



UNAVCO, INC.
REQUEST FOR PROPOSAL/ RFP
(THIS IS NOT AN ORDER)

RFP Number: P061411	RFP Title: INSURANCE BROKERAGE SERVICE
RFP Due Date and Time: June 20th, 2011 5:00 p.m./Mountain Time	Number of Pages: 15

ISSUING AGENCY INFORMATION	
Procurement Agent: Tim Reeme	Issue Date: June 14th, 2011
UNAVCO, Inc. Office of Procurement Services 6350 Nautilus Drive Boulder, CO 80301	Phone: (303) 381-7500 Fax: (303) 381-7501 Website: http:// www.unavco.org/

INSTRUCTIONS TO OFFEROR	
COMPLETE THE INFORMATION BELOW AND RETURN THIS PAGE WITH YOUR QUOTATION AND ANY REQUIRED DOCUMENTS TO THE ADDRESS LISTED ABOVE UNDER "ISSUING AGENCY INFORMATION."	Mark Face of Envelope/Package:
	RFP Number: P061411 RFP Due Date: June 20th, 2011
	Special Instructions: Quotations sent by fax must have a cover sheet noting the total number of pages being sent.

OFFEROR MUST COMPLETE THE FOLLOWING	
Payment Terms: Net 30 days	Delivery Date:
Offeror Name/ Address:	Authorized Offeror Signatory: <i>(Please print name and sign in ink)</i>
Offeror Phone Number:	Offeror FAX Number:
Offeror E-mail Address:	Offeror Web Address:

A signed W-9 must be submitted before award will be made.

IMPORTANT: PLEASE INITIAL ALL PAGES AT THE LOWER RIGHT HAND CORNER TO ACKNOWLEDGE AND SIGNIFY THAT OFFEROR HAS READ AND UNDERSTOOD EACH PAGE.

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SECTION 1: GENERAL REQUIREMENTS

1.0 INTRODUCTION

UNAVCO, Inc. (hereinafter referred to as "UNAVCO") is soliciting quotations for insurance broker services. A more complete description of the services sought is provided in Section 3 of this RFQ. Quotations submitted in response to this solicitation must comply with the instructions and procedures contained herein.

1.1 INSTRUCTIONS TO OFFERERS

1.1.1 Procurement Agent Contact Information.

Procurement Agent: Tim Reeme
UNAVCO, Inc.
Address: 6350 Nautilus Drive
Boulder, CO 80301
Telephone Number: (303) 381-7500
Fax Number: (303) 381-7501
E-mail Address: reeme@unavco.org

1.1.2 Examination of Solicitation Documents and Explanation to Offeror. Offerors are responsible for examining the solicitation documents and any addenda issued to become informed as to all conditions that might in any way affect the cost of goods or performance of any work. Failure to do so will be at the sole risk of the Offeror. Should the Offeror find discrepancies in or omissions from the solicitation documents, or should their intent or meaning appear unclear or ambiguous, or should any other question arise relative to the solicitation documents, the Offeror shall promptly notify the Procurement Agent in writing. The Offeror making such request will be solely responsible for its timely receipt by the Procurement Agent. Replies to such notices may be made in the form of an addendum to the solicitation.

1.1.3 Interpretation or Representations. UNAVCO assumes no responsibility for any interpretation or representations made by any of its agents unless interpretations or representations are incorporated into a formal written addendum to the solicitation.

1.1.4 Acknowledgment of Addendum. If the RFQ is amended, then all terms and conditions which are not modified remain unchanged. It is the Offeror responsibility to keep informed of any changes to the solicitation. ***Offeror must sign and return with their quotation an Acknowledgment of Addendum for any addendum issued.*** Quotations that fail to include an Acknowledgment of Addendum may be considered nonresponsive.

1.1.5 Extension of Prices. In the case of error in the extension of prices in the quotation, the unit price will govern. In a lot quotation, the lot price will govern.

1.1.6 Quotation Preparation Costs. The costs for developing and delivering responses to this RFQ are entirely the responsibility of the Offeror. UNAVCO is not liable for any expense incurred by the Offeror in the preparation and presentation of their quotation or any other costs incurred by the Offeror prior to execution of a purchase order or contract.

1.2 QUOTATION SUBMISSION

1.2.1 Quotations Must Be Sealed and Labeled. Quotes must be sealed and labeled on the outside of the package to clearly indicate that they are in response to RFQ # Q061311. ***Quotations must be received at the receptionist's desk of UNAVCO Procurement Office prior to 5 p.m., local time on the Due Date specified on the coversheet.*** All prices and notations must be printed in ink or typewritten. Errors should be crossed out, corrections entered, and initialed by the person signing the quotation.

1.2.2 Late Quotations. ***Regardless of cause, late quotations will not be accepted and will automatically be disqualified from further consideration.*** It shall be the offeror's sole risk to assure delivery at the receptionist's desk at the designated office by the designated time. Late quotations will not be opened and may be returned to the Offeror at the expense of the Offeror or destroyed if requested.

1.2.3 Offeror Signature. The solicitation must be signed in ink by an individual authorized to legally bind the business submitting the quotation. The offeror signature on a quotation in response to this RFQ guarantees that

the offer has been established without collusion and without effort to preclude UNAVCO from obtaining the best possible supply or service.

1.2.4 Alternate Quotations. Vendors may submit alternate quotations (a quotation on supplies other than specified). Quotations must be clearly identified as "Primary" and "Alternate."

1.3 CHANGE OR WITHDRAWAL OF QUOTATIONS

1.3.1 Change AFTER Quotation Opening But Prior to Quotation Award. After quotations are opened, they may not be changed except to correct patently obvious mistakes and minor variations. The Offeror shall submit verification of the correct quotation to UNAVCO prior to the final award by UNAVCO.

1.4 QUOTATION AWARDS

1.4.1 Basis for Award. The contract, if made, will be to the responsive and responsible Offeror(s) who offer(s) the best value to UNAVCO in accordance with the specifications set forth in the Request for Quotation.

1.4.2 Multiple Awards. UNAVCO reserves the right to make multi contract awards for all items, by product category, and by item within the product category, by geographical area, or by any combination of the aforementioned.

1.4.3 Disqualification. The Quotation of an Offeror who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity will be rejected.

1.4.4 Rejection of Quotations. While UNAVCO has every intention to award a contract as a result of this RFQ, issuance of the RFQ in no way constitutes a commitment by UNAVCO to award and execute a contract. Upon such a determination; UNAVCO, in its sole discretion, reserves the right to:

1. Cancel or terminate this RFQ;
2. Reject any/all/late Quotations or portions thereof; or
3. Waive any undesirable, inconsequential, or inconsistent provisions of this RFQ which would not have significant impact on any quotation; or
4. If awarded, terminate any contract if UNAVCO determines adequate funds are not available.

1.4.5 Contract Inception. A Quotation does not constitute a Contract nor does it confer any rights on the Offeror to the award of a contract.

1.5 SINGLE POINT OF CONTACT

From the date this Request for Quotation (RFQ) is issued until a Vendor is selected and the selection is announced by the procurement Agent, ***Offerors are not allowed to communicate with any UNAVCO staff or officials regarding this procurement, except at the direction of Tim Reeme***, the Procurement Agent in charge of the solicitation or the technical contact listed below. Any unauthorized contact may disqualify the Offeror from further consideration.

Technical Contact for RFP P061411 is as follows:

Human Resources Manager: Tracy Ellis
UNAVCO, Inc.
Address: 6350 Nautilus Drive
Boulder, CO 80301
Telephone Number: (303) 381-7500
Fax Number: (303) 381-7501
E-mail Address: ellis@unavco.org

SECTION 2: SPECIFICATIONS AND PRICING SCHEDULE

2.0 OFFEROR QUALIFICATIONS

- An Offeror may be an individual or a business corporation, partnership, firm, joint venture or other legal entity duly organized and authorized to do business in the City of Boulder, financially sound and able to provide the services being procured by UNAVCO.
- If an Offeror has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, such firm shall disclose that information in its offer, which may be sufficient grounds for disqualification. If the selected firm fails to disclose such information and UNAVCO discovers it thereafter, then UNAVCO may terminate the contract.
- Each Offeror must be in good standing with any Federal, State or Municipality that has or has had a contracting relationship with the firm. Therefore, if a Federal, State or Municipal entity has terminated any contract with an Offeror for deficiencies or defaults, that Offeror is not eligible to submit a Response to this Solicitation.
- If Offeror is not in good standing with any Federal, State or Municipality this must be disclosed.
- Offeror must have and maintain all necessary insurance to cover general liability and workers' compensation and submit proof of it with their proposal submission.
- Offeror shall complete the UNAVCO Vendor Certifications and Representations form.
- Offeror shall include their W9 form for 2011.
- Offeror shall provide their Small Disadvantaged Business Certification (SDB), if applicable.
- Offeror shall show registration with CCR at <https://www.uscontractorregistration.com/>.

2.1 EQUIVALENT PRODUCTS

Requirements designated in this quotation must be satisfied, or a functional equivalent quotation submitted, which is acceptable to UNAVCO. Offerors who do not meet this criterion may be disqualified from further consideration. An Offeror must disclose if unable or unwilling to meet any requirement. Inability or unwillingness to meet any requirement, in part or total, may be cause for disqualification of the entire response. Any exceptions taken by the Offeror must be clearly identified on the quotation forms.

2.2 PRICES

2.2.1 Price Adjustment. The Procurement Agent will review fully documented requests for price increases after the contract has been in effect for 365 days. The requested price increase must be based upon a cost increase that was clearly unpredictable at the time of quotation and can be shown to directly affect the price of the item concerned. Requests for increases shall include documentary evidence of seller's cost as of the date his quotation was submitted and documentary evidence of his new cost and effective date of the requested increase.

Documentary evidence includes, but is not limited to: 1) copies of manufacturer's old price lists or evidence of prices on which quotation prices were based and copies of current price lists or base prices showing increase; or 2) copies of actual invoices. Such increases in cost to Seller by his supplier must be representative of the manufacturer's general price increase to entire industry. The Procurement Agent will determine, through competitive market review, trade publications, independent price indexes, and/or other means, whether the requested price increase, or an alternative option, is in the best interest of UNAVCO. The vendor shall likewise offer any published price reduction to UNAVCO concurrent with its announcement to other customers. All price adjustments will be effective following approval or acceptance by the Procurement Agent. Price increases may only be requested every 365 days. Prices will remain firm for each 365 day period. Requests must be received a minimum of two weeks before the expiration of each 365 day period to become effective during the next period.

2.3 ITEM-BY-ITEM AWARD

Awards may be made on an **Item-by-item** basis. Failure of an Offeror to provide prices for all line items listed on the Schedule may be cause for rejection of the entire quotation. However, an Offeror may enter "No Cost" in the unit price and extended amount columns to indicate that the item is being offered at "No Cost." If an Offeror is not quoting an item, the Offeror should so indicate by entering "No Quotation" in the unit price column and the extended price column.

OFFEROR MUST RESPOND TO EACH REQUIREMENT. IF OFFEROR IS PROPOSING SERVICES THAT MEET THE REQUIREMENT THEN OFFEROR MUST ACKNOWLEDGE THAT IT UNDERSTANDS AND WILL COMPLY WITH EACH REQUIREMENT BY INITIALING THE LINE TO THE LEFT OF EACH REQUIREMENT. IF OFFEROR CANNOT MEET ANY PARTICULAR REQUIREMENT, PLEASE PROVIDE DETAIL EXCEPTIONS NEXT TO THAT REQUIREMENT.

2.4 SPECIFICATIONS and REQUIREMENTS

Please complete as an attachment to this bid, the following questions and answers:

	Description
1.	Describe your firm, length of time in business, and experience in Business Insurance; including the type of insurance offered (e.g., Business General Liability, Property, Auto, Umbrella, Workers Comp, International, Directors and Officers, Volunteer Insurance, etc.) and the number of employees by type of insurance.
2.	Do you typically work as a broker (commission based) or a consultant (fee based)? How would you propose to be paid for your efforts on behalf of our organization, and what is the added cost for your services?
3.	Is your firm capable of serving our needs with regard to various types of business insurance, including business general liability, property, Auto, Umbrella, Workers Comp, International, Directors and Officers, Volunteer insurance, etc? Explain what differentiates your firm from other Brokers and why UNAVCO should select you to provide our insurance needs.
4.	Who would be assigned to our insurance accounts? Are they salaried or commission based? Summarize the education, professional training (including special degrees, designations, or certifications), experience and any applicable trade or professional associations for those individuals in your office that would work directly with our organization.
5.	Please provide a draft/sample implementation plan and schedule, including target completion dates. (Note: Plan anniversary date is 10/01/2008).

The Offeror agrees that the above and /or attached is valid for at least 90 days subsequent to the due date of submission.

SECTION 3: SPECIAL TERMS AND CONDITIONS

By submitting a response to this Request For Proposal (RFP) the Offeror agrees to acceptance of the following Special Terms and Conditions and any other provisions that are specific to this solicitation.

3.0 NOTICE TO OFFERERS

All quotations are subject to the provisions of special terms and conditions specific to this Invitation for Quotations, the specifications, and UNAVCO Terms and Conditions. UNAVCO objects to and will not evaluate or consider any additional terms and conditions submitted with an Offeror response. This applies to any language appearing in or attached to the document as part of the offeror response. **DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS.** By execution and delivery of this document, the Offeror agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.

3.1 ASSIGNMENT, TRANSFER AND SUBCONTRACTING

The contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of UNAVCO.

3.2 CONFORMANCE WITH CONTRACT

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without prior written consent of UNAVCO. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

3.3 FACSIMILE RESPONSES

Facsimile responses will be accepted for invitations for quotations, small purchases, or limited solicitations **ONLY** if they are completely received by UNAVCO Procurement Agent prior to the time set for receipt. Quotations or portions thereof, received after the due time will not be considered. Facsimile responses to Requests for Proposals are **ONLY** accepted on an exception basis with prior approval of the procurement Agent.

3.4 FAILURE TO HONOR QUOTATION/ PROPOSAL

If an Offeror to whom a contract is awarded refuses to accept the award (PO/contract) or fails to deliver in accordance with the contract terms and conditions, UNAVCO may, in its discretion, suspend the Offeror for a period of time from entering into any contracts with UNAVCO.

3.5 REFERENCE TO CONTRACT

The contract or purchase order number **MUST** appear on all invoices, packing lists, packages and correspondence pertaining to the contract.

3.6 TAX EXEMPTION

UNAVCO is exempt from Federal Income and Excise Taxes as well as Colorado and City of Boulder sales tax.

3.7 U.S. FUNDS

All prices and payments must be in U.S. dollars.

3.8 WARRANTIES

The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by UNAVCO. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance and/or use desired. Exceptions will be rejected.

3.10 IRS W-9

In order to receive payment under any resulting Contract, Contractor shall have a current I.R.S. W-9 Form on file with UNAVCO Procurement Office.

3.11 PURCHASING CARD

UNAVCO has a Purchasing Card Program in place that gives employees the ability to charge purchases made from these contracts. UNAVCO prefers this method of payment.

3.12 CONTRACT TERMINATION

Termination for Cause. UNAVCO may, by written notice to the Contractor, terminate the contract in whole or in part at any time the Contractor fails to perform this contract.

Reduction of Funding. UNAVCO MAY terminate this contract if funds appropriated or otherwise made available to support UNAVCO's continuation are inadequate to support performance of this contract in a subsequent fiscal period.

SECTION 4: VENDOR CERTIFICATIONS & REPRESENTATIONS

The offeror represents and certifies as part of its proposal/quotation that: (Check or complete all applicable boxes or blocks.)

4.0 Type of Business Organization

The offeror, by checking the applicable box, represents that:

- a) It operates as a corporation incorporated under the laws of the State of _____, an individual, a partnership, a nonprofit organization, or a joint venture.
- b) If the offeror or quoter is a foreign entity, it operates as an individual, a partnership, a nonprofit organization, a joint venture, or a corporation, registered for business in _____ (country).

4.1 Certification Regarding Debarment, Suspension, etc.

The offeror certifies, to the best of its knowledge and belief, that:

I. The offeror and/or any of its principals:

- (a) Are , are not , presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal agency;
- (b) Have , have not , within a 3-year period preceding this offer, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or 'destruction of records, making false statements, or receiving stolen property; and,
- (c) Are , are not , presently indicted for, or otherwise criminally or civilly charged by a governmental entity with commission of any of the above offenses.

II. The offeror has , has not , within a 3-year period preceding this offer, had one or more federally-funded contracts/subcontracts terminated for default.

4.2 Small Business, Woman-Owned Small Business, and Small Disadvantaged Business Subcontracting Plan Socio-Economic Status Certification

The Contractor may be required to submit Small Business, Woman-Owned Small Business, and Small Disadvantaged Business (SB/WOSB/SDB) Subcontracting Plan to its customer under the prime contract, and the offeror may be required to submit a SB/WOSB/SDB Subcontracting Plan to the Contractor under any proposed subcontract hereunder. With respect to such requirements, the offeror hereby represents and certifies that its socio-economic status is as follows: (check all applicable boxes).

- 1) Small Business Large Business Non-Profit Business Foreign Business (Non-US)
- 2) Disadvantaged Business
- 3) Woman-Owned Business
- 4) Labor Surplus Area Business
- 5) Historically Black College & University/Minority Institution
- 6) Nonprofit Agency for the Blind and Other Severely Handicapped
- 7) Economically Disadvantaged Indian tribe or Native Hawaiian Organization

4.3 Certification of Non-Segregated Facilities (FAR 52.222-21) (applicable to orders/ bids over \$10,000)

a) "Segregated facilities," as used herein, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom or otherwise.

b) By the submission of this offer, the offeror certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the subcontract.

c) The offeror further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will:

- 1) Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;
- 2) Retain the certifications in the files; and,
- 3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods): NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES. A Certification of Non-segregated Facilities must be submitted before the award of a subcontract under which the subcontractor will be subject to the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

4.4 Certification Regarding A Drug-Free Workplace (FAR 52.223-5) (applicable to orders/ bids over \$25,000 for a business concern; or any dollar amount for an individual)

a) "Drug-free workplace" means the site(s) for the performance of work done by the subcontractor in connection with a specific subcontract at which employees of the subcontractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

b) By submission of its offer, the offeror, if other than an individual, who is making an offer that equals or exceeds \$25,000, certifies and agrees that it will, not later than 30 calendar days after subcontract award:

- (1) Publish a statement notifying all employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the subcontractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition.

(2) Establish an ongoing drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the subcontractor's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance programs; and, the penalties that may be imposed upon employees for drug abuse violations.

(3) Provide all employees with a copy of the statement required by (b) (1) above.

(4) Notify all employees, in writing, in the statement required by (b) (1) above, that as a condition of continued employment, the employee must abide by the terms of the statement; and notify the employer, in writing, of the employee's conviction under a criminal drug statute for a violation occurring in the workplace not later than five calendar days after such conviction.

(5) Notify the Contractor in writing within five calendar days after receiving employee notice referred to above, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee.

(6) Within 30 calendar days after receiving employee notice referred to above, take appropriate personnel action against such convicted employee, up to and including termination; or, require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes.

(7) Make a good faith effort to maintain a drug-free workplace through implementation of (b) (1) through (b) (6) of this provision.

c) By submission of its offer, the offeror, if an individual who is making an offer of any dollar value, certifies and agrees that the offeror will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the performance of the subcontract resulting from this solicitation.

d) Failure of the offeror to provide the certification required by (b) or (c) of this provision, renders the offeror unqualified and ineligible for award. (See FAR 9.104-1(g) and 19.602-1(a)(2)(i)).

4.5 Previous Contracts and Compliance Reports (FAR 52.222-22) (applicable to orders/ bids over \$50,000 and 50 or more employees)

The offeror represents that:

- a) It has, has not, participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114;
- b) It has, has not, filed all required compliance reports; and,
- c) Representations indicating submission of required compliance reports, signed by the offeror's proposed subcontractors, will be obtained before subcontract award.

4.6 Affirmative Action Compliance (FAR 52.222-25) (applicable to orders/ bids over \$50,000 and 50 or more employees)

The offeror represents that:

- a) It has developed and has on file, has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2); or,
- b) It has not previously had contracts/subcontracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

4.7 Clean Air And Water Certification (FAR 52.223-1) (applicable to orders/ bids over \$100,000)

The offeror certifies that:

- a) Any facility to be used in the performance of this proposed subcontract is , is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;

- b) The offeror will immediately notify the Contractor, before award, of the receipt of any communication from the Administrator, or a designee, of the EPA, indicating that any facility that the offeror proposes to use for the performance of the subcontract is under consideration to be listed on the EPA List of Violating Facilities; and,
- c) The offeror will include a certification substantially the same as this certification, including this paragraph (c), in every non-exempt sub-subcontract.

4.8 Certification and Disclosure Regarding Payments To Influence Certain Federal Transactions (FAR 52.203-11) (applicable to orders/ bids over \$100,000)

- a) The definitions and prohibitions contained in the clause at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.
- b) The offeror, by signing its offer, hereby certifies, to the best of its knowledge and belief, that on or after December 23, 1989:
 - (1) No federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, on his or her behalf, in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement;
 - (2) If any funds other than federal appropriated funds (including profit or fee received under a covered federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, on his or her behalf, in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contractor; and,
 - (3) The offeror will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.
- c) Submission of this certification and disclosure is a prerequisite for making or entering into this subcontract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

4.9 Anti-Kickback Procedures (FAR 52.203-7) (applicable to orders/ bids over \$100,000)

- a) "Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.
- b) The Anti-Kickback Act of 1986 (41 U.S. C. 51-58) (the Act), prohibits any person from:
 - (1) Providing or attempting to provide or offering to provide any kickback;
 - (2) Soliciting, accepting, or attempting to kickback; or,
 - (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime contractor to the United States or in the contract price charged by a subcontractor to a prime contractor or higher tier subcontractor.
- c) The offeror shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.
- d) When the offeror has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the offeror shall promptly report in writing the possible violation. Such reports shall be made

to the inspector general of the contracting agency, the head contracting agency if the agency does not have an inspector general, or the Department of Justice.

e) The offeror agrees to incorporate the substance of this clause, including this subparagraph but excepting subparagraph (c), in all subcontracts under this contract which exceed \$100,000.

SECTION 5: PROCUREMENT TERMS AND CONDITIONS

1) DEFINITIONS. As used in this contractual agreement, the below terms shall have the following meanings: (a) "Contractor", "Buyer" or "UNAVCO" means the legal entity purchasing the supplies/services; (b) "Subcontractor," "Seller," "Supplier," or "Vendor" means the legal entity that has entered into this agreement with the Buyer; (c) "Contract," "Subcontract," "Purchase Order," "Agreement," and "Order" (whether capitalized or not) are used interchangeably and refer to this contractual instrument; (d) "Government" means the Government of the United States; and (e) "Prime Contract" means the Government contract, grant or cooperative agreement under which this order is issued.

2) APPLICABLE LAW. This Order shall be governed by and construed in accordance with the laws of the State of Colorado.

3) COMPLIANCE WITH LAWS. Seller warrants that all goods provided under this Purchase Order have been produced and all services performed are in compliance with applicable federal, state and local laws, ordinances, codes, rules, regulations or standards, including without limitation, the Fair Labor Standards Act, those pertaining to the manufacture, labeling, invoicing and sale of such goods or services, environmental protection, immigration, employment and occupational safety and health. Sellers who perform any work or provide any services within the United States also warrant that they shall at all times comply with applicable provisions relating to government contractors and subcontractors, which provisions, and any contract clauses required under such provisions, are incorporated into this Purchase Order by reference as if set forth in full, including: the reporting, record keeping and **affirmative action requirements** set forth in 41 CFR § 60-1, et seq.; the incorporation of the Equal Employment Opportunity Clause of Executive Order 11246 (as amended), pursuant to 41 CFR § 60-1.4; the maintenance of non-segregated facilities as required by 41 CFR § 60-1.8; the provisions of 41 CFR § 60-250.4 relating to disabled and Vietnam era veterans; and the provisions of 41 CFR § 60-741 relating to workers with disabilities. Where legally required, Seller shall include these clauses in its purchase orders and subcontracts supporting this Purchase Order and shall, at UNAVCO's request, certify to all of the foregoing.

4) FINANCIAL RECORDS AND AUDIT. The Agreement Holder shall preserve and make available its accounting records and documents for examination and audit by the cognizant U.S. Government agency and the Comptroller General of the United States, UNAVCO, Inc. or their authorized representatives: (1) until the expiration of three years from the date of termination of the Agreement; (2) for such longer period, if any, as is required to complete an audit to resolve all questions concerning expenditures unless written approval has been obtained from the U.S. Government ("USG") grant officer to dispose of the records (USG follows generally accepted accounting practices in determining that there has been proper accounting and use of funds); the Agreement Holder agrees to make available any further information requested by the cognizant U.S. Government agency with respect to any questions arising as a result of the audit; and (3) if any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

5) SETOFF. Buyer shall have the right at all times to set off any amount due or payable to Seller hereunder against any claim or charge Buyer may have against Seller.

6) TAXES. The price of the supplies/services procured hereunder includes all applicable federal, state, and local taxes and duties

unless otherwise stated in this Order.

7) PATENT, COPYRIGHT AND TRADEMARK INDEMNITY. Seller agrees to indemnify, defend, and hold harmless Buyer, its customer, and those for whom Buyer may act as agent, from any costs, expenses, damages, or liability that Buyer may incur as a result of any proceedings charging infringement of any patent, copyright, or trademark by reason of sale or use of any supplies/services/data furnished by Seller. Seller shall have no liability regarding alleged patent infringement for supplies furnished to Buyer in accordance with Buyer's design specifications.

8) WARRANTY OF SUPPLIES/SERVICES. Seller warrants that all supplies/services furnished under this Order shall conform to the Buyer's drawings, specifications, or other description and will be of good material and workmanship and free of defects. Seller further warrants that the supplies/services will meet Seller's published specifications and standards, will be new (not used or reconditioned), merchantable and suitable for the purpose intended. These warranties shall survive inspection, acceptance, and payment. Supplies/services that do not conform to the above warranties may, at any time within twelve (12) months after delivery to Buyer, be rejected and returned to Seller, at Seller's expense, for correction or replacement. If Seller does not promptly correct or replace same, Buyer may correct or replace the nonconforming supplies/services at Seller's expense. The forgoing warranties are in addition to all other warranties expressed or implied by law including incidental or consequential damages.

9) PRICE WARRANTY. Seller warrants that the price(s) charged for the supplies/services specified in this order do not exceed the selling price(s) Seller charges its most favored customer for the same or substantially similar items, whether sold to the Government or to any other purchaser, taking into account the quantity purchased and terms and conditions of sale. Seller further agrees that in the event of an announced price reduction prior to complete shipment of supplies or performance of services, said price reduction shall be passed on to Buyer for supplies remaining to be shipped or services still to be performed.

10) CHANGES. Changes in the terms and conditions of this Order may be made only by written agreement of the parties.

11) DISPUTES. Any dispute arising under this order that is not settled by agreement between the parties may be settled by appropriate legal proceedings in any court of competent jurisdiction. Pending final resolution, Seller shall proceed with the performance of this order in accordance with Buyer's instructions.

12) TERMINATION FOR DEFAULT. Buyer may, without liability, and in addition to any other rights or remedies provided herein or by law, terminate this order in whole or in part by written notice of default if Seller: (a) fails to deliver the supplies or perform the services within the time specified; (b) fails to make sufficient proceedings under bankruptcy or insolvency laws is brought by or against Seller, or a receiver for Seller is appointed or applied for, or Seller makes an assignment for the benefit of creditors, Buyer may terminate this order, without liability, except for deliveries previously made and for supplies completed and subsequently delivered in accordance with the terms of the order. In the event of Seller's insolvency, Buyer shall have the right to procure the balance of this order from others without liability.

13) CESSATION OF PRODUCTION. If Seller plans to permanently discontinue production of any of the supplies, parts, support services, etc. provided to Buyer hereunder at any time during the useful life of the equipment, Seller shall give Buyer at least six (6) months advance

written notification of such discontinuance and, during this time, agrees to accept Buyer's orders for such items.

14) EXCUSABLE DELAYS. The Seller shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Seller and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Seller shall notify the Buyer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Buyer of the cessation of such occurrence.

15) PUBLIC RELEASE OF INFORMATION. No public release of information, news release, announcement, advertisement, denial or confirmation of this order or the subject matter hereof, shall be made without Buyer's prior written approval.

16) INSOLVENCY. If Seller ceases to conduct normal business operations (including inability to meet its obligations), or if any proceedings under bankruptcy or insolvency laws is brought by or against Seller, or a receiver for Seller is appointed or applied for, or Seller makes an assignment for the benefit of creditors, Buyer may terminate this order, without liability, except for deliveries previously made and for supplies completed and subsequently delivered in accordance with the terms of the order. In the event of Seller's insolvency, Buyer shall have the right to procure the balance of this order from others without liability.

17) INSURANCE. Applicable only if Seller enters Buyer's facility; Seller shall maintain insurance in at least the following amounts: (a) Comprehensive General Liability: \$250,000 minimum per person and \$500,000 minimum per accident for bodily injury, and \$100,000 property damage; (b) Automobile Insurance: \$250,000 per person and \$500,000 per accident for bodily injury and \$100,000 per accident for property damage; (c) Standard Workmen's Compensation and Employer's Liability Insurance: in the minimum amount of \$100,000, or such greater amount as may be proper under applicable state or federal statutes. If any of the work is to be performed on Buyer's or Buyer's customer's premises, Seller shall, if so requested, furnish Buyer certificates of such insurance prior to commencement of work. Upon Seller's failure thereof, Buyer may obtain, at Seller's expense, the insurance coverage required for such compliance. Seller also agrees to provide insurance for all Buyer's property in Seller's possession against loss or damage resulting from fire or theft, including extended coverage, malicious mischief and vandalism. Buyer shall be given at least ten (10) days advance written notice of cancellation of any such insurance.

18) NOTICE OF LABOR DISPUTES. When an actual or potential labor dispute or other condition delays or threatens to delay the timely performance of this order, Seller shall immediately notify Buyer in writing. Such notice shall include all relevant information regarding such dispute or other condition. Seller shall insert the essence of this provision in all lower tier procurements issued hereunder.

19) QUANTITY. It is Seller's responsibility to furnish the quantity of supplies/services called for in this order. No variation in the quantity specified herein will be accepted as compliance with this order. Buyer reserves the right to return excess shipments at Seller's expense.

20) NO EXTRA CHARGES. The total price payable to Seller hereunder for supplies/services furnished in accordance with the procurement requirements shall be stated in this Order. The price shall not be increased to cover any future seller price increases and shall be inclusive of packing, packaging, and cartage, premium transportation charges, reusable containers, service or carrying charges, permits, fees, and licenses, or any other charges

whatsoever unless specifically agreed to in writing by Buyer.

21) LIMITATION OF LIABILITY. The Buyer's liability to Seller hereunder shall not, under any circumstances, be greater than the total dollar amount of the order indicated herein.

22) DRUG-FREE WORKPLACE. The Seller is in compliance with the Drug-Free Workplace Act of 1988.

23) COPELAND "ANTI-KICKBACK" ACT (18 U.S.C. 874 AND 40 U.S.C. 276C). Seller shall comply with the Copeland Anti-Kickback Act and is prohibited from inducing, by any means, any person employed in the construction, completion or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violation to the Federal awarding agency.

24) DAVIS-BACON ACT, AS AMENDED (40 U.S.C. 276A TO A-7). Where applicable, Seller shall comply with the Davis-Bacon Act in the payment of minimum wages and benefits.

25) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 327-333). Where applicable, Seller shall comply with the Contract Work Hours and Safety Standards Act for the payment of overtime hours and definition of safety standards for the workplace.

26) RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. Orders for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

27) CLEAN AIR ACT (42 U.S.C. 7401 ET SEQ.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251 ET SEQ.), AS AMENDED. Orders in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). By accepting this Order Seller so agrees.

28) BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352). Sellers who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

29) NATIONAL ENVIRONMENTAL POLICY ACT (NEPA). Field work under this cooperative agreement must avoid all sensitive natural resource and unique geographic features such as historic or cultural resources; properties listed, or eligible for listing, on the National Register of Historic Places; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; species listed, or proposed to be listed, on the List of Endangered or Threatened Species or have significant impacts on designated Critical Habitat for these species; and other ecologically significant or critical areas. If sensitive natural

resource and unique geographic features cannot be avoided, the applicant shall notify the USGS before taking any action.

30) PROHIBITION ON TEXT MESSAGING AND USING ELECTRONIC EQUIPMENT SUPPLIED BY THE GOVERNMENT WHILE DRIVING.

Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, was signed by President Barack Obama on October 1, 2009 (ref.:http://edocket.access.gpo.gov/2009/pdf/E9-24203.pdf

31) DUNS/CCR (ARRA Term). Buyer must require that Seller begin planning activities, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR) no later than the first time ARRA data requirements are due.) This executive order introduces a Federal Government-wide prohibition on the use of text messaging while driving on official business or while using Government-supplied equipment. Additional guidance enforcing the ban will be issued at a later date. In the meantime, please adopt and enforce policies that immediately ban text messaging while driving company-owned or rented vehicles or GOY, or while driving POY when on official Government business or when performing any work for or on behalf of the Government.

32) BUY AMERICAN: USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (ARRA Term). Seller may not use any funds obligated under this award for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States unless the Department of the Interior waives the application of this provision. (ARRA Sec. 1605)

33) SEAT BELT PROVISIONS (43 CFR Sec. 12.2 (e)). Agreement Holders of grants/cooperative agreements and/or sub-awards are encouraged to adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company-owned, rented, or personally owned vehicles. These measures include, but are not limited to, conducting education, awareness, and other appropriated programs for their employees about the

importance of wearing seat belts and the consequences of not wearing them.

34) DEBARMENT AND SUSPENSION (E.O.s 12549 and 12689). No Order shall be made with parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with

E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees. By accepting this order Seller certifies that the Seller is not listed as Debarred or Suspended as described herein above. Agreement Holder certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any U.S. Government department or agency.

35) SEVERABILITY. If any provision of this Order is held invalid or unenforceable, the remaining provisions shall be valid and binding on the parties. One or more waivers by either party of any provision, term or condition shall not be construed by the other party as a waiver of any subsequent breach of the same provision, term or condition.

36) ENTIRE AGREEMENT. This Order constitutes the entire agreement between Buyer and Seller regarding this procurement and supercedes all previous written or oral agreements and commitments. No terms or conditions of sale set forth in Seller's quotation or acknowledgement shall be included as a part hereof, nor shall any prior course of dealing, custom, or usage in the trade supercedes or modify any Order provisions. Any subsequent additions, deletions or modifications to this agreement shall not be binding upon the parties unless same are mutually agreed upon and incorporated herein in writing.

SECTION 6: CERTIFICATION AND AGREEMENT

By signing below the offeror certifies that all the above representation and certifications are accurate, current and complete.

FIRM: _____

ADDRESS: _____

SIGNATURE: _____

PRINTED NAME: _____ PRINTED TITLE: _____

DATE: _____

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

