US Army Corps
of Engineers ®

Sale of Government-Owned Forest Products

(SEE PRIVACY ACT STATEMENT BELOW BEFORE COMPLETING THIS FORM)

Location: FORT BRAGG MILITARY RESERVATION, NC

PAGE NO. 1 OF 19 PAGES OF
INVITATION NO. SAV-RE-05-101
DATE 28 October 2004
Sealed bids in SINGLE
subject to the terms and conditions set forth herein,
for the purchase and removal of the Government-owned
property listed in this invitation, will be received until the
time, date, and at the place indicated below, and then publicly
opened.

TIME OF OPENING **2:00** P.M., LOCAL TIME @ PLACE OF BID OPENING
DATE OF OPENING: **02 December 2004**
PLACE OF OPENING: 100 W. Oglethorpe Avenue, 3rd Floor, Real Estate Division
Savannah, GA 31401-3640

BID DEPOSIT OF **20%** OF TOTAL AMOUNT BID OR AS OTHERWISE INDICATED IS REQUIRED.

INSPECTION INVITED BETWEEN 8:00 A.M. AND 5:00 P.M.

FOR MORE INFORMATION OR TO ARRANGE A SHOWING CONTACT:

STANLEY C. THIES AT (910) 396-9606 OR (910) 692-9656

Privacy Act Statement. The purpose of this invitation is to solicit bids from prospective forest product purchasers to determine the best qualified bidder, price and other consideration included. Information required from bidder is voluntary; however, failure to furnish such information would disqualify bid. Authority: 40 USC 484, Federal Property and Administrative Services Act of 1949 and Federal Property Management Regulation, Section 101-47.302-2(a)(3).

SALE OF GOVERNMENT FOREST PRODUCTS BID AND AWARD	INVITATION FOR BIDS NO. SAV-RE-05-101	PAGE 2

BID (This Section to be completed by the Bidder)	DATE OF BID **02 December 2004**

In compliance with the Invitation identified on the cover page hereof, and subject to all the sale terms and conditions contained in Instructions to Bidders, General Sale Terms and Conditions, and Special Sales Terms and Conditions, all of which are incorporated as part of this Bid, the undersigned offers and agrees, if the Bid be accepted within 60 calendar days after date of Bid opening, to purchase and pay for any or all of the items listed for sale on Item Bid Page and to remove the property and perform the other required work as specified herein, after notice of acceptance by the Government. The total amount bid is $_____. Attached is the required Bid deposit in the form of _____, in the amount of _____.

All bidders should complete the "Certificate As to Small Business Status" set forth below. This certificate must be completed and made a part of every Invitation to Bid on the sale of Government-owned timber with an estimated value of $2,000 or more. Failure to properly execute this certificate will not invalidate a bid, but a proper statement must be signed before the bid is accepted by the Government. Refusal or delay in executing a proper statement is grounds for rejecting the bid. Intentional falsification of this certificate is a criminal offense punishable by a fine of not more than $5,000 or imprisonment for not more that two years, or both. (Title 15, United States Code, Section 645(a).)

CERTIFICATE AS TO SMALL BUSINESS STATUS

The bidder certifies that he (is) (is not) a small business concern within the terms of the following definition:

In sales of Government-owned forest products a "small business" is a concern that: (1) is primarily engaged in the logging or forest products industry: (2) is independently owned and operated: (3) is not dominant in its field of operations: and (4) together with its affiliates does not employ more than 500 persons.

NAME AND ADDRESS OF BIDDER (STREET, CITY, STATE, AND ZONE) (TYPE OR PRINT) TELEPHONE NUMBER:	SIGNATURE OF PERSON AUTHORIZED TO SIGN BID SIGNER'S NAME AND TITLE (Type or print)

CORPORATE CERTIFICATE

I, _____ certify that I am the _____

of the corporation named as Purchaser herein, that _____, who signed this contract

on behalf of the Purchaser, as then _____ of said corporation by authority
(Title)
of it governing body, and is within the scope of its corporate powers.

Signature _____ (CORPORATE SEAL)

ACCEPTANCE BY THE GOVERNMENT (This Section for Government use only)		DATE OF ACCEPTANCE _____ 200
ACCEPTED AS TO ITEMS NUMBERED		UNITED STATES OF AMERICA BY_____ (Contracting Officer)
TOTAL AMOUNT $	CONTRACT NUMBER	TITLE OF CONTRACTING OFFICER

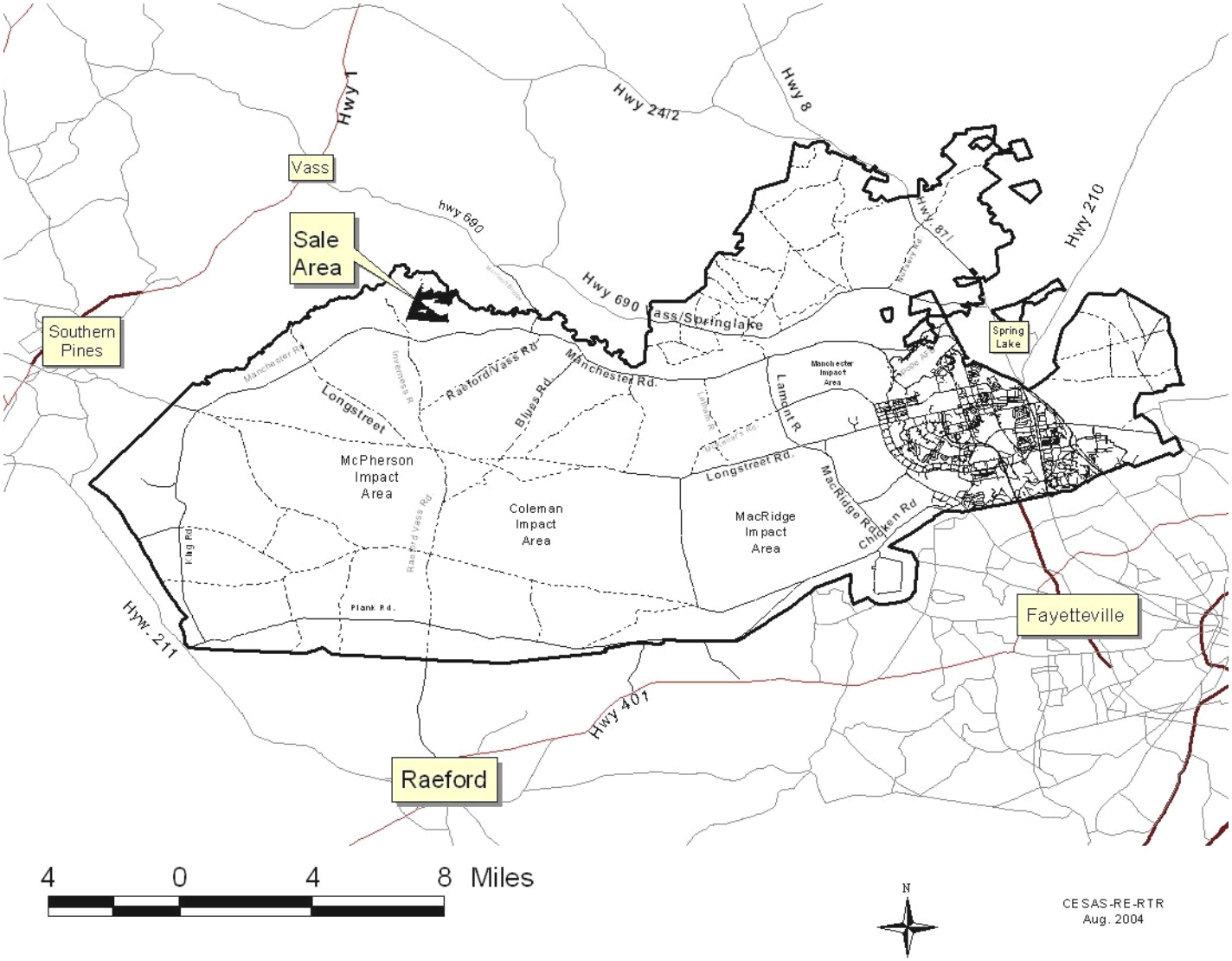
SALE OF GOVERNMENT FOREST PRODUCTS ITEM BID PAGE		INVITATION FOR BIDS NO. SAV-RE-05-101			PAGE 3	
				TO BE SUPPLIED BY BIDDER		
					TOTAL PRICE BID	
ITEM NO.	PRODUCