003) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

X (1) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.). See Wage Determination 2004-0287 revision 14 at Section J Attachment 30, hereby fully incorporated by reference.

X (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

This Statement is for Information Only:

It is not a Wage Determination

| | |
|------------------------------|---------|
| Fishery Observer, Junior | \$15.00 |
| Fishery Observer, Journeyman | \$16.73 |
| Fishery Observer, Senior | \$18.59 |

X (3) 52.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

___ (4) 52.222-44, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

___ (5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (Nov 2007) (41 351, *et seq.*).

___ (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services—Requirements (Feb 2009) (41 U.S.C. 351, *et seq.*).

___ (7) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Mar 2009) (Pub. L. 110-247).

___ (8) 52.237-11, Accepting and Dispensing of \$1 Coin (Sept 2008) (31 U.S.C. 5112(p)(1)).

(d) *Comptroller General Examination of Record*. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records—Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

(ii) 52.219-8, Utilization of Small Business Concerns (Dec 2010) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) [Reserved]

(iv) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

(v) 52.222-35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212).

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

(vii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.

(viii) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, *et seq.*).

(ix) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

___ Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (Nov 2007) (41 U.S.C. 351, *et seq.*).

(xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services—Requirements (Feb 2009) (41 U.S.C. 351, *et seq.*).

(xii) 52.222-54, Employment Eligibility Verification (JUL 2012).

(xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xiv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

22) Section I.9 FAR 52.222-2 Payment for Overtime Premiums (July 1990) is restated as follows:

I.9 FAR 52.222-2 PAYMENT FOR OVERTIME PREMIUMS (JULY 1990)

(a) The use of overtime is authorized under this contract if the overtime premium does not exceed (To be Determined at Time of Award) or the overtime premium is paid for work—

(1) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(3) To perform tests, industrial processes, laboratory procedures, loading or unloading of transportation conveyances, and operations in flight or afloat that are continuous in nature and cannot reasonably be interrupted or completed otherwise; or

(4) That will result in lower overall costs to the Government.

(b) Any request for estimated overtime premiums that exceeds the amount specified above shall include all estimated overtime for contract completion and shall—

(1) Identify the work unit; *e.g.*, department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime;

(2) Demonstrate the effect that denial of the request will have on the contract delivery or performance schedule;

(3) Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and

(4) Provide reasons why the required work cannot be performed by using multishift operations or by employing additional personnel.

23) Section I.10 FAR 52.245-1 Government Property (Apr 2012) is incorporated as follows:

I.10 FAR 52.245-1 GOVERNMENT PROPERTY (APR 2012)

(Reference <https://www.acquisition.gov/far>)

24) Section I.11 FAR 52.245-9 Use and Charges (Apr 2012) is incorporated as follows

I.11 FAR 52.245-9 USE AND CHARGES (APR 2012)

(Reference <https://www.acquisition.gov/far>)

25) Section I.12 FAR 52.228-7 Insurance – Liability to Third Persons (Mar 1996) is incorporated as follows:

I.12 FAR 52.228-7 INSURANCE – LIABILITY TO THIRD PERSONS (MAR 1996)

(Reference <https://www.acquisition.gov/far>)

26) Section J - Attachment 7 Observer Standards of Conduct is restated as follows:

Definitions

Conflict of Interest: Participation in activities or relationships with other persons, resulting in the impairment or possible impairment of a person's objectivity in performing the contract work.

Direct Financial Interest: Any source of income to, or capital investment or other interest held by, an individual, partnership, or corporation or an individual's spouse, immediate family member or parent that could be influenced or cause to influence the performance or non-performance of duties under the contract.

Observers:

1. An individual is only considered a NMFS certified observer when employed by a contractor that holds a contract with NMFS to provide observer services and is acting within the scope of his/her employment.
2. Observers may not participate in any activity which would:
 - a. Cause a reasonable person to question the impartiality or objectivity with which the observer program is administered
 - b. Require the observer's disqualification from matters so central or critical to the performance of his/her duties that the observer's ability to perform the duties would be materially impaired
 - c. Adversely affect the efficient accomplishment of the program mission

3. Observers may not have direct financial interest, other than the provision of observer services, in a fishery, including, but not limited to, vessels or shore side facilities involved in the catching or processing of the products of the fishery, companies selling supplies or services to those vessels or shore side facilities, or companies purchasing raw or processed products from these vessels or shore side facilities. The interests of a spouse or minor child are considered those of the observer.
4. Observers may not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan or anything of monetary value from anyone who conducts activities that are regulated by NMFS, or who has interests that may be substantially affected by the performance or nonperformance of the observer's official duties.
5. Observers may not serve as observers on any vessel or at any shore side facility owned or operated by a person who previously employed the observer in any capacity.
6. Observers may not solicit or accept employment as a crew member or an employee of the vessel or shore side processor on the assigned vessel or shore side facility or in any vessel or shore side facility owned by the assigned vessel's or shore side facility's owner in any fishery that is observed by this NOAA program while assigned as an observer to that vessel or shore side processor.
7. A person may not serve as an observer in a fishery during the 3 consecutive months following the last day of the observer's employment as a paid crew member or employee in that fishery.
8. Observers may not engage in an activity that may give rise to the appearance of a conflict of interest that may cause another individual to question the observer's impartiality, fairness or judgment.

Observers must avoid any behavior that could adversely affect the confidence of the public in the integrity of the observer program or of the government, including, but not limited to the following:

1. Observers must diligently perform their duties.
2. Observers must accurately record their sampling data, write complete reports. If the observer chooses to report any suspected violations of regulations relevant to conservation of marine resources or their environment that they observe, it must be done honestly.
3. Observers must not disclose collected data and observations made on board the vessel or in the processing facility to any person except the owner or operator of the observed vessel or processing facility, an authorized officer or NMFS.
4. Observers must refrain from engaging in any illegal actions or any activities that would reflect negatively on their image as professional scientists, on other observers, or the observer program, as a whole. This includes, but is not limited to:
 - a. Engaging in excessive drinking of alcoholic beverages
 - b. Engaging in the use or distribution of illegal substances
 - c. Becoming physically or emotionally involved with vessel or processing facility personnel.

27) Section J – Attachment 18 Shadow Trip Program is restated as follows:

Goals and priorities

The primary goal of the shadow trip program is to provide an opportunity to exchange information in the field between observer program staff and with the fishing industry. During a shadow trip, a Fisheries Sampling Branch (FSB) staff member accompanies a Northeast Fisheries Observer Program (NEFOP) observer on an observed commercial fishing trip. During the trip the FSB staff member observes the observer and interacts with the captain and crew. They are assessing the observer's work load and sampling prioritization, as well as aiding with sub-sampling to increase accuracy, and getting feedback from the fishing industry regarding the observer program. There are multiple benefits for doing the trips:

For the fishermen - to have an opportunity to communicate their opinions on the program directly, to ensure observers are properly following protocol, and to have more of an opportunity to discuss the goals of the program and how data are used; and

For the observer - to work cooperatively to obtain a higher sub-sampling rate, to describe challenges with data collection while at sea, and to discuss data collection priorities; and

For the FSB staff member - to assess the observer's work load, to address consistency of following sampling protocols among observers, to improve training by testing data collection protocols, to collect digital photographs and/or video of observers sampling to be used in training and education, to address individual observer's data quality and performance.

During these trips, the observer is expected to follow the regular trip protocols - same trip logs, regular trip numbering, etc. The FSB staff member observes the observer working, and also helps to sample, sort catch, collect length frequencies, age structures, etc. and all is submitted along with the observer's trip. The FSB staff member and the observer act as a team in working up the catch and getting the gear measurements, with the observer taking the lead in data collection. The first priority is to learn about the fishing operations and provide an opportunity for communication with industry members (not just the captain, but crew members as well). The second priority is to assess the method of data collection techniques applied by the observer. The third priority is to gain hands-on experience in sampling and identifying species and gear.

Qualifications of the FSB staff accompanying the observer

FSB staff members participating in this program have the same qualifications as those required to be a NEFOP observer. They have a Bachelor's degree with a major in one of the biological sciences from an accredited four-year college or university. They are certified by a physician to be physically fit to work as an observer. They have a current certification for CPR. They have passed all federal security clearances. Experience at sea is highly recommended and previously certified observers are preferred. FSB staff members have previous experience on observer training trips on commercial fishing vessels.

