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CHEROKEE NATION®

**REQUEST FOR PROPOSALS**

**Construction Management At-Risk Services  
Durbin Feeling Language Center  
Tahlequah, Oklahoma**

January, 2021



**Rebecca Mitchell, C.P.M.  
Director of Acquisition Management  
[rebecca-mitchell@cherokee.org](mailto:rebecca-mitchell@cherokee.org)**

**CHEROKEE NATION  
P.O. Box 948  
Tahlequah, OK 74465**

## Table of Contents

- I. Introduction
- II. Summary
- III. Scope of Work
- IV. Contractor's Acknowledgements
- V. Information for Contractors and General Conditions

Attachment A: Preparation Outline

Attachment B: Bid Proposal Form

Attachment C: Previous Work History Form

Attachment D: Statement for Providing Indian Preference in Employment and Training

Attachment E: Statement for Providing Indian Preference in Subcontracting

Attachment F: Bonding Capacity Certification Letter

Attachment G: Required Documents Listing (successful bidder only)

Attachment H: Bonding Requirements and Directions for Preparing Bonds

Attachment I: Sample Contract

Attachment K: Request for Acceptance of Subcontractor

## **I. INTRODUCTION**

The Cherokee Nation is the federally recognized government of the Cherokee people and thereby has sovereign status granted by treaty and law. Tribal sovereignty is the right to self-governance. It is essentially the right to decide issues which affect the good of the population; to design and implement programs in response to specific needs of the population; and, to establish goals for the improvement of the organization's ability to achieve program objectives. The seat of tribal government is the W.W. Keeler Complex near Tahlequah, Oklahoma, capital of the Cherokee Nation.

## **II. SUMMARY**

The Cherokee Nation is soliciting proposals from highly qualified and experienced firms to provide Construction Management at Risk services for an expansion and remodel of the Durbin Feeling Language Center (formerly Cherokee Casino-Tahlequah) Complex in Tahlequah, Oklahoma.

## **III. SCOPE OF WORK**

The successful Contractor will provide Construction Management at Risk services at the Durbin Feeling Language Center in Tahlequah, Oklahoma to oversee a complete renovation/expansion. The contract will be all-inclusive to include, but not be limited to, preconstruction services, site supervision, scheduling, estimating and bidding responsibilities. Construction will follow Cherokee Nation approved plans and specifications, once completed. Project will be fast-tracked.

### **Incorporating the contract documents:**

The "RFP Documents" shall mean and shall include the Solicitation to Bid; Instructions to Bidder; Bid Schedule; Statement of Work; Drawings and Specifications, and all other attachments, exhibits and other documents attached hereto and/or incorporated by reference herein. The following plans and specifications are for bidding purposes only. Owner intends to issue an addendum with 100% for Construction drawings with minor changes:

- Durbin Feeling Language Center 95% Construction Documents Submittal dated 11-20-20 by James R. Childers, Architect, Inc.
- Durbin Feeling Language Center Project Manual 95% CD Submittal Volume 1 Divisions 00-12 dated 11-20-20 by James R. Childers, Architect, Inc.
- Durbin Feeling Language Center Project Manual 95% CD Submittal Volume 2 Divisions 21-23, 26, 28 dated 11-20-20 by James R. Childers, Architect, Inc.

## **VI. CONTRACTOR'S ACKNOWLEDGEMENTS**

By submitting a proposal in response to this RFP, the Contractor understands, represents and acknowledges that:

- All proposals provided by, and representations made by, the Contractor in the proposal are material and important and will be relied upon by the Nation in awarding any contract;
- No employee of the Nation has an ownership interest in the business or is an employee of the business;
- The price and amount of this proposal have been arrived at independently and without consultation, communication or agreement with any other Contractor or potential Contractor;
- Neither the price nor the amount of this proposal have been disclosed to any other firm or person who is a Contractor or potential Contractor, and they will not be disclosed on or before the proposal submission deadline specified in the cover letter of this RFP:
- No attempt has been made or will be made to induce any firm or person to refrain from submitting a proposal on this solicitation, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal;
- The proposal is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal;
- To the best knowledge of the person signing the proposal for the Contractor, the Contractor, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four (4) years been convicted or found liable for any act prohibited by federal, state, local or tribal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract;
- To the best of the knowledge of the person signing the proposal for the Contractor and except as otherwise disclosed by the Contractor in its proposal, the Contractor has no outstanding, delinquent obligations to any federal, state, local or tribal entity, including but not limited to, any tax liability.

## **VII. INFORMATION FOR CONTRACTORS AND GENERAL CONDITIONS**

The Cherokee Nation is soliciting proposals from highly qualified and experienced firms to provide Construction Management at Risk services an addition and improvement project to the Durbin Feeling Language Center in Tahlequah, Oklahoma.

All questions, correspondence and communication regarding the Durbin Feeling Language Center project or this RFP must be directed to **Rebecca Mitchell, C.P.M., Director of Acquisition Management, Cherokee Nation at rebecca-mitchell@cherokee.org**. Beyond the above referenced written communication, firms and their representatives may not make any other form of contact with representatives of the Cherokee Nation. These restrictions extend to phone calls, emails, "thank-you" letters, and any contact that results in the direct or indirect discussion of the RFP and/or Contractor submittals. Any improper contact by or on behalf of a firm may be grounds for disqualification.

No interpretation of the meaning of the RFP will be made to any Contractor orally. No telephone inquiries please. A copy of this RFP will be posted on the Cherokee Nation bid website [www.cherokeebids.org](http://www.cherokeebids.org) under Cherokee Nation procurements. Updates and/or addendums issued during the RFP process will be posted on the Cherokee Nation bid website [www.cherokeebids.org](http://www.cherokeebids.org) under Cherokee Nation procurements. It is the responsibility of each bidder to monitor the Cherokee Nation bid website [www.cherokeebids.org](http://www.cherokeebids.org) for updates and/or changes posted regarding this RFP. Failure of any Contractor to receive any such addendum or interpretation shall not relieve such Contractor from any obligation under their proposal as submitted. All addenda so issued shall become part of the contract documents.

**A non-mandatory, masked, distanced pre-bid meeting is scheduled for 10:00AM, January 15, 2021 at the project jobsite. Following the pre-bid meeting, the building will be open until 5:00 PM for viewing by bidders. All attendees must wear appropriate face covering and will be pre-screened for COVID-19 symptoms prior to entering the building. A limited number of bidders will be allowed in the building, and will be expected to physical distance at all times.**

Every request for interpretation of the meaning of the plans, specifications, or other RFP documents must be emailed to Rebecca Mitchell at rebecca-mitchell@cherokee.org. No verbal requests will be accepted. The due date for all interpretation requests for this RFP shall be **5:00 p.m., January 20, 2021**. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be communicated by posting on the Cherokee Nation bid website [www.cherokeebids.org](http://www.cherokeebids.org) under CN procurements with the RFP announcement. The Nation anticipates responding to RFP interpretation requests on or before **5:00 p.m., day, January 26, 2021**.

Submittals will be accepted until **5:00 p.m., January 29, 2021**. Four copies of the proposals should be submitted. Proposals must be sealed and designated as "RFP – CM AT RISK – Durbin Feeling Language Center– DO NOT OPEN". Proposals may be mailed to the attention of Rebecca Mitchell, C.P.M., Director of Acquisition Management, Cherokee Nation, P.O. Box 948, Tahlequah, Oklahoma, 74465, or may be hand delivered to Ms. Mitchell at the Cherokee Nation Financial Resources Building,

located at 17665 S. Muskogee Avenue, Tahlequah, Oklahoma, 74464, which is approximately 3.5 miles south of Tahlequah on Highway 62. Any proposal received after the time stated above will not be considered.

The Cherokee Nation reserves the right to reject any or all of the proposals if such election is deemed to be in the best interest of the Cherokee Nation. The Nation assumes no obligation, no responsibility, and no liability for costs incurred by the responding firms who submit a proposal in response to this RFP. The Nation reserves the right to modify or cancel, in part of, or in its entirety, this RFP. This RFP does not constitute any form of offer to contract. The Nation reserves the right to negotiate a contract in the best interests of the Cherokee Nation. An award for this project will be made subject to available funding. Firms are cautioned that proposals should be submitted initially on the most favorable terms, from both a technical and cost standpoint. Any contract issued as a result of this RFP will contain a cancellation clause in favor of the Nation.

The Cherokee Nation may make such investigations as they deem necessary to determine the ability of the firm to perform the work and the firm shall furnish to the Nation all such information and data for this purpose as the Nation may request. The Nation reserves the right to reject any submittal if the evidence submitted by, or investigation of, such firm fails to satisfy the Nation such firm is properly qualified to carry out the obligations of the contract and to complete the work contemplated herein.

**Indian Preference:** Proposals will be accepted from Indian and non-Indian firms. Indian preference will only be given to those firms certified as Indian-owned by the Cherokee Nation Tribal Employment Rights Office (TERO), P.O. Box 948, Tahlequah, Oklahoma, 74465, 918-453-5000. Proof of current certification by copying the front and back must accompany all proposals.

In addition, by submitting a proposal in response to this RFP, the Contractor agrees to the following:

The Cherokee Nation shall to the greatest extent feasible give preference in the award of contracts to Indian organizations and Indian-owned economic enterprises. All contracting is required to comply with procedures for selection of Contractors and Sub-contractors as set forth in the Cherokee Nation Tribal Employment Rights Office, Resolution No. 84-50 and Ordinance Section No. 4.8 which provides for preference to Indians in the awarding of contracts, as well as the Cherokee Nation Acquisition Management Policies and Procedures. All work to be performed under any contract is also subject to Section 7(b) of the Indian Self-Determination Act.

Section 7(b) states:

Any contract, subcontract, grant, or subgrant pursuant to this act, the Act of April 16, 1934 (48 Stat. 596) as amended, (the Johnson-O'Malley Act) or any other Act authorizing

federal contracts with or grants to Indian organizations or for the benefit of Indians, shall require to the greatest extent feasible;

- 1) Preference and opportunities to training and employment in connection with the administration of such contracts or grants shall be given to Indians; and
- 2) Preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organizations and to Indian-owned economic enterprises as defined in Section 3 of the Indian financing Act of 1974 (88 Stat. 77).

A prospective contractor seeking to receive Indian Preference under this contract must be certified as an Indian-owned firm by the Cherokee Nation Tribal Employment Rights Office (TERO) and submit proof of that certification with their proposal.

**Withdrawal of Proposals:** Any proposal may be withdrawn prior to the above scheduled due date. Any proposals received after the date and time specified shall not be considered. No Contractor may withdraw a proposal within 30 days after the actual due date. Any Contractor may modify their proposal at any time prior to the scheduled closing time for receipt of proposals, provided such communication is received in writing by the designated contact person for this Request for Proposal prior to the closing time. No public bid/proposal opening will be held. All proposals will be submitted based on the evaluation criteria and terms and conditions contained in this RFP. Unless a specific note is made to the contrary, we will assume each Contractor's proposal conforms to the specifications contained herein. All deviations to any part of these specifications must be submitted in writing and clearly identified. Any deviation deemed to be significant by the Nation will disqualify the proposal. Failure by Contractors to identify any such deviation(s) will not in the future accrue to the disadvantage of the Nation in any manner.

**Subcontractors or Joint Ventures:** The Nation will contract only with the Contractor and expects the Contractor to perform the work. Any firm proposing to employ a subcontractor or subcontractors, or enter into a joint venture in response to this RFP, must disclose this in their RFP response. The Nation must approve in writing any person, firm or party proposed by the firm to award a subcontract or enter into a joint venture. The Nation, in giving such acceptance, assumes no responsibility in connection with the terms of the subcontract or joint venture and their performance will be the responsibility of the successful firm.

**Cost of Submitting Proposal:** All costs in connection with the preparation and submission of this proposal will be paid by the Contractor. All proposals submitted in response to this RFP become the property of the Nation.

**Confidentiality:** It is understood any proposals submitted to the Contractor by the Nation in respect to this Request for Proposal embodies certain proprietary proposals and is loaned to the Contractor on a confidential basis. Any proposals acquired at the Nation or otherwise relating to processes belonging to the Nation incorporated into this Request for Proposal shall be kept confidential. The Contractor agrees not to use in any unauthorized manner or communicate to others any such confidential items without the prior written consent of the Nation and will undertake such measures as are necessary to require its employees and all approved Subcontractors or Joint Ventures to maintain complete confidentiality.

**Debarment:** By submitting a response to this Request for Proposal, the Contractor certifies to the best of their knowledge and belief that the Contractor, the firm, or any of its principals are not presently debarred, suspended, or proposed for debarment by any federal, state, local or tribal entity. This certification is a material representation of fact upon which reliance was placed when making award. If it is later determined the Contractor rendered an erroneous certification, in addition to other remedies available to the Nation or its entities, the Nation may terminate the contract resulting from this Request for Proposal for default.

**Conflicts of Interest:** Firms submitting a response to this RFP must disclose any actual, apparent, direct or indirect, or potential conflicts of interest that may exist with respect to the firm, management, or employees of the firm relative to the services to be provided under any proposed Agreement. This disclosure must be included with the proposal submittal.

**Verification of Scope of Work:** Each Contractor must inform themselves fully of the Scope of Work and all terms and conditions in this Request for Proposal. Failure to do so will not relieve a successful Contractor of his obligation to carry out the provisions of this contract. All applicable laws and ordinances, and the rules and regulations of all authorities having jurisdiction over this project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though written out in full.

**Insurance Requirements:** The Nation anticipates the insurance requirements outlined below are a final list; however, at the discretion of the Nation's Risk Management Department, additional insurance may be required. The Contractor shall purchase and maintain such insurance as will protect the Nation against any and all claims and demands arising from the execution of the contract. The Contractor shall maintain the following types of insurance and limits:

Before performing contractual services on the behalf of or for the Cherokee Nation, compliance with the following insurance requirements must be verified:



\*\* Provide an original Certificate of insurance naming the Cherokee Nation as a certificate holder and additional insured with respect to general liability, automobile liability as their interest may appear with respect to the operations defined in this proposal packet. The certificate shall reflect that coverage has been placed with an AM Best Rated Carrier of at least A IX and will contain the following proposals for each required coverage and reflect a waiver of subrogation in favor of Cherokee Nation on each policy:

- 1) Type of insurance
- 2) Policy number
- 3) Effective date
- 4) Expiration date
- 5) Limits of Liability (this amount is usually stated in thousands)
- 6) Thirty day notice of cancellation, except ten-day cancellation clause will apply for nonpayment of premium.
- 7) Coverage Territory

\*\* Required Coverages:

- 1) Worker's Compensation and Employer's Liability:

Limits of Liability:

Bodily Injury by Accident: \$100,000 each accident

Bodily Injury by Disease: \$500,000 policy limit

Bodily Injury by Disease: \$100,000 each employee

Oklahoma Statute requires Worker's Compensation coverage for anyone with one (1) or more employees. Contractor's worker's compensation policy shall include a waiver of subrogation in favor of Cherokee Nation of Oklahoma.

- 2) General Liability:

Coverages:

Commercial (including products/completed operations). In addition to the additional insured endorsement, the commercial general liability policy shall also include a waiver of subrogation in favor of Cherokee Nation. Limits of Liability:

Bodily Injury and Property Damage Combined: \$1,000,000  
(each occurrence)

- 3) Automobile Coverage:

Vehicles Covered:

All Autos

Hired Autos

Non-owned Autos

Limits of Liability:

Bodily Injury and Property Damage Combined: \$1,000,000

NOTE: The Contractor shall either: (1) require each of his subcontractors to procure and to maintain during the life of his subcontract, identical insurance for the type and in the same amounts as specified above, or (2) insure the activities of all subcontractors in his own policy. Each

subcontractor policy must also name Cherokee Nation as an additional insured with respect to general liability and auto liability. Each policy must be endorsed with a waiver of subrogation in favor of the Cherokee Nation.

- 4) Builder's Risk insurance for 100% of the construction costs will be required of the successful bidder.

**Governing Laws and Contract:** The Cherokee Nation will make this RFP and the successful Contractor's proposal a part of the contract. This RFP and any subsequent contract and related documents shall be construed under the laws of the United States and where applicable, the Cherokee Nation. Nothing in this RFP, any subsequent documents or contract or related documents shall be construed as a waiver of limitation upon the Nation's sovereign immunity. To the extent this statement is found to be inconsistent with any other language in this RFP or any subsequent document or contract or related document, this statement shall control. This statement shall survive the completion or termination of any subsequent contract. In the event of any dispute which may affect this Agreement, the Contractor agrees the Agreement shall be governed by the laws of the United States, and where applicable, the laws of the Cherokee Nation. The Cherokee Nation will make the final decision on the contract format to be utilized for any award(s) under this procurement. There will be no Arbitration or Mediation clauses, and the Nation will not waive sovereign immunity. By submitting a proposal in response to this RFP, the Contractor agrees to these terms and conditions.

**Evaluation Process:** An Evaluation Committee of qualified persons will evaluate each proposal received. As part of the evaluation process, the Committee reserves the right to direct Acquisition Management to contact responding parties with questions regarding the proposal. The Committee reserves the right to schedule presentations with prospective Contractors. Contractors may be asked to provide additional data or oral discussion for the purpose of addressing identified concerns or questions in the proposal, clarify any ambiguities, and discuss aspects of the cost and/or delivery of services. The Nation's decision to request an oral presentation shall not constitute acceptance of a proposal. The Committee may make such investigations as they deem necessary to determine the ability of the Contractor to perform the work, and the Contractor shall furnish to the Committee all such proposals and data for this purpose as may be requested.

**Nation's Right to Inspect:** The Nation reserves the right to inspect and investigate thoroughly the establishment, facilities, equipment, business reputation and other qualifications of the Contractor and any proposed Subcontractors or Joint Ventures and to reject any proposal irrespective of price if it shall be administratively determined that the Contractor is deficient in any of the essentials necessary to assure acceptable

standards of performance. The Nation reserves the right to continue this inspection procedure throughout the life of the contract that may arise from this RFP.

**Evaluation Criteria:** The award of a contract will be made to the responsible, responsive Contractor whose proposal is determined to be in the best interests of the Nation. Criteria to be considered by the Nation in making its selection among proposals submitted include, but are not limited to the following:

- 1) Cost/Fee Schedule (30 points)
- 2) Qualifications and Previous Work History (30 points)
- 3) Team Composition/Key Personnel (10 points)
- 4) References (10 points)
- 5) Cost estimating and Project Scheduling Ability (9 points)
- 6) TERO Subcontracting Plan (5 points)
- 7) Indian Preference (6 points)

**Award:** The Cherokee Nation reserves the right to reject any or all of the proposals if such election is deemed to be in the best interest of the Cherokee Nation. The Nation assumes no obligation, no responsibility, and no liability for costs incurred by the responding firms who submit a proposal in response to this RFP. The Nation reserves the right to modify or cancel, in part of, or in its entirety, this RFP. This RFP does not constitute any form of offer to contract. The Nation reserves the right to negotiate a contract in the best interests of the Cherokee Nation. An award for this project will be made subject to available funding. Firms are cautioned that proposals should be submitted initially on the most favorable terms, from both a technical and cost standpoint. Any contract issued as a result of this RFP will contain a cancellation clause in favor of the Nation. The Nation reserves the right to determine a proposal acceptable in terms of meeting RFP requirements. The Nation reserves the right to award a contract in the best interests of the Nation. The Nation is not obligated to award the contract based on cost alone. All proposals, documents, and paperwork associated with this RFP become the property of the Nation.

The Cherokee Nation may make such investigations as they deem necessary to determine the ability of the Contractor to perform the work and the Contractor shall furnish to the Cherokee Nation all such proposals and data for this purpose as the Cherokee Nation may request. The Cherokee Nation reserves the right to reject any submittal if the evidence submitted by, or investigation of, such Contractor fails to satisfy the Cherokee Nation such Contractor is properly qualified to carry out the obligations of the contract and to complete the work contemplated herein.

Should an award be made as a result of this RFP, the award proposals will be posted to the Cherokee Nation bid website [www.cherokeebids.org](http://www.cherokeebids.org) under the appropriate solicitation.

**Contractor Responsibilities - TERO Office:** Cherokee Nation TERO Office requirements may apply to this project, including fees. Successful bidder must complete TERO Labor Agreement and other required forms, and pay all applicable fees for this project. The successful bidder must have fees and all paperwork submitted to TERO for contract to be considered fully executed.

**Contractor Responsibilities - Wage and Hour:** The successful Contractor will require all approved Subcontractors to follow the Davis-Bacon Law.

**Bonding Requirements:** Simultaneously with delivery of the executed contract, the Contractor shall furnish a surety bond or bonds as specified. Once the renovation/rebuild project total cost is determined, bonds may be amended, if needed. Corporate sureties offered for bonds furnished with contracts performed for the Cherokee Nation must appear on the list contained in the most current Department of the Treasury Circular "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsuring Companies." No terms and conditions in the bonds furnished to the Cherokee Nation may contradict any terms and conditions in this RFP, any subsequent contract, or any other document related to this project. Before any work is commenced, the Contractor shall obtain and furnish the following bonds:

- 1) **Bid Bond:** A bid bond equal to 5% of the estimated cost. A "bid bond" is one executed in connection with a bid offer to guarantee the contractor will enter into a contract if given the award. The only documents accepted will be an actual bid bond or a cashier's check.
- 2) **Performance Bond:** A performance bond on the part of the Contractor for 100 percent (100%) of the contract price. A performance bond is one executed in connection with a contract to secure fulfillment of all the Contractor's obligations under such contract.
- 3) **Payment Bond:** A payment bond on the part of the Contractor for 100 percent (100%) of the contract price. A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and materials in the execution of the work provided for in the contract.
- 4) **Warranty Bond:** The Contractor must provide to the Cherokee Nation a warranty bond in the Nation's favor guaranteeing the project against defects for a period of one year. The warranty bond must be in the amount of 25% of the contract amount and will be held for one year.

**Drug Free and Tobacco Free Workplace:** The Contractor understands and recognizes that all Cherokee Nation buildings, whether leased or owned by the Nation to be a tobacco free workplace. The Contractor will ensure all employees, subcontractors, and other workers will abide by this policy.

**Assignment:** No assignment of the contract or of any right or obligation under this RFP will be made by either party without the prior consent of the non-assigning party.

**Audit/Examination/Retention of Records:** The Contractor, any subcontractors, or joint ventures shall maintain books and records related to the performance of this contract in accordance with applicable law, terms and conditions of any contract with the Nation, and generally accepted accounting standards. Contractor shall maintain these books and records for a minimum of three (3) years after the completion of the contract, final payment, or completion of any contract, audit, or litigation, whichever is later. All books and records shall be available for review or audit by the nation, its representatives, and other governmental entities with monitoring authority upon reasonable notice and during normal business hours. Contractor agrees to cooperate fully with any such review or audit.

**ATTACHMENT A**  
**Preparation Outline**

## Preparation Outline

The following information must be submitted and signed as indicated with sealed proposal. All information must be submitted for proposal to be considered responsive and reasonable.

- 1) Preparation Outline
- 2) Bid Proposal Form
- 3) Previous Work History Form
- 4) TERO Certification  
(If applicable). To be provided by bidder. Front and back of the TERO form must be provided
- 5) Statement on Providing Indian Preference in Employment and Training
- 6) Statement on Providing Indian Preference in Subcontracting
- 7) Request for Acceptance of Subcontractor
- 8) Bonding Capacity Certification Letter

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Date

# ATTACHMENT B

## Bid Proposal Form

All contractors shall furnish the following fees and markups as part of the Fee Proposal:

- A. **Construction Management Fee:** This fee % of total construction cost shall consist of and include overhead, profit, and home office personnel who will be managing the project during pre-construction, bidding, construction, and closeout, including the warranty period. This fee does not include general conditions and shall be a percentage of total construction cost. Total construction cost is the total of the CM's General Conditions, Bonds, and the cost of the actual work performed by the CM's subcontractors. The fee shall not be applied to Architectural or Engineering costs.

**Construction Management Fee: \_\_\_\_\_ %**

- B. **Monthly General Conditions:** This is a cost to the project from notice to proceed to final completion and associated with the jobsite management of the project, including but not limited to items such as project management staff, insurance, jobsite trailers, telephones, administrative, temporary roads, temporary utilities, permits, fees, general hoisting, safety and cleaning, not specifically associated with individual elements being erected CM/GC's monthly general conditions costs. This should include on-site management/supervision team (e.g., project manager, superintendent, project engineer, safety officer, etc.). All services and personnel not specifically identified as a Construction Supervision Cost will be considered to be part of the CM fee.

**Monthly General Conditions: \$ \_\_\_\_\_**

- C. **Bonding Rate:** This is the cost bonding rate based on the estimated construction cost of \$12,000,000.00.

**Bonding Rate: \_\_\_\_\_ %**



- D. **Contractor Change Order Markup:** This is the fixed percentage markup that the Contractor may apply to a change order for scope increase to the CM/GC Agreement.

**Change Order Mark-up Rate: \_\_\_\_\_ %**

- E. **Self-Performed Work Markup:** This is a fixed percentage markup that will be applied to the cost for the CM/GC's actual labor plus burden cost, material costs, and equipment costs for self-performed work. The Contractor will be allowed to self-perform work. This work must be billed for at actual cost incurred, plus the Self Performed Work Markup. Actual costs for self-performed work will be subject to audit. No billing rates will be allowed. The Contractor must bid its self-performed work against a minimum of two (2) additional bidders. The contractor shall identify in their proposal which work they anticipate to be self-performed. The Contractor's bid will then be evaluated by the Owner and Architect and must be determined to be the best value bid for the work to be awarded to the Contractor. The cost of any work that is self-performed will be part of the total construction cost and is subject to audit by owner. **This is a fixed percentage markup that will be applied to the cost for the CM/GC's actual labor plus burden cost, material costs, and equipment costs for self-performed work: \_\_\_\_\_ %**

## PROPOSAL

To the Cherokee Nation:

This Bidder, in compliance with your Request for Proposal for Construction Management at Risk Services at the Durbin Feeling Language Center near Tahlequah, Oklahoma and, having examined the Request for Proposal documents; and, being familiar with all of the conditions surrounding the scope of work of the proposed project, hereby proposes to furnish all labor, materials and supplies, and to perform the scope of work in accordance with the Contract Documents, and at the prices stated below. These prices to cover all expenses and taxes incurred in performing the work required under the Contract Documents, of which this proposal is a part.

Bidder hereby agrees to commence work under his contract on a date to be specified in a written "Notice to Proceed" of the NATION, if he is the successful bidder.

Should any addenda be issued prior to the submission of this proposal, bidder acknowledges receipt of same by initials and date of the following addenda.

ADDENDUM #1 \_\_\_\_\_

ADDENDUM #2 \_\_\_\_\_

Bidder understands the NATION reserves the right to reject any or all proposals and to waive any informality. Bidder understands award of this contract shall be subject to available funding.

Bidder agrees his proposal shall be good and may not be withdrawn for a period of 30 calendar days from the date scheduled for receipt of proposals. Bidder will cooperate with the NATION to ensure a formal contract is fully executed within 10 days of his notice if he is the successful contractor.

Indian preference will be given on this project to firms certified as Indian-owned by the Cherokee Nation Tribal Employment Rights Office (TERO). Proof of current TERO certification must accompany all proposals. Contractors MUST submit front and back copies of TERO certification.

TERO Certified Contractor: \_\_\_\_\_ Yes \_\_\_\_\_ No  
(Proof of certification must accompany all bids)

**SUBMITTED:**

---

Company Name

---

Company Address

---

Company Address

---

Authorized Signature

---

Print Name

---

Title

**ATTACHMENT C**  
**Previous Work History Form**

## PREVIOUS WORK HISTORY FORM

**NOTE:** This form is a required submission from each bidder/offeror and is the Nation's documentation to determine responsible bidders/offerors. In the spaces below, complete all information requested, providing all telephone numbers and any available facsimile numbers for all employers, companies and vendors listed. In the disclosure space, enter any defaults, assignments or foreclosures.

Employer/Company name, address, phone & fax	Contract Amount	Contract start and completion dates	Describe type of work performed/completed	Disclosures	Contractor's Current and previous vendors – give address and phone/fax
<b>Please attach additional sheets as required to sufficiently provide a minimum of three (3) years work history</b>					

**ATTACHMENT D**

**STATEMENT**  
**PROVIDING INDIAN PREFERENCE**  
**IN EMPLOYMENT & TRAINING**

## **Statement on Providing Indian Preference In Employment and Training Opportunities**

The Cherokee Nation has determined that all bidders this solicitation shall to the greatest extent feasible comply with Indian Preferences in providing training and employment opportunities.

Detail your employment and training opportunities and plans to provide preference to Indians in implementing the contract:

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Provide the number or percentage of Indians anticipated to be employed and trained.

---

If less than 100% Indian for new hires explain why: \_\_\_\_\_

---

Provide a list of all core crew (permanent full-time employees) members: \_\_\_\_\_

---

---

Describe the methods that will be used to train Indian employees \_\_\_\_\_

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**Comparable statements from all subcontracts must be submitted.**

\_\_\_\_\_  
**Company Name**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

**ATTACHMENT E**

**STATEMENT  
PROVIDING INDIAN PREFERENCE  
IN SUBCONTRACTING**



## **Statement on Providing Indian Preference In the Award of Subcontracts**

The Cherokee Nation has determined that all bidders under this solicitation shall to the greatest extent feasible comply with Indian Preference in the awarding of all subcontracts under the contract.

All bidders must submit with their proposal, documentation of the bids or quotations received in subcontracts awarded to a non-Indian enterprise or a non-Indian organization. Failure by the bidder to provide such information shall render the proposal non responsive and the bidder ineligible for award.

Detail your plans to provide Indian Preference in the award of subcontracts:

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**Company Name**

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**Signature**

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**Date**

**ATTACHMENT F**

**Bonding Capacity Certification Letter**

**BONDING CAPACITY CERTIFICATION LETTER**  
*(to be issued on Surety Company Letterhead)*

**Owner:**

Cherokee Nation  
P.O. Box 948  
Tahlequah, OK 74465

**Contractor:**

Address:

City, State, Zip

Phone:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This letter serves as a certified statement of bonding capacity for the referenced Contractor. The present limits on bonding for the referenced Contractor are as follows:

\$\_\_\_\_\_ each occurrence

\$\_\_\_\_\_ aggregate

Issuance and approval of any bond shall be predicated on the most current financial and job information available to the underwriter on the date that the bond is issued. The Surety Company hereby certifies that they appear on the list contained in the Department of the Treasury Circular 570 "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsuring Companies" and that they are rated as follows:

A.M. Best Rating:

\_\_\_\_\_

Financial Size Category:

\_\_\_\_\_

*Note: This is the only acceptable format for the Surety's Bonding Capacity Certification Letter. This statement must be notarized (on an original document with an embossed stamp). Power of Attorney form must be attached.*

**Surety Company:** \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Subscribed and sworn to before me

this \_\_\_\_\_ date of \_\_\_\_\_, 20\_\_\_\_\_

Notary Public in and for said City and State:

My Commission expires: \_\_\_\_\_

**ATTACHMENT G**

**Required Documents Listing  
(Successful Bidder Only)**

### **Required Documents for Successful Bidder Only**

- a. Labor information form (to be provided by Cherokee Nation)
- b. W-9 form (to be provided by Cherokee Nation)
- c. New Contractors must complete a Vendor Registration form (provided by Cherokee Nation)
- d. Signed Contract (contract will be drafted and provided by Cherokee Nation). SAMPLE ONLY PROVIDED (Attachment G)
- e. Request for Acceptance of Subcontractors (Attachment H)

## **ATTACHMENT H**

### **Bonding Requirements Directions for Preparing and Executing Bonds**

## BONDING REQUIREMENTS

Minimum requirement for bonding and insurance shall be as follows:

- a) A bid bond equal to **one-hundred, twenty-five thousand dollars (\$125,000)**. A “bid bond” is one executed in connection with a bid offer to guarantee the contractor will enter into a contract if given the award. **The only documents accepted will be an actual bid bond or a cashier’s check.**
- b) A performance bond on the part of the contractor for 100 percent (100%) of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.
- c) A payment bond on the part of the contractor for 100 percent (100%) of the contract price. A “payment” bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

**NOTE: The payment and performance bonds will only be required of the successful Contractor, but must be in full effect before any work is done. The date of the bonds must not be prior to the date of the Contract. If the Contractor is a partnership, all partners must execute the bonds.**

**Corporate sureties offered for bonds furnished with contracts performed for the Cherokee Nation must appear on the list contained in the Department of the Treasury Circular 570, “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsuring Companies.”**



## **DIRECTIONS FOR PREPARING AND EXECUTION OF BONDS**

Corporate sureties offered for bonds furnished with contracts performed for the Cherokee Nation must appear on the list contained in the Department of the Treasury Circular 570, "Companies Holding Certificated of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsuring Companies."

The name, including full legal name and residence of each individual party to the bond shall be inserted in the body thereof, and each such party shall sign the bond with his usual signature on the line opposite scroll seal.

If the principals are partners, their individual names shall appear in the body of the bond, with the recital they are partners composing a firm, naming it, and all members of the firm shall execute the bond as individuals.

The signature of a witness shall appear in the appropriate place, attesting the signature of each individual party to the bond.

In case the surety and if the principal is a corporation; the name of the State in which incorporated shall be inserted in the appropriate place in the body of the bond, and said instrument shall be executed and attested under the corporate seal, the fact shall be stated, in which case a scroll or adhesive seal shall appear following the corporate seal.

The official character and authority of the person or persons executing the bond for the principal, if a corporation, shall be certified by the secretary or assistant secretary, according to the form attached hereto. In lieu of such certificate, there may be attached to the bond copies of so much of the records of the corporation as will show the official character and authority of the officer signing, duly certified by the secretary or assistant secretary, under the corporate seal, to be true copies.

**ATTACHMENT I**

**Cherokee Nation Contract  
(Sample Only)**

CHEROKEE NATION  
PROFESSIONAL SERVICE AGREEMENT

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20 by and between the Cherokee Nation, P. O. Box 948, Tahlequah, Oklahoma 74465 (hereinafter referred to as the "NATION"), and, (insert Contractor's name and address) Federal Identification # or Social Security # (insert number) hereinafter referred to as the "CONTRACTOR").

WHEREAS, the NATION is the sovereign Tribal Government of the Cherokee people and functions within the framework of a Cherokee Nation Code, enacted by the Cherokee Nation Council, into three branches: Legislative, Executive and Judicial with its headquarters located in Tahlequah, Oklahoma and jurisdictional boundaries in 14 counties of Northeastern Oklahoma, and

WHEREAS, the NATION wishes to enter into an agreement with the CONTRACTOR to provide (insert brief description of services) (hereinafter referred to as the "Project"), and

WHEREAS, the CONTRACTOR hereby affirms it is an independent contractor in accordance with the laws of the State of Oklahoma and the Internal Revenue Service, and further maintains it is qualified, willing, and able to perform the services herein described, and

NOW THEREFORE, and in consideration of the mutual covenants, promises, agreements, understandings, and conditions herein contained, the parties hereto mutually promise to the other, agree, and understand as follows, to wit:

TERM: This Agreement shall commence on (insert starting date), unless extended or cancelled by the parties hereto.

NOTICES: All notices required hereunder shall be sent via U.S. Mail, postage paid as follows:

For the NATION: Cherokee Nation **insert program name**  
Attention: insert name  
P. O. Box 948  
Tahlequah, OK 74465

With copy to: Cherokee Nation Acquisition Management  
Attention: Contracts Office  
P. O. Box 948  
Tahlequah, OK 74465

To the CONTRACTOR: Insert Contractor name address, etc.

**PERFORMANCE REQUIREMENTS OF THE CONTRACTOR:**

The CONTRACTOR shall furnish all labor, materials, administration, services, supplies, equipment, transportation, and quality control necessary to provide Construction Management at Risk services for Cherokee Nation. CONTRACTOR'S Proposal dated (insert date) hereby incorporated as Attachment "B". All work shall be coordinated through the NATION'S Planning and Development Department and the Director of Planning and Development. For the purpose of this Agreement the Project Coordinator assigned under this Agreement is the NATION'S Planning Development Department, David Moore.

**PERFORMANCE REQUIREMENTS OF THE NATION:**

(to be determined)

**ASSIGNMENT OR NON-ASSIGNMENT PROVISION:**

The NATION and the CONTRACTOR hereby agree the services specified in this Agreement may not be delegated or assigned without the prior written approval of the Principal Chief, Cherokee Nation or the authorized designee.

**TERMINATION OR CANCELLATION CLAUSE:**

This Agreement may be terminated or cancelled by either party upon thirty (30) days written notice by certified letter. In the event this Agreement is terminated or canceled by either party, the NATION shall compensate the CONTRACTOR only for documented competed services up to the point of termination or cancellation.

**MODIFICATIONS:**

No change or modification of the terms and conditions of this Agreement shall be effective unless approved in writing and executed by the parties hereto. The Principal Chief or the authorized designee must approve any change or modification to this Agreement proposed by either party prior to implementation.

**STATUS OF THE PARTIES:**

The parties hereto stipulate and agree the CONTRACTOR is an independent contractor, and the NATION is interested only in the results of the CONTRACTOR'S services and shall not control the means and methods by which the CONTRACTOR'S services are rendered. The CONTRACTOR is not eligible for Federal, Social Security, State Workers' Compensation, or Unemployment Insurance Benefits from the NATION by virtue of payment received and shall be responsible for all federal and state taxes related to payments received from the NATION under this Agreement.

INSURANCE: (may or may not apply, delete if needed)

The CONTRACTOR shall, at its sole expense, maintain in effect at all times during the term of this Agreement, insurance coverage with policies and carriers satisfactory to the NATION. An original certificate of insurance naming the NATION as an additional insured shall be provided prior to the commencement of CONTRACTOR'S services and shall reflect comprehensive general liability and workers compensation coverage for its agents, representatives, and employees. Not less than ten (10) days advance notice will be given in writing to the NATION prior to cancellation, termination or material alteration of said policies of insurance. Oklahoma Statute requires Workers' Compensation coverage for anyone with one (1) or more employees.

RESPONSIBILITY FOR WORK: (may or may not apply)

The CONTRACTOR has had the opportunity to determine the scope of work involved, and assumes full responsibility for the performance of the services in a manner adequate to meet the conditions encountered.

WORKING CONDITIONS:

This Agreement is subject to the rules and regulations set by the NATION for the safety, orderly and efficient conduct of all operations upon the project site. The CONTRACTOR shall promptly take all precautions, which are necessary and adequate against any conditions created during the progress of the activities hereunder which involve the risk of bodily harm to persons or a risk of damage to any property. The CONTRACTOR shall continuously inspect all work, materials, and equipment to discover and determine any such conditions and shall be solely responsible for discovery, determination, and correction, and regulations in the jurisdiction where the work is performed, specifically, but without limiting the generality of the foregoing, and regardless of any exemptions provided by law, with all rules, regulations, and standards adopted pursuant to applicable state and federal safety laws. The CONTRACTOR assumes all liability for its failure to comply with the provisions of this paragraph.

LAWS AND REGULATIONS:

The CONTRACTOR'S performance hereunder shall comply with all applicable laws, ordinances, rules, and regulations of any governmental agency having jurisdiction and shall be responsible for any fine, penalty, loss, damage, or expense resulting from the CONTRACTOR'S failure to comply therewith. The CONTRACTOR shall provide all licenses and permits required to perform its obligations under this Agreement or as requested by the NATION.

DRUG FREE and TOBACCO FREE WORKPLACE

- a) Any Contractor performing work for the Cherokee Nation agrees to publish a statement notifying all employees, subcontractors, and other workers that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is

prohibited in the Contractor's workplace and specifying the actions that will be taken against violators of such prohibition.

- b) The Nation will consider lack of enforcement or lax enforcement of the statement by the Contractor a default of the contract.
- c) The Contractor further agrees to provide all persons engaged in performance of the contract with a copy of the statement.
- d) A copy of the Contractor's Drug Free Workplace statement shall be included with any bid submitted or the Contractor will be deemed to accept and agree to use the statement provided by the Nation.
- e) The Contractor understands and recognizes that all Cherokee Nation buildings, whether leased or owned, and the grounds surrounding those facilities are considered by the Nation to be a tobacco free workplace. The Contractor will ensure all employees, subcontractors, and other workers will abide by this policy.

#### CONFIDENTIALITY:

It is understood that any information submitted by the NATION to the CONTRACTOR in respect of the services hereunder embodies certain proprietary information and is made available to the CONTRACTOR on a confidential basis. Any information acquired at the site or otherwise relating to processes belonging to the NATION incorporated into the services shall be kept confidential. The CONTRACTOR agrees not to use in any unauthorized manner or communicate to others any such confidential items without the prior written consent of the NATION and will undertake such measures as are necessary to require its agents, representatives and employees, to maintain complete confidentiality of such information.

#### GOVERNING LAWS AND CONFLICT OF LAW:

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the United States and where applicable, the laws of the Cherokee Nation. If it should appear that any of the Agreement terms are in conflict with any rule of law or statutory provision of the United States, or where applicable, with any rule of law or statutory provision of the Cherokee Nation, such conflict shall be deemed inoperative and null and void insofar as it may be in conflict with such law, and shall be deemed modified to conform to such rule of law.

#### INTEGRATION AND WAIVER:

This Agreement contains the complete expression of the parties' agreement with respect to the subject matter hereof, and shall bind the parties, their successors and assigns. There are no previous or contemporary understandings, representations, or warranties not set forth herein. No subsequent amendment or modification of this Agreement shall be of any force or effect unless in writing and assigned by the parties to be bound hereby. No provision of this Agreement shall be considered waived by the NATION unless such waiver is in writing and signed by the NATION. No such waiver shall be a waiver of any past or future default, breach, or modification of any of the provisions of this Agreement unless expressly stipulated in such waiver. The

parties' further state to the best of their knowledge, no employee of the NATION who exercises any functions or responsibilities in connection with the performance hereunder has any personal interest, direct or indirect, in this Agreement. This Agreement shall supersede any and all written or oral statements, agreements and/or representations of the parties made prior to or contemporaneously with the execution hereof. The parties agree their respective performances hereunder shall be governed by an obligation of good faith.

#### AVAILABILITY OF FUNDS:

The NATION'S obligation for payment under this Agreement is contingent upon the availability of appropriated funds from which payment for services can be made. Funds are available for performance under this Agreement when appropriated or authorized by the Tribal Council of the Cherokee Nation. No legal liability on the part of the NATION for any payment may arise hereunder until funds are made available by the designated officer of the NATION for performance and until the CONTRACTOR receives notice of availability from the NATION'S designated officer through issuance of a purchase order.

#### DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS:

The CONTRACTOR certifies to the best of its knowledge and belief that neither the CONTRACTOR, nor any of its principals, are presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal, state, local or tribal agency. The CONTRACTOR also certifies to the best of its knowledge and belief that it has not, within a three-year-period preceding this Agreement, been convicted of or had a civil judgment rendered against it for: commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, local or tribal) contract or subcontract; violation of federal or state antitrust statutes relating to submission of offers or commissions or embezzlement, theft, forgery, bribery, falsifications or destruction of records, and/or making false statements; and are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in this provision. The CONTRACTOR certifies it has not within a three-year period preceding this Agreement, had one or more contracts terminated for default by a federal, state, local or tribal agency.

#### ATTACHMENTS

This Agreement, together with the Attachments and any subsequent amendments, constitute the entire agreement between CONTRACTOR and the NATION with respect to this project may not be amended except by written agreement signed by the parties hereto.

#### PROMPT PAYMENT:

The CONTRACTOR certifies that all sums due to any suppliers have been paid or will be paid within ten (10) days of receipt of any money received from the Cherokee Nation under this Agreement.

CONSIDERATION OR COMPENSATION:

In consideration for services provided, the NATION shall compensate the CONTRACTOR in an amount up to (insert amount) dollars (insert \$). Any travel incurred under this Agreement shall be included in the CONTRACTOR'S fee and is the responsibility of the CONTRACTOR. The CONTRACTOR'S original invoice shall include a description of service(s) provided, date(s) of service and amount(s). The NATION shall process payment within a reasonable time upon receipt and approval of the CONTRACTOR'S original invoice. Original invoice(s) shall be submitted at regular intervals, but not later than thirty (30) days upon completion of services to the attention of Alan Turner, Fiscal Management Specialist, or Kristy Rhodes, Special Projects Officer, P.O. Box 948, Tahlequah, OK 74465. This Agreement shall not exceed (insert amount) dollars (insert \$) without the prior written consent of the Principal Chief, or the authorized designee.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth herein.

(Insert Contractors name)

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Please Print or Type Name and Title

FOR CHEROKEE NATION:

\_\_\_\_\_  
Insert Executive Director  
Insert program

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Insert authorized signature name and title for the Nation) Date



**ATTACHMENT J**

**Request for Acceptance of Subcontractor**

# REQUEST FOR ACCEPTANCE OF SUBCONTRACTOR

TO: \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_

Project No. \_\_\_\_\_

\_\_\_\_\_

(Project Name)

\_\_\_\_\_

(Project Location)

Gentlemen:

In accordance with our prime contract for \_\_\_\_\_ of this project we request acceptance of the following proposed subcontractor to perform work or supply materials as indicated below:

1. \_\_\_\_\_  
(Name)

(Street address)

(City)

(State)

(Zip code)

2. Scope of work (state kind of work, if for labor, or materials, or both, and give Specification reference):

3. The subcontractor's non-collusive affidavit in the form required by our contract is furnished herewith (original only, attached to the original request).

4. We warrant that the provisions required by our contract to be inserted in each subcontract will be inserted in this subcontract.

5. We certify that this proposed subcontractor is not ineligible to receive awards of contracts from the United States as evidenced by the list or lists of such contractors maintained by HUD.

6. There will be no assignment of interest in the subcontract except as follow (if none, so state):

1. Terms of payment:

Price: \$ \_\_\_\_\_

2. Remarks:

(Prime Contractor)

By \_\_\_\_\_

Title \_\_\_\_\_

- If a sales agent, identify the manufacturer under "Remarks". If for a subcontract, identify principal subcontractor under "Remarks".

---

## APPROVAL OR REJECTION

The proposed subcontractor named above is \_\_\_\_\_.

If accepted, the contracting party giving such acceptance assumes no responsibility in connection with the form of terms of the subcontract, nor the performance of the subcontractor, and this form will not be returned.

If rejected, the reason(s) will be briefly stated herein, and this form will be returned within 10 days after receipt.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Contracting Officer)