



ALASKA RAILROAD CORPORATION
327 W. Ship Creek Ave.
Anchorage, AK 99501
Phone 907.265.2593
GOEMERG@AKRR.COM

December 28, 2022

Invitation to Bid # 22-84-210482

2023 Coastal Classic / Glacier Discovery Train Depot and Baggage Services

Response Required: This page must be completed and returned to ensure receipt of future addenda or additional information. Please email this form to goemerg@akrr.com. All addenda will be forwarded to the contact name and number listed below.

Firms that have not returned the cover sheet will not be informed of addendums and will only be alerted to addendums by checking with the ARRC procurement officer or by checking ARRC's internet site: www.akrr.com, select Corporate/ Procurement then Solicitations. Bidders must acknowledge the receipt of all issued addendums in their proposal/bid submittal.

Company Name _____

Mailing Address _____

City, State, Zip _____

Contact Name _____

Phone Number _____ Fax _____

Email Address _____

The Alaska Railroad Corporation web site www.alaskarailroad.com



December 27, 2022

INVITATION TO BID (ITB) NUMBER: # 22-84-210482

2023 Coastal Classic / Glacier Discovery Train Depot and Baggage Services

SEALED BIDS WILL BE RECEIVED AT:

Alaska Railroad Corporation
Attn: Greg Goemer
327 West Ship Creek,
Anchorage, Alaska 99501

UNTIL 3:00 P.M. LOCAL TIME ON **January 18, 2023**.
AT THAT TIME BIDS WILL BE PUBLICLY OPENED.

The Alaska Railroad Corporation ("ARRC") is soliciting bids from interested parties to supply the services requested above. Interested parties are invited to submit a bid to supply said services to ARRC. Bids must be submitted on the bid form contained herein and must be mailed or delivered to the above address. Bids received via facsimile transmission will be considered non-responsive. The bid shall be in a sealed envelope with the bid number #22-84-210482 clearly printed on the face of the envelope. Bids must be complete and in U.S. dollars. See instructions and conditions enclosed herein.

ARRC reserves the right to reject any and all bids, or any part thereof, negotiate changes in bids, accept any bids or any part thereof, waive minor informalities or defects in any bids, and not to award the proposed contract if it is in the best interest of the ARRC.

An Alaska Business license is not a prerequisite to bid. Bidders who possess an Alaska Business license and also meet the other criteria of an Alaska Bidder shall receive a preference per the "Alaska bidder preference".

ARRC shall not be held responsible for bidder's lack of understanding of what is required by this bid. Should a bidder not understand any aspect of this bid, or require further explanation, or clarification regarding the intent or requirements of this bid, it shall be the responsibility of the bidder to seek guidance from the ARRC.

ARRC may award a contract resulting from this solicitation to the responsive offeror whose offer conforming to this solicitation will be the most advantageous to the ARRC. Any resulting contract from this solicitation shall incorporate the Standard Instructions, and General Terms and Conditions incorporated in this solicitation.

This solicitation is not to be construed as a commitment of any kind nor does it commit the ARRC to pay for any costs incurred in the submission of an offer or for any other incurred cost prior to the execution of a formal contract

The envelope used in submitting your offer shall be plainly marked with the following information:

1. Offeror's Name -
2. Invitation To Bid Number 22-84-210482
3. Date and Time Scheduled for Receipt of Offers.
4. Sealed Offer: 2023 Train Depot and Baggage Services

ARRC Disadvantaged Business Enterprise (DBE) Program: ARRC is an equal opportunity corporation that encourages the participation of DBEs as prime contractors and subcontractors on its contracts funded in whole or in part by the Federal Transit Administration (FTA) or the Federal Highway Administration (FHWA). The ARRC has a race neutral DBE Program and does not set DBE goals on individual solicitations. Nonetheless, the ARRC aspires to achieve an overall DBE participation of 4.0% in federal fiscal years 2022-2024 on contracts funded by agencies within the U.S. Department of Transportation. If this contract is funded in whole or in part by funds from the FTA or the FHWA, it is imperative that you consult the Federal Terms and Conditions portion of this solicitation.



The Alaska Railroad is a member of Green Star (<http://www.greenstarinc.org/>). ARRC earned an initial Green Star Award in 1994 and a Green Star Air Quality Award in 2007. The Alaska Railroad considers Green Star membership to be a positive business attribute, and regards a Green Star award as a tangible sign of an organization's commitment to environmental stewardship and continual improvement within its operations.

Please direct all responses and/or questions concerning this invitation to bid to Greg Goemer, Alaska Railroad Corporation, Supply Management, 327 W. Ship Creek Avenue, Anchorage, AK 99501, telephone number 907-265-2593, email address goemerq@akrr.com.

Sincerely,

Greg Goemer
Sr. Contract Administrator
Alaska Railroad Corporation

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ALASKA RAILROAD CORPORATION REQUIRED DOCUMENTS

REQUIRED FOR BID. Bids will not be considered if the following documents are not completely filled out and submitted at the time of bidding:

1. Cost Schedule - [Appendix D]
2. Bidders Questionnaire - [Appendix E]
3. Service Bid Form - [Appendix F]

REQUIRED FOR AWARD. In order to be awarded the contract, the successful bidder must completely fill out and submit the following documents within the time specified in the intent to award letter:

1. Certificate of Insurance - [from Insurance Carrier]
2. State of Alaska Business and Contractors License

APPENDIX A

ALASKA BIDDER'S PREFERENCE

For the purposes of evaluating the price evaluation criteria, the proposed price of a Proposer who qualifies as an Alaska Bidder shall be reduced by 5%. The preference will be given to Proposers who:

- (a) hold a current Alaska business license;
- (b) submit a proposal for goods or services under the name on the current Alaska business license;
- (c) have maintained a place of business within the state staffed by the Proposer, or an employee of the Proposer, for a period of six months immediately preceding the date of the proposal;
- (d) are incorporated or otherwise qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, is a limited liability company organized under AS 10.50 and all members are residents of the state, or is a partnership under AS 32.05 or AS 32.11 and all partners are residents of the state; and
- (e) if a joint venture, are composed entirely of entities that qualify under (a)-(d) of this subsection.
- (f) If bidding on supplies, the bidder must have a documented history of selling the supplies of the general nature solicited by the ARRC to other railroads, state agencies, governments, or the general public. If a prospective bidder can't meet the requirement, they can bid, but would not receive the award evaluation preference.

Proposers seeking an Alaska Bidders Preference must include a statement certifying that the Proposer meets the above requirements and is eligible to receive the Alaska Bidder Preference. Copies of any relevant documentation should also be provided.

APPENDIX B

SPECIFIC TERMS AND CONDITIONS

Any resulting contract from this Invitation to Bid shall incorporate the following terms and conditions contained in this bid package.

ARRC Rights in Regard to Bid:

The Alaska Railroad Corporation reserves the right to reject any or all bids, to waive any informality in bids, to accept in whole or in part such bid or bids as may be deemed in the best interest of the purchaser.

Bidder/Vendor Terms & Conditions: Prospective Bidders are Cautioned to Pay Particular Attention to this Clause:

Bidder/contractor imposed terms and conditions which conflict with this Invitation to Bid terms and conditions are considered counter offers and, as such, will cause the Alaska Railroad Corporation to consider the bid non-responsive.

If a bidder attaches additional terms and conditions as part of the bid, such attachments must be accompanied by a disclaimer stating that in the event of conflict between the terms and conditions of this Invitation to Bid and the terms and conditions of the bidder/contractor, the terms and conditions of the Invitation For Bid will prevail.

ASSIGNMENT:

The agreement to be established as a result of this solicitation shall not be assigned by the contractor in whole or in part without the express written consent of the Alaska Railroad Corporation, nor shall the contractor have the right to authorize or permit the use of the Alaska Railroad Corporation's equipment or service facilities by third parties without the express written consent of the Alaska Railroad Corporation.

PERIOD OF PERFORMANCE:

The period of performance under this contract shall be from mid **May 2023, through late-September 2023.**

The period of performance hereunder may be extended by ARRC for an additional four (4) seasons. The total duration of the contract including the exercise of any options shall not exceed five (5) years.

INVOICES

Contractor shall submit itemized invoices to ARRC within five (5) days after the last day of each month showing charges for services rendered. Contractor shall reference their contract number on all invoices

METHOD OF BIDDING:

Bids must be submitted in the spaces provided on the bid sheets of this invitation in accordance with the conditions of bid as stated herein. The bid will not be considered to be complete unless all spaces have been filled in. Consideration for award will be provided to complete bids only. If a bidder wishes to supply additional information, it may be included along with the bid in the sealed bid envelope.

PRICES:

Prices will be firm for the first year of the contract. Price escalation for the additional years may be granted upon thirty (30) days notification by vendor to the contract administrator for to the option year exercised. Approval for the price escalation shall only be granted based on the consumer price index (CPI) or historic price/cost data supplied by the vendor that clearly is verifiable and shows a vendor cost that reflect the same gross profit percentage as the base offer herein.

Vendor's profit margin cannot be increased during the term of this agreement for any renewals or extensions granted.

ALASKA RAILROAD CORPORATION RIGHTS IN REGARD TO BID:

The Alaska Railroad Corporation reserves the right to reject any or all bids, to waive any informality in bids, to accept in whole or in part such bid or bids as may be deemed in the best interest of the ARRC.

AGGRIEVED BIDDER/OFFEROR: An aggrieved bidder/offeror may protest an ARRC procurement action by filing a written protest with the procurement officer in accordance with the procedures and time limits specified in ARRC Procurement Rules 1800.1-1800.11.

HOLD HARMLESS:

The contractor shall indemnify the Alaska Railroad Corporation against liability and hold it harmless from loss in respect to any and all claims and demands whatsoever rising out of the performance of this agreement, save and except the contractor shall not be liable for acts of negligence of Alaska Railroad Corporation employees acting within the scope of their employment. The Alaska Railroad Corporation shall not be liable for any costs incurred by the bidder in bid preparation.

PERFORMANCE ASSURANCE:

Before final award of any contract as a result of this Invitation for Bid, awarded vendor will be required to make adequate assurance of performance in the form of verifiable information to the contract officer. Failure to make adequate assurance shall by signature of this bid render the vendor's bid non-responsive to this Invitation.

EQUIPMENT:

ARRC reserves the right to determine that all proposed equipment will serve the application intended.

APPENDIX C
SCOPE OF WORK
Portage / Girdwood Depot and
Baggage Services

ARRC Passenger Services department needs a contractor to perform Depot customer service and baggage services in Portage and Girdwood Alaska on an as needed basis. The anticipated period of performance of this contract will be up to 5 years.

Contractor shall provide the following types of services as the same may be requested by ARRC's Manager, Passenger Depot Services or his designee during the term of this contract:

Contractor will assist ARRC passenger preparing and answering questions for train arrival and boarding and passengers/crew members with the tagging, loading and unloading of baggage as well as organizing passengers for loading on the Coastal Classic/Glacier Discovery train at the following locations:

Coastal Classic

Girdwood (daily at 8:05)

Glacier Discovery

Girdwood Southbound (daily at 11:00)

Portage AM Spot (daily at 11:15)

Whittier AM (daily at 12:05)

Portage 2nd Spot (daily at 13:15)-Ride the train to Spencer RT

Spencer Whistle Stop Southbound (daily)

Spencer Whistle Stop Northbound (daily)

Portage PM Arrival (daily)

Whittier PM (based on need as determined by ARRC)

Contractor shall maintain sufficient staffing to provide the above referenced and Depot and baggage handling services. If Contractor is unable to provide said service on a particular day or days, it shall provide ARRC with a minimum of 48 hours advance notice of its inability to provide the service.

ARRC shall provide Contractor a minimum of 24 hours advance notice of when baggage handling service will be required for Whittier PM stops.

Contractor will assist passengers by preparing them for the train arrival and answering any questions asked. Contractor handle all baggage on the AM Girdwood Coastal Classic and Glacier Discovery Train. ARRC is responsible for all lost & stolen baggage inquiries & holds ultimate responsibility of baggage safekeeping. Contractor will assist ARRC with investigation information of lost or damaged luggage.

The period of performance will be daily as needed. Estimated dates: May 13 – September 25th on the Coastal Classic, and May 27 –September 17th on the Glacier Discovery. This will be a one year contract with four one year optional renewals. Total duration of the contract will not exceed five years.

APPENDIX D

COST SCHEDULE

A bidder's failure to provide the information requested in this appendix will be cause for rejection of the bid on the basis of non-responsiveness. All bids submitted in response to this solicitation must be signed by an individual with the legal authority to submit the bid on behalf of the company.

DESCRIPTION:

Per Day Rate

Coastal Classic: A.M. Daily Rate:

\$ _____

Glacier Discovery: Daily Rate

\$ _____

(Includes Girdwood A.M., Portage A.M., Whittier A.M. Spencer & Portage P.M.)

As-Need Whittier PM: Daily Rate

\$ _____

(Rates listed are to be fully burdened and for all personnel)

AWARD CRITERIA: An award will be made to the low, responsive, responsible bidder that meets the requirements as set forth in the specifications and compliance thereof. The Alaska Railroad Corporation reserves the right to determine that all offered materials will serve the application intended. The bid award is contingent on the availability of Alaska Railroad Corporation funds.

NON-COLLUSION AFFIDAVIT: The Undersigned declares, under penalty of perjury under the laws of the United States, that neither he/she nor the firm, association, or corporation of which he/she is a member, has, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this Bid.

BIDDERS NAME AND ADDRESS:

COMPANY NAME

SIGNATURE BY THE BIDDER

COMPANY ADDRESS

PRINTED NAME OF ABOVE BIDDER

DATE OF BID

CONTACT PHONE NUMBER

CONTACT E-MAIL

APPENDIX E

BIDDER'S QUESTIONNAIRE

Note: Failure to provide the information requested in this questionnaire may be cause for rejection of the solicitation on the basis of non-responsiveness.

Name of Your Business: _____

Street Address:

Mailing Address if Different: _____

City:_____ **State:** _____ **Mailing Zip:**_____.

Telephone:_____ **Fax:** _____ **E-Mail:**_____

Date Firm Established:

How many years has the business been under the above name? _____

Previous business name(s)if any: _____

Federal Tax ID Number: _____

Business License Number: _____

Bid Acceptance Period _____ **Days.** (Bids providing less than thirty (30) calendar days for acceptance may be considered non-responsive and may be rejected.)

Discount for prompt pay _____ **%** _____ **days.**

The bidder shall list any variations from or exceptions to the Terms, Conditions or Specifications of the Solicitation: _____

Briefly Describe Work to be Performed:

The bidder shall list any variations from or exceptions to the Terms, Conditions or Specifications of the Solicitation:

List three current contracts (where the commodity or service requested in this solicitation is the primary product being supplied) include the client's name, contract amount, and person to contact regarding performance, their telephone, facsimile number and e-mail.

Clients name, Contact person, Contact info. (Telephone, fax, and email)	Description of Work and Contract Amount
List any other business related experience:	

Are you acting as a broker or the primary supplier in this transaction?

- ☐ Primary Supplier
☐ Broker
☐

Business Information (Please check all that apply):

- ☐ My business is Individual
☐ My business is a Partnership
☐ My business is a Non-Profit
☐ My business is a Joint-Venture
☐ My business is a Corporation incorporated under the laws of the State of _____
☐ My business is full-time
☐ My business is part-time
☐ My business **is not** a certified Disadvantaged Business (DBE)
☐ My business **is** a certified DBE
☐ My DBE was certified by State DOTPF
☐ My DBE was certified by the Municipality of Anchorage
☐ My business is an 8(a)/WBE/MBE and is certified by SBA
☐ My business was certified by _____
☐ My DBE Certification # is _____

Firms Annual Gross Receipts:

- ☐ <\$500,000
☐ \$500,000 - \$999,999
☐ \$1,000,000 - \$4,999,999
☐ \$5,000,000 - \$9,999,999
☐ \$10,000,000 - \$16,999,999
☐ >\$17,000,000

Completed by: _____ Title: _____

Signature: _____ Date: _____

**ALASKA RAILROAD CORPORATION
SERVICE BID FORM of**

NAME _____
ADDRESS _____

To the CONTRACTING OFFICER, ALASKA RAILROAD CORPORATION:

In compliance with your Invitation for Bids No. _____, dated _____, the Undersigned proposes to furnish and deliver all the supplies, materials or equipment and perform all the work required in said Invitation according to the specifications and requirements contained therein and for the amount and prices named herein as indicated on the Cost Schedule, which is made a part of this Bid.

The Undersigned hereby agrees to execute the said contract and bonds, if any, within **Ten (10) Calendar Days**, or such further time as may be allowed in writing by the Contracting Officer, after receiving notification of the acceptance of this Bid, and it is hereby mutually understood and agreed that in case the Undersigned does not, the accompanying bid guarantee, if any, shall be forfeited to the Alaska Railroad Corporation as liquidated damages, and said Contracting Officer may proceed to award the contract to others.

The Undersigned agrees to commence performance within **Ten (10) Calendar Days** after the effective date of the Notice to Proceed and to complete performance by _____, unless extended in writing by the Contracting Officer.

The Undersigned acknowledges receipt of the following addenda to the requirements and/or specifications for this Invitation for Bids (give number and date of each).

Addendum Number/Dated	Addendum Number/Dated	Addendum Number/Dated
_____	_____	_____
_____	_____	_____

NON-COLLUSION AFFIDAVIT

The Undersigned declares, under penalty of perjury under the laws of the United States, that neither he/she nor the firm, association, or corporation of which he/she is a member, has, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this Bid.

The Undersigned has read the foregoing proposal and hereby agrees to the conditions stated therein by affixing his/her signature below:

Name and Title of Person Signing _____	Signature _____
--	-----------------

Telephone Number _____	E-mail address _____
------------------------	----------------------

APPENDIX F
GENERAL TERMS AND CONDITIONS
(Supply Contracts)
(Revised 4/17/08)

The following terms and conditions supersede the terms and conditions on the reverse side of ARRC's purchase order to the extent that they are inconsistent therewith and shall be deemed to have the same force and effect as though expressly stated in any such purchase order into which this document is incorporated.

1. Definitions.

"ARRC" shall mean the Alaska Railroad Corporation.

"Vendor" shall mean the person or entity entering into the contract to provide the supplies specified therein for ARRC.

"Contract" shall mean these General Terms and Conditions, the contract form to which they are annexed, and all other terms, conditions, schedules, appendices or other documents attached to the contract form or incorporated by reference therein.

"Supplies" shall mean the equipment, goods, materials or other items to be provided by Vendor to ARRC under the contract.

2. Inspection and Reports. ARRC may inspect all of the Vendor's facilities and activities under this contract in accordance with the provisions of ARRC Procurement Rule 1600.9. The Vendor shall make progress and other reports in the manner and at the times ARRC reasonably requires.

3. Claims. Any claim by Vendor for additional compensation or equitable adjustment arising under this contract which is not disposed of by mutual agreement must be made by Vendor in accordance with the time limits and procedures specified in sections 1800.12 et seq. of ARRC's Procurement Rules, which by this reference are hereby incorporated herein.

4. Nondiscrimination.

4.1 The Vendor may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical or mental handicap, sex, marital status, change in marital status, pregnancy or parenthood when the reasonable demands of the positions do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy, or parenthood. To the extent required by law, the Vendor shall take affirmative action to insure that the applicants are considered for employment and that employees are treated during employment without unlawful regard to their race, color, religion, national origin, ancestry, physical or mental handicap, age, sex, marital status, changes in marital status, pregnancy or parenthood. This action must include, but need not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Vendor shall post in

conspicuous places, available to employees and applicants for employment, notices setting out the provisions of this paragraph.

4.2 The Vendor shall cooperate fully with ARRC efforts which seek to deal with the problem of unlawful discrimination, and with all other ARRC efforts to guarantee fair employment practices under this contract, and promptly comply with all requests and directions from the State Commission for Human Rights or any of its officers or agents relating to prevention of discriminatory employment practices.

4.3 Full cooperation in Paragraph 4.2 includes, but is not limited to, being a witness in any proceeding involving questions of unlawful discrimination if that is requested by any official or agency of the State of Alaska; permitting employees of the Vendor to be witnesses or complainants in any proceeding involving questions of unlawful discrimination, if that is requested by any official or agency of the State of Alaska; participating in meetings; submitting periodic reports on the equal employment aspects of present and future employment; assisting inspection of the Vendor's facilities; and promptly complying with all State directives considered essential by any office or agency of the State of Alaska to insure compliance with all federal and state laws, regulations, and policies pertaining to the prevention of discriminatory employment practices.

4.4 Failure to perform under this section constitutes a material breach of the contract.

5. Cancellation/Termination.

5.1 ARRC may, for its sole convenience, cancel this contract in whole or in part, at any time by giving written notice of its intention to do so. In the event of such cancellation, Vendor shall be entitled to receive payment in accordance with the payment provisions of this contract for supplies delivered to ARRC and, as to work in progress prior to receipt of notice, ARRC shall pay Vendor only for direct expenditures on work specifically identified to this contract. Vendor shall not be paid for any work done after receipt of a notice of cancellation or for any costs incurred by Vendor's suppliers or subcontractors which Vendor could reasonably have avoided. However, in no event shall ARRC be liable for incidental, consequential, or punitive damages, overhead or other direct or indirect costs, or lost profits. Payments made under this contract shall not exceed the aggregate price specified in this contract.

5.2 In addition to ARRC's right to cancel this contract for its convenience, ARRC may, by written notice of default to Vendor, terminate the contract in whole or in part in the following circumstances:

(1) The Vendor refuses or fails to perform its obligations under the contract, or fails to make progress so as to significantly endanger timely completion or performance of the contract in accordance with its terms, and Vendor does not cure such default within a period of ten (10) days after receipt of written notice of default from ARRC or within such additional cure period as ARRC may authorize; or

(2) Reasonable grounds for insecurity arise with respect to Vendor's expected performance and Vendor fails to furnish adequate assurance of due performance (including assurance of performance in accordance with the time requirements of the contract) within ten (10) days after receipt of a written request by ARRC for adequate assurance; or

(3) Vendor becomes insolvent or makes an assignment for the benefit of creditors or commits an act of bankruptcy or files or has filed against it a petition in bankruptcy or reorganization proceedings.

5.3 Upon receipt of a notice of cancellation or termination, Vendor shall immediately discontinue all work and it shall immediately cause any of its suppliers or subcontractors to cease such work unless the notice directs otherwise. In the event of termination for default, Vendor shall be liable for any damage to ARRC resulting from the Vendor's nonperformance. The rights and remedies of ARRC provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

6. No Assignment or Delegation. The Vendor may not assign, subcontract or delegate this contract, or any part of it, or any right to any of the money to be paid under it, except with the prior written consent of ARRC. No such approval shall relieve Vendor from any of its obligations or liabilities under this contract.

7. Independent Contractor. The Vendor's relationship to ARRC in performing this contract is that of an independent contractor and nothing herein shall be construed as creating an employer/employee relationship, partnership, joint venture or other business group or concerted action.

8. Payment of Taxes. As a condition of performance of this contract, the Vendor shall pay all federal, state, and local taxes incurred by the Vendor and shall require their payment by any subcontractor or any other persons in the performance of this contract. Satisfactory performance of this paragraph is a condition precedent to payment by ARRC under this contract.

9. Governing Law. This contract, and all questions concerning the capacity of the parties, execution, validity (or invalidity) and performance of this contract, shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Alaska.

10. Alaska Executive Branch Ethics Act Requirements. No officer or employee of the State of Alaska or of the ARRC and no director of the ARRC or legislator of the state shall be admitted to any share or part of this contract or to any benefit that may arise therefrom. Vendor shall exercise reasonable care and diligence to prevent any actions or conditions which could be a violation of Alaska Statute 39.52 et seq. Vendor shall not make or receive any payments, gifts, favors, entertainment, trips, secret commissions, or hidden gratuities for the purpose of securing preferential treatment or action from or to any party. This obligation will apply to the activities of Vendor's employees and agents in their relations with ARRC employees, their families, vendors, subcontractors, and third parties arising from this contract and in accomplishing work hereunder. Certain gratuities may be given or accepted if:

- (1) there is no violation of any law or generally accepted ethical standards;
- (2) the gratuity is given as a courtesy for a courtesy received and does not result in any preferential treatment or action;
- (3) the gratuity is of limited value (less than \$150) and could not be construed as a bribe, payoff or deal; and
- (4) public disclosure would not embarrass ARRC.

ARRC may cancel this contract without penalty or obligation in the event Vendor or its employees violate the provisions of this section.

11. Covenant Against Contingent Fees. Vendor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Vendor, to solicit or secure this contract, and that it has not paid or agreed to pay any person, company, individual, or firm any commission, gift, percentage, fee, contingent upon or resulting from the award or making of this contract. For the breach or violation of this warranty, ARRC may terminate this contract without liability and, at its discretion, deduct from the contract price or otherwise recover the full amount of the commission, percentage, gift, or fee.

12. Warranty. Vendor warrants that the equipment, goods, materials or other supplies sold to ARRC under this contract: (a) shall be of good quality and free from all defects and deficiencies in workmanship, material and design; (b) shall be fit, suitable and operate successfully for their intended purpose; (c) shall be new; (d) shall be free from all liens, claims, demands, encumbrances and other defects in title; and (e) shall conform to the specifications, if any, stated in the contract. Vendor shall honor all guarantees and warranties offered by the manufacturer of the equipment, goods, materials or other supplies provided under this contract.

The rights and remedies provided for in this section are in addition to any other remedies provided by law.

13. Indemnification. The Vendor shall indemnify, save harmless and defend ARRC, its officers, agents and employees from all liability of any nature or kind, including costs and expenses, for all actions or claims resulting from injuries or damages sustained by any person or property arising directly or indirectly as a result of any error, omission, product defect, negligent or wrongful acts of the Vendor, its subcontractors or anyone directly or indirectly employed by them in the performance of this contract, provided that Vendor's aforesaid indemnity and hold harmless agreement shall not be applicable to any liability based upon the sole negligence of ARRC.

14. ARRC's Rights Not Waived by Payment. No payment made by ARRC shall be considered as acceptance of satisfactory performance of Vendor's obligations under this contract. Nor shall any payment be construed as acceptance of substandard or defective work or as relieving Vendor from its full responsibility under the contract.

15. Nonwaiver. A party's failure or delay to insist upon strict performance of any of the provisions of this contract, to exercise any rights or remedies provided by this contract or by law, or to notify the other party of any breach of or default under this contract shall not release or relieve the breaching or defaulting party from any of its obligations or warranties under this contract and shall not be deemed a waiver of any right to insist upon strict performance of this contract or any of the rights or remedies as to any subject matter contained herein; nor shall any purported oral modification or rescission of this contract operate as a waiver of any of the provisions of this contract. The rights and remedies set forth in any provision of this Agreement are in addition to any other rights or remedies afforded the nonbreaching or nondefaulting party by any other provisions of this contract, or by law.

16. Savings Clause. If any one or more of the provisions contained in the contract shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this contract, but this contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

17. Headings. The headings of sections and paragraphs of this contract are for convenience of reference only and are not intended to restrict, affect, or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

18. Forum Selection. The parties shall not commence or prosecute any suit, proceeding or claim to enforce the provisions of the contract, to recover damages for breach or default under the contract, or otherwise arising under or by reason of the contract, other than in the courts of the State of Alaska for the Third Judicial District at Anchorage. The parties hereby irrevocably consent to the jurisdiction of said courts.

19. Conflict of Interest. Vendor shall act to prevent any actions or conditions which could result in a conflict with ARRC's best interests. This obligation shall apply to the activities of Vendor's employees and agents in their relationships with ARRC's employees, their families, vendors, subcontractors and third parties accomplishing work under this contract.

20. Publicity. Vendor shall not release any information for publication or advertising purposes relative to this contract or to the material, equipment and other supplies furnished under this contract without the prior written consent of the ARRC.

21. Audit. ARRC has the right to audit at reasonable times the accounts and books of the Vendor in accordance with the provisions of ARRC Procurement Rule 1600.10.

22. Internal Controls and Record Keeping. Vendor shall keep full and accurate records and accounts of all of its activities in connection with this contract, including, without limitation, reasonable substantiation of all expenses incurred and all property acquired hereunder.

23. Force Majeure. Neither ARRC nor Vendor shall be responsible for failure to perform the terms of this contract when performance is prevented by force majeure, provided that: (1) notice and reasonably detailed particulars are given to the other party and (2) the cause of such failure or omission is remedied so far as possible with reasonable dispatch. The term "force majeure" shall mean acts of God, earthquakes, fire, flood, war, civil disturbances, governmentally imposed rules, regulations or other causes whatsoever, whether equal or unequal to the causes herein enumerated, which is not within the reasonable control of either party and which through the exercise of due diligence, a party is unable to foresee or overcome. In no event shall force majeure include normal or reasonably foreseeable or reasonably avoidable operational delays.

24. Set Off. If ARRC has any claim against the Vendor related or unrelated to this contract, it may set off the amount of such claim against any amount due or becoming due under this contract.

25. Observance of Rules. The Vendor's personnel performing work hereunder on ARRC's premises shall observe all fire prevention, security, and safety rules in force at the site of the work.

26. No Third-Party Beneficiary Rights. No provision of this contract shall in any way inure to the benefit of any third parties (including the public at large) so as to constitute any such person a third-party beneficiary of the contract or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

27. Entire Agreement. This contract represents the entire and integrated agreement between ARRC and the Vendor and supersedes all prior negotiations, representations, or agreements, either written or oral. This contract may be amended only by a written instrument signed by both ARRC and the Vendor.

28. Invalid Provision. The invalidity or unenforceability of any provision of this contract shall not affect the other provisions hereof, and this contract shall be construed in all respects as if such invalid or enforceable provisions were omitted.

29. Packing, Marking and Shipping All supplies shall be properly packaged to prevent damage or deterioration and to obtain the lowest transportation rates. ARRC will pay no charge for preparation, crating, dunnage or other materials unless separately stated in this contract. Each packing slip, bill of lading, invoice, container, tag and correspondence shall bear the applicable contract number and the location to which the supplies are to be shipped. A waterproof Master Packing Slip shall accompany each shipment and shall be included in one of the packages marked "Packing Slip Inside" or in the case of a carload shipment, be conspicuously displayed on the inside of the freight car. The original Bill of Lading shall be mailed to the attention of ARRC Supply Management Department on date of shipment.

30. Improper Delivery. If for any reason the Contractor fails to make timely delivery, ARRC may, at its option, approve a revised delivery schedule, request shipment via air or expedited routing (at Contractor's expense) or terminate this contract without any liability. Contractor will not, however, be liable for damages resulting from delays in delivery due to causes beyond Contractor's reasonable control, provided Contractor promptly notifies ARRC in writing of any such delay or expected delay as soon as such delay or expected delay becomes or should have become apparent. The remedies provided in this paragraph shall be cumulative and in addition to any other or further remedies ARRC may have.

31. Shipping Release. The Contractor shall not ship any of the supplies covered by this contract, unless specific delivery dates or written instructions are furnished to Contractor by ARRC. ARRC shall have no responsibility for supplies for which delivery dates or other written instructions have not been provided. Shipments in excess of those authorized may be returned to Contractor and Contractor shall pay ARRC for all expenses incurred in connection with such shipments. ARRC may change or temporarily suspend shipping schedules specified in this contract or written instructions.

32. Inspection/Rejection. Notwithstanding prior shipment, all supplies are subject to inspection and acceptance by ARRC within a reasonable time after they arrive at destination. ARRC shall notify Contractor if any supplies are rejected for any reason or if there are shortages. At ARRC's election, rejected supplies may be held for Contractor's account or returned to Contractor at Contractor's risk and expense. No replacement or correction of defective or nonconforming supplies shall be made by Contractor without written authorization from ARRC. Contractor shall promptly ship any shortages after notification of the same by ARRC.

33. Compliance with Laws and Regulations. Contractor agrees that in the performance of this contract it will comply with the requirements of all applicable Federal, State and local statutes, regulations and orders and will indemnify and save ARRC harmless from any claim, loss or damage arising from Contractor's violation or alleged violation of them.

34. Reduction in Contractor's Cost Any reduction in Contractor's costs resulting from a reduction in freight rates, custom duties, import taxes, excise taxes and/or sales taxes from those in force on the date of the contract is to be paid to ARRC by Contractor in reduction of the price of the ordered supplies.

35. Payments. Payments for supplies furnished under this contract will be due thirty (30) days after the later of (1) receipt of the supplies established in the contract, (2) receipt of proper billing for such supplies, and (3) receipt of all documents required by this contract. ARRC shall not be liable for interest charges on late payments.