FSB staff member gear for shadow trips:

- The FSB staff member brings the following gear, supplied by the FSB:
- Personal Locator Beacon
- Immersion suit, USCG approved
- PFD, USCG approved
- Strobe light
- Signal mirror
- Guides for fish, birds, seals, and cetaceans
- Observer Manual and Biological Sampling Manual
- Foul weather gear – jacket, pants, and boots
- Rubber gloves
- Cotton gloves
- Latex gloves
- Digital camera and/or camcorder
- Binoculars
- 5-gallon plastic bucket
- Waterproof notebook
- Pencils and pens
- Checklist of items to review with observer while at sea

Program coordination

Shadow trips are approved and requested by the Branch Chief. FSB staff members may have input on the Shadow Trip Program. The Area Leads and Data Quality Lead are also involved in the coordination of trips. Working with the Branch Chief, the Data Quality Lead will keep a record of the shadow trips that have been completed, selection of observer candidates, and FSB staff involvement. Once the need for a trip has been identified, the Branch Chief notifies the Contracting Officer Technical Representative (COTR). The COTR then notifies the observer provider contractor, and trip planning starts. FSB staff members will convey their needs to the contractor and the most efficient way to coordinate the trip will be followed. If multi-day trips are done, the FSB staff member will submit a meal reimbursement form to the contractor, along with the observers. NMFS will reimburse the contractor for those costs. The Statement of Work specifies that the Contractor shall: [C.4.3.12] **“compensate vessels at a rate of \$40 per day (for every completed 24 hour period) to cover observer accommodation and food costs while aboard the vessel for trips lasting longer than one (1) day (i.e. 24 hours) (Section B Supplies or Services and Prices/Costs Vessel Meal Reimbursement CLIN 0005, CLIN 0010, CLIN 0015, CLIN 0020, CLIN 0024, and CLIN 0030). “The contractor shall provide a report for all vessel meal reimbursements provided within the last monthly period.”** In addition, meal reimbursements are only provided on “federally funded deployments”.

Trip planning and selection

There may be multiple methods used to determine when and where a shadow trip is needed. FSB staff may need to do outreach in a particular port or fishery, new sampling techniques may need to be tested, observers may need a specific refresher, or an FSB staff member may need the field experience. Therefore, trips may be targeting a particular vessel, port, fishery, area, observer, or FSB staff member. When there is no particular problem that needs to be addressed, an observer may be selected at random. This experience should provide insight to all involved and enhance the work environment.

Legislative Guidance on the Release of Confidential Information

Information collected during such shadow trips is considered observer information. The release of CONFIDENTIAL observer information is guided by the provisions on confidentiality in the Magnuson-Stevens Reauthorization Act (Section 402(b) and Marine Mammal Protection Act. The following guidance should be used in releasing CONFIDENTIAL observer information. Details on specific access to confidential data are included in NAO 216-100.

Observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of the Magnuson-Stevens Reauthorization Act (Section 402(b)).

When providing confidential information, the release MUST be supported by one of the exceptions under the Magnuson-Stevens Reauthorization Act (Sections 402(b)(1) and 402(b)(2)).

In conclusion

Through this team effort, we expect to build a professional partnership between observers, FSB staff, and the fishing industry and achieve a common goal of collecting representative and accurate data of high quality.

28) Section J – Attachment 19 Data Quality Rating is restated as follows:

NMFS staff members involved with the everyday monitoring of data quality, particularly the Data Quality Lead, will evaluate the quality of services provided by the NEFOP Observer, and will document the performance evaluation.

Specific positions and responsibilities detailed in the following sections describe the schedule, methods, and tools for evaluating performance:

Biannually a report developed by the NEFOP Data Editors, Data Quality Lead and various **Fisheries Sampling Branch (FSB)** staff will be generated for each NEFOP Observer that are currently active in the program at the time the report is due. The report will contain criteria such as communication with NMFS staff, data quality in general, field performance and work ethic. The Data Quality Lead is responsible for communicating directly with the NEFOP Data Editors and ensuring consistent evaluation efforts are used. At the end of each evaluation period, the Data Quality Lead documents the Data Editors' and FSB staff collective assessment of each NEFOP Observer performance and presents the findings to the COTR. The COTR would then forward the results to the contractor. Once the contractor receives the bi-annual evaluations of the NEFOP Observer's, the contractor should disseminate results directly to the NEFOP Observer. Questions regarding the results of the evaluations should be directed to the COTR.

DOCUMENTATION AND REPORTING

Documentation

- (1) Documentation is required to record and report NEFOP Observer performance. The Data Quality Lead will maintain accurate records of the NEFOP Observer's performance and keep the COTR informed of all data pertaining to the NEFOP Observer status. This documentation will support the Quality Lead's evaluation of the NEFOP Observer's performance.
- (2) The Data Editors may use the Data Quality Evaluation Form to record both the positive and negative evaluations of the NEFOP Observer's performance. Note that the format will require documentation that reflects the editor's understanding of what the NEFOP Observer was supposed to do, and what was actually done.
- (3) The Evaluation Form may be used to assist in the bi-annual report developed by the Data Editors, Data Quality Lead and FSB staff. The Evaluation Forms will be stored directly with the NEFOP Data Editor. When appropriate, the Data Quality Lead may investigate the event further to determine if all the facts and circumstances surrounding the event were considered.

Reporting

Data Quality Lead Report - At the end of each evaluation period, the Data Quality Lead will review all evaluation reports developed by the Data Editors and forward onto the COTR. It is the responsibility of the COTR to review the reports and provide any additional information to the contractor.

29) Section J – Attachment 20 NEFOP Gear List is restated as follows:

NEFOP Gear List

For each observer attending training and certified, the following items available for inspection by NMFS before the first day of training and available for use during the training:

| Item Description | Quantity Per Observer |
|---|-----------------------|
| Personal Locator Beacon | 1 |
| Immersion suit, USCG approved | 1 |
| Personal Floatation Device, USCG approved with CO2 and manual inflation Strobe light, USGC approved (ACR C-light CE) Signal mirror | 1 |
| Whistle | 1 |
| 12 lbs scale – Scales must be capable of withstanding exposure to water and sea spray. The scales should be durable, require minimal maintenance, and facilitate ease of use for the observer. | 1 |
| 100 lbs scale – Scales must be capable of withstanding exposure to water and sea spray. The scales should be durable, require minimal maintenance, and facilitate ease of use for the observer. | 1 |
| 10 ft measuring tape, fiberglass | 1 |
| 50 ft measuring tape, fiberglass | 1 |
| 12” caliper, stainless steel, Mitutoyo | 1 |
| 18” caliper, stainless steel, Mitutoyo | 1 |
| Fish measuring board – must accommodate measuring strips | 1 |
| Scallop measuring board – must accommodate measuring strips | 1 |
| Water thermometer, protected in a stainless steel or plastic housing | 1 |
| Pit tag scanner | 1 |
| 4 cup/liter graduated plastic container | 1 |
| HP iPAQ Classic 110 (or latest equivalent model as approved by NMFS) | 1 |
| Waterproof housing, such as an “otter box” for HP iPAQ | 1 |
| Solar powered calculator | 1 |
| Foul weather gear – jacket, pants, and boots (provided by the observer or provider) | 1 set |
| Rubber gloves | 2 pair |
| Digital Camera, Olympus Stylus-850SW | 1 |
| Orange Fish Bushel Baskets – minimum of 3 (up to 10 may be required in certain fisheries) | 1 |
| Cotton glove liners | 2 pair |
| Latex gloves | 6 pair |
| Clip board, fold over cover aluminum Binoculars – 7 x 50, rubber armored | 1 |
| Disposable camera | 1 |
| Knives | 2 |
| Sharpening stone | 1 |
| Stainless steel forceps | 1 |
| Permanent marker | 6 |
| Pencils | |
| 12 x 12 baggies | 50 |
| Large, heavy duty trash bags | 25 |
| 12-inch cable ties | 10 |
| 1-cubic foot Styrofoam cooler | 1 |
| 5-gallon plastic pail | 1 |

The following items will be provided by NMFS before, on, and/or during training:

| Item Description | Quantity Per Observer |
|---|------------------------------|
| Write-in-rain notebook | As Needed |
| Age envelopes (non-lined) | As Needed |
| Age envelope liners (cut up paper) | As Needed |
| Diaries | As Needed |
| Fish board measuring strips | As Needed |
| Scallop board measuring strips | As Needed |
| Measuring stick (probe for determining depth of fish pile for volume estimates) | As Needed |
| Tyvek tags, pre-printed for samples | As Needed |
| Tyvek tags, blank | As Needed |
| Marine mammal yellow tags | As Needed |
| Sea turtle tags | As Needed |
| Sea turtle pliers | As Needed |
| Observer Program Manual | As Needed |
| Observer Biological Sampling Manual | As Needed |
| Observer cheat sheets Observer Training Manual Regulatory compliance folder | As Needed |
| Marine mammals and turtles field guides | As Needed |
| Requiem shark field guide | As Needed |
| Peterson's Guide to Atlantic Coast Fishes | As Needed |
| Peterson's Guide to the Atlantic Seashore | As Needed |
| Beached Birds, A COASST Field Guide to the North Atlantic | As Needed |
| National Geographic Field Guide to Birds of North America | As Needed |
| Fishes of the Gulf of Maine – Bigelow (recommended, but not required at sea) | As Needed |
| Copies of blank logs, worksheets, and workbooks | As Needed |
| Marine mammal digital temperature probe, 1FTaylor model #9842 | As Needed |
| Marine mammal work slate | As Needed |
| Marine mammal sampling bag | As Needed |
| Satellite phone (for emergency situations only) | As Needed |
| Panasonic Rugged laptop computer (when programming is complete and tested) | As Needed |
| Marel Motion Calibrated Platform Scale | As Needed |
| Lifeboat | As Needed |

- 30) Section J – Attachment 27 – Contractor Standards of Conduct is deleted in its entirety.
- 31) Section J - Attachment 30 - IT Security Checklist is renumbered as Section J - Attachment 27 - IT Security Checklist.
- 32) Section J – Attachment 31 Wage Determination 2004-0287 Revision 14 is deleted in its entirety.
- 33) Section J - Attachment 30 Wage Determination 2004-0287 revision 15 is incorporated as follows:

REGISTER OF WAGE DETERMINATIONS UNDER THE
SERVICE CONTRACT ACT

By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
WASHINGTON, D.C. 20210

Diane C. Koplewski
Director

Division of Wage
Determinations

Wage Determination No.: 2004-0287
Revision No.: 15
Date of Last Revision: 06/13/2012

Nationwide: All waters from the Gulf of Mexico at Texas past Florida and up the Eastern Seaboard - Atlantic Ocean to Maine

****Fringe Benefits Required Follow the Occupational Listing****

| OCCUPATION CODE - TITLE | FOOTNOTE | RATE |
|------------------------------|----------|--------|
| 91401 - Fishery Observer I | | 15 .00 |
| 91402 - Fishery Observer II | | 16 .73 |
| 91403 - Fishery Observer III | | 18 .59 |

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$3.71 per hour or \$148.40 per week or \$643.07 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

**** UNIFORM ALLOWANCE ****

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the

employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at <http://www.dol.gov/esa/whd/> or through the Wage Determinations On-Line (WDOL) Website at <http://wdol.gov/>.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).
- 4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.
- 5) The contracting officer transmits the Wage and Hour decision to the contractor.
- 6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

34) Section J - Attachment 31 HR Bulletin 103 is incorporated as follows:

**DEPARTMENT OF COMMERCE
OFFICE OF HUMAN RESOURCES MANAGEMENT
HUMAN RESOURCES (HR) BULLETIN #103, FY09**

SUBJECT: Policy and Guidance on Training for Non-Government Employees

EFFECTIVE DATE: Upon Release of this HR Bulletin

EXPIRATION DATE: Effective until canceled or superseded

BACKGROUND: Bureaus have inconsistently applied the training authority which grants limited access to on-line and traditional classroom training for contractors. The Office of Personnel Management's Training Policy Handbook provides guidance on training nongovernment employees which states the following: "Since contractors are selected for their expertise in a subject-area, contractors may only be trained in skills they are not required to bring to the job " Bureaus, under the Department of Commerce, hire contractors based on the skill set which they possess that will aid in accomplishing a specific task. Therefore, the government is not authorized to pay for contractors to obtain additional training to enhance the skill set for which they were hired.

PURPOSE: The purpose of this HR Bulletin is to provide policy and guidance for the training of contractors hired by the Department of Commerce.

COVERAGE: This HR Bulletin applies to all contractors hired by the Department of Commerce and its bureaus.

DEFINITION: A contractor is a non-government employee who was hired with a specific skill set to accomplish an assigned task.

NEW REQUIREMENTS: Bureaus are authorized to allow contractors access to the Department's on-line and classroom training only in the event that the specific training is beyond the current skill set required to perform the assigned task. The Chief Training Officer for each bureau, in consultation with the Senior Bureau Procurement Official, will have the discretion to implement the policy established by the guidance in this bulletin. The Office of Human Resources Management will have Departmental oversight and enforcement of this bulletin. To be authorized, the bureau must establish that the contractor must receive designated training to meet a knowledge or skill requirement specific to the organization/bureau. Contractors may only be trained in rules, practices, procedures, and/or systems that are unique to the employing organization/bureau and essential to the performance of the Contractor's assigned duties (e.g., bureau computer security training). Bureaus must not directly provide contractors with professional development training or training to maintain or improve the technical skills for which they have been hired.

AUTHORITIES: The authority for training Contractors lies within the general authority of agencies to administer contracts. Training of Contractors is subject to the decision of the Senior Bureau Procurement Official.

OFFICE OF TRAINING AND KNOWLEDGE MANAGEMENT: Fred Lang, Director, FLang@doc.gov, (202) 482-6302.

35) Section J – Attachment 32 MRAG OCI Avoidance and Mitigation Plan is incorporated is incorporated as follows: