



TETRA TECH, INC. SUBCONTRACTOR PROFESSIONAL SERVICES AGREEMENT

PROJECT: Architect–Engineer Services II for Dioxin Remediation at Bien Hoa Airbase Area (A&E II) Activity

PROJECT #: 127-44525-23003

CLIENT: U.S. Agency for International Development (USAID)

AGREEMENT #:
CLIN # (if applicable):

SUBCONTRACTOR: XXX

ADDRESS: XXXXX

UEI #:

POINT OF CONTACT: name

EMAIL: email

TELEPHONE: (+XX) XXX XXX XXX

CONTRACTOR: Tetra Tech, Inc. (Tetra Tech)

ADDRESS: 100 Nickerson Road, 2nd Floor, Marlborough, Massachusetts, 01752

POINT OF CONTACT: XXXXX

EMAIL: NXXX

PROJECT DESCRIPTION: Tetra Tech, Inc. (Tetra Tech) is implementing the U.S. Agency for International Development (USAID) funded Architect–Engineer Services II for Dioxin Remediation at Bien Hoa Airbase Area Activity (referred to as the A&E II project). **Project Description.**

SUBCONTRACTOR’S SCOPE OF WORK: Scope of Work.

PERIOD OF PERFORMANCE: Start Date to End Date

CONTRACT TYPE: This Agreement pertains to a Firm Fixed Price of USD XXX,XXX. The stipulated price shall not be subject to any increase unless modified in writing by Tetra Tech.

INVOICES: Invoices may be submitted to the Tetra Tech Project. All invoices must include Tetra Tech Project Number (127-44525-23003). Payment will be made in Vietnamese Dong.

ATTACHMENTS:

- #1: Subcontractor’s Quotation
- #2: Scope of Work
- #3: Tetra Tech, Inc. Subcontractor Standard Terms and Conditions
- #4: Prime Task Order Flow-Down Clauses, Task Order No. 72044023F00002
- #5: Prime IDIQ Flow-Down Clauses, Contract No. 7200AA21D00002
- #6: Vietnamese Labor Law (Excerpt)

EXECUTION: Execution of this Agreement by duly authorized representatives of Tetra Tech, Inc. and Subcontractor, including Tetra Tech’s Subcontractor Standards Conditions and any attachments, additional provisions as indicated, and addendum, represents the entire Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended or modified by written instrument, but such instrument is valid only upon signature by both parties. Subcontractor shall not assign, transfer, or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of Tetra Tech, Inc.

**CONTRACTOR:
BY:
SIGNATURE:**

**SUBCONTRACTOR:
BY:
SIGNATURE:**

**TITLE:
DATE:**

**TITLE:
DATE:**

DRAFT

**ATTACHMENT #1
SUBCONTRACTOR'S QUOTATION**

INSERT

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**ATTACHMENT #2
SCOPE OF WORK**

INSERT

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ATTACHMENT #3
TETRA TECH, INC. SUBCONTRACTOR STANDARD TERMS AND CONDITIONS

1. **SERVICES:** Subcontractor shall provide professional services in accordance with this Agreement and agreed upon Scope. If Consultant is bound to Client-provided Prime Contract, then Subcontractor shall be bound to same, or applicable portions thereof, and attached. Where the term "Contractor" or Tetra Tech, Inc. is used in the Client's Prime Contract and/or attachments, such term is applicable to Subcontractor and Subcontractor shall comply with the stated requirements. In the event of any inconsistencies within or between any parts or provisions of this Agreement, the Prime Contract, any Schedule, Exhibit or Attachment to this Agreement, or any applicable standards, codes, or ordinances, Subcontractor will (1) provided the better quality or greater quantity of services or (2) comply with the more stringent requirement; either or both in accordance Tetra Tech's interpretation.

2. **EXECUTION:** This Agreement becomes effective upon signatures by authorized representatives of the Tetra Tech and the Subcontractor, and upon receipt of a fully executed original by both Tetra Tech and Subcontractor. If facsimile transmittal is initially sent and executed thereon by Tetra Tech, a signed original will be provided to the Subcontractor for record as soon as practicable.

3. **INITIATION/COMPLETION:** Subcontractor shall provide and complete these services in accordance with the terms of this Agreement and any Schedule of Services herein or initiate services in accordance with and upon receipt of Amendment(s) and/or Notice(s) to Proceed from Tetra Tech, as indicated on the front side of this Agreement. Established completion time shall not be extended because of unwarranted delays attributed to Subcontractor but shall be extended by Tetra Tech, in the event of delays attributed to Tetra Tech, or because of unavoidable delays caused by any governmental/client action or other conditions beyond the control of Subcontractor.

4. **TERMINATION:** This Agreement shall remain in force until completion and acceptance of the services, terminated by Tetra Tech for convenience, or terminated by Tetra Tech for default if Subcontractor fails to provide services in accordance with the Agreement. In the event of such termination, Subcontractor shall immediately discontinue any and all work. If terminated for convenience, Subcontractor shall be paid for services performed in accordance with the Scope of Work to the date of termination. If terminated for default, Subcontractor shall be paid for services performed in accordance with the Scope of Work, but shall be liable to Tetra Tech for any and all additional costs and expenses thereby incurred by Tetra Tech to correct and/or complete the Scope of Work. This Agreement shall terminate, without notice, as a result of the following events:

- i. Upon the institution by or against Subcontractor of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of either party's debts;
- ii. Upon Subcontractor making an assignment of the Agreement for the benefits of the creditors; OR
- iii. Upon Subcontractor's dissolution or ceasing to do business.

5. **COMPENSATION:** Subcontractor shall notify Tetra Tech of the status of the remaining budget compared to the remaining work when seventy-five (75) percent of the budget authorized by execution of this Agreement or Notice(s) to Proceed for the project has been expended. In the event services beyond those specified in the Scope of Work and not included in the compensation are required, Subcontractor shall identify this work for Tetra Tech. Subcontractor shall submit a labor/fee estimate for such services and a contract modification shall be negotiated and approved in writing by Tetra Tech, prior to any effort being expended on such services.

6. **SCHEDULE OF PAYMENTS:** Subcontractor shall invoice Tetra Tech for work done in any calendar month in a format acceptable to both Tetra Tech, and the Client. Invoices received by the last Friday of the month will be included in the Tetra Tech invoice to the Client for the prior period. Invoices received after the last Friday of the month will be carried forward to be included with the next Tetra Tech invoice to the Client. All invoices shall include a written description of the work performed, the basis for payment requested, and Tetra Tech Agreement Number. Invoices received later than thirty (30) days after the end of the month and after Tetra Tech has made final billing to the Client may be considered null and void. Any invoice received more than ninety (90) days after the end of the month in which work was completed may be considered null and void. Invoices will be paid within fifteen (15) days of the time Tetra Tech receives payment from the Client for services that include Subcontractor invoices.

The Subcontractor's invoices should include the following information:

- i. Business Registration Number (International entity);
- ii. Subcontractor Information
 - a. Full name of business, address, phone number and email address;
- iii. Remit to Address (If PO box or different address than business address);
- iv. Invoice Date;
- v. Invoice Number;
- vi. Business Number
- vii. Reference Number;
Agreement Number or Project Number;
- viii. Quantity;
- ix. Description of Goods Provided or Work/Services Performed;
- x. Currency;
- xi. Amount;
Subtotal per line item, subtotal at bottom, separate line for taxes, fees, etc. Grand total at the bottom right; and
- xii. Preferred Method of Payment – Check, ACH or Wire Transfer – Please include instructions.

In order to be paid via an international wire transfer, as an international entity, the Subcontractor must provide a document that verifies Subcontractor's bank account information and confirms the account holder. This can be a PDF document, obtained through the bank's online portal website or a document that the bank supplies, on their letterhead. Either should include the below referenced fields:

Bank Information

- i. Bank Name;
- ii. Bank Address;
- iii. Beneficiary Name;
- iv. Bank Account Number;
- v. BIC/SWIFT;
- vi. IBAN; and
- vii. Bank Account Currency

Intermediary Bank (Required for International USD Payments)

- i. BIC/SWIFT/ABA;
- ii. Bank Name;
- iii. International Bank Account Number;
- iv. Bank City; and
- v. Bank Country

Correspondent Bank (Additional Intermediary Bank)

- i. BIC/SWIFT/ABA;
- ii. Bank Name;
- iii. International Bank Account Number;
- iv. Bank City;
- v. Bank Country

7. AUDIT AND ACCESS TO RECORDS: Subcontractor cost records and accounts pertaining to this Agreement are to be kept for inspection by representatives of Tetra Tech, the Client, and Governmental Agencies for a period of three (3) years after final payment, and in accordance with any additional Prime Contract provisions. Should a future audit by the Client or other agency be required and find rates are incorrect (too high) and Tetra Tech is required to reimburse the Client, the Subcontractor shall reimburse Tetra Tech for any and all Subcontractor amounts so claimed by Client as an overpayment of Subcontractor.

8. OWNERSHIP OF DOCUMENTS: Drawings, specifications, reports, programs, manuals, or other documents, including all documents on electronic media, prepared under this Agreement shall become the property of Tetra Tech and the Client.

9. EQUAL OPPORTUNITY EMPLOYMENT: Subcontractor shall comply with federal regulations pertaining to Equal Opportunity Employment. Subcontractor will comply with applicable local, state, and federal regulations concerning minority hiring. Subcontractor's policy shall ensure that applicants and employees are treated equally without regard to race, creed, sex, age, color, religion, veteran status*, ancestry, citizenship status, national origin, marital status, sexual orientation, or disability. Subcontractor expressly assures all employees, applicants for employment, and the community, of its continuous commitment to equal opportunity and fair employment practices. Subcontractor's equal opportunity employment policy shall apply to all phases of employment, including recruiting, hiring, job assignment, supervision, training, upgrading, transfer, compensation, benefits, promotion, education, recreation, layoff and termination.

10. INDEPENDENT CONTRACTOR AND STANDARD OF CARE: Subcontractor is, and shall be, at all times, during the term of this Agreement, an independent contractor, and not an employee or agent of the Client or Tetra Tech. Services provided by Subcontractor, under this Agreement, shall be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession, currently practicing under similar circumstances, on projects of similar complexity.

11. COMPLIANCE WITH LAWS, ORDINANCES, AND CITY, COUNTY, AND STATE LICENSING: Subcontractor shall comply with Federal, State, and local laws, ordinances, building codes, and City, County, and State licensing (professional business, etc.) requirements applicable to the services to be provided under this Agreement.

12. INSURANCE: Subcontractor shall procure and maintain the following minimum insurance limits, which shall provide primary coverage with respect to the services provided under this Agreement. Tetra Tech's insurance shall be excess and noncontributory.

- i. Worker's Compensation (and Employer's Liability Insurance) — The Subconsultant shall assume responsibility and full liability for providing Workers' Compensation and other legally required insurance with respect to its own employees and agents (reference Attachment #6). TETRA TECH, INC. shall in no event be liable or responsible for Worker's Compensation (and Employer's Liability Insurance) of the Subconsultant or the Subconsultant's employees and agents in performing under this contract.
- ii. Commercial General Liability — \$1,000,000 per occurrence for bodily injury, including death and property damage, and \$2,000,000 in the aggregate;
- iii. Automobile Liability — minimum of \$1,000,000 combined single limit for bodily injury and property damage; and
- iv. Professional Liability — \$1,000,000 each claim and in the aggregate.

All policies shall be endorsed to provide Tetra Tech with thirty (30) days' written notice, prior to cancellation of the insurance. The Commercial General Liability and Automobile Liability policies shall name Tetra Tech and Client as additional insureds. Claims-made policies shall be kept in force during and for six (6) years after completion of the services. Subcontractor shall submit Certificates or Evidence of Self Insurance for the above policies to Tetra Tech prior to commencing work. It is expressly understood that Subcontractor shall comply with any additional (or greater) insurance requirements stated in the Prime Contract, including minimum required insurance limits (i.e., waiver of immunity on industrial insurance, waiver of subrogation, etc.).

13. INDEMNIFICATION AND HOLD HARMLESS: Subcontractor shall defend, indemnify, and hold harmless the Client, Tetra Tech, and their respective officers, directors, employees, and agents from any and all liability, settlements, losses, defense and investigative costs, and expenses in connection with any action, suit, claim, or potential claim arising out of the performance or non-performance of this Agreement, including, but not limited to, the negligent acts, errors, or omissions, breach of contract, willful or intentional conduct, and fraud by Subcontractor, its employees, or Subcontractor's tier Subcontractors and/or subcontractors, and in accordance with any Prime Contract indemnification requirement(s).

14. **DISPUTES:** In the event of a dispute between parties, Tetra Tech shall have the right to join any other Subcontractor(s) or Client as a party or parties to the dispute proceeding, if in the judgment of Tetra Tech, the dispute may involve the Client and/or another Subcontractor or individual consultant. Any action for claims arising out of or relating to this Agreement and/or respective services shall be governed by the laws of the State of Massachusetts. Venue shall be in Middlesex County Superior Court. Mediation is an express condition precedent to the filing of any legal action. Unless the parties agree otherwise, the mediation shall be conducted pursuant to the Construction Mediation Rules of the American Arbitration Association. Tetra Tech shall have the sole right to elect arbitration as an alternative to litigation, notwithstanding the same. Subcontractor agrees that any litigation shall be subject to waiver of Subcontractor's right to a jury.

15. **RELEASE OF CLAIMS:** In consideration of full payment by the Contractor to the Subcontractor, under this Agreement, the Subcontractor, upon payment of the said sum, will remise, release, and discharge the Contractor, and the Client, its officers, agents, and employees, of and from any and all manners of debts, dues, sum or sums of money, accounts, liabilities, obligations, claims, and demands whatsoever, in law and in equity, arising out of or under this Agreement.

16. **FOREIGN CORRUPT PRACTICES ACT COMPLIANCE:** The parties acknowledge the application and importance of the United States Foreign Corrupt Practices Act of 1977, as amended (the "Act"), with respect to the business opportunities sought by Subcontractor / Intermediary for the benefit of TETRA TECH. Each party hereto desires to rely on full compliance with the Act by the other party hereto and its agents and representatives. In conformity with the Act, and with each party's established policies regarding business practices, TETRA TECH, the Subcontractor / Intermediary and their respective affiliates, officers, directors, agents and employees shall not directly or indirectly make an offer, payment, promise to pay, or authorize payment, or offer as a gift, promise to give, or authorize the giving of anything of value (whether in money, property, or services) to any person (whether directly or indirectly through a family member or any entity in which an employee or family member holds an interest or is affiliated, or otherwise), private or public, regardless of form for the purpose of influencing an act of decision (including a decision not to act) of an official of any government or of an employee of any company or inducing such a person to use his or her influence to affect any such act of decision in order (i) to assist TETRA TECH in obtaining, retaining or directing any business, (ii) to pay for favorable treatment for business secured, (iii) to obtain special concessions or for special concessions already obtained, for or in respect of the business or TETRA TECH, or (iv) in violation of any legal requirement of any governmental or regulatory body or any applicable order thereof. Each party shall hold the other harmless from and against the consequences of a violation of this paragraph by the acting party.

17. **EVALUATION:** The Subcontractor will be evaluated in the areas of quality, cost control and schedule at the expiration of this Agreement in accordance with TETRA TECH's ISO Procedures (ISO 9000:20158.4.3(e)). A copy of the evaluation is available upon request.

18. **ASSIGNMENT:** The Subcontractor shall not assign this Agreement without the written consent of Tetra Tech, which may, or may not be granted, at Subcontractor's sole discretion.

19. **SUBCONTRACTING:** Subcontractor will not subcontract any of its obligation under this Agreement to a third party, including the provision of any Scope of Work, without Tetra Tech's prior written consent.

20. **CONFLICT OF TERMS:** In the event of any inconsistency and conflict between the terms and conditions of this Agreement, and any other terms and conditions, the terms and conditions of this Agreement shall govern and control.

21. **OTHER:** Tetra Tech and the Subcontractor shall abide by the requirements of 41 CFR § 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. Additionally, under the provisions of EO 13496, the employee notice clause is hereby incorporated by reference to 29 CFR Part 471, Appendix A to Subpart A.

ATTACHMENT #4
PRIME TASK ORDER FLOW-DOWN CLAUSES, TASK ORDER NO. 72044023F00002

Available upon request

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ATTACHMENT #5
PRIME IDIQ FLOW-DOWN CLAUSES, CONTRACT NO. 7200AA21D00002

Available upon request

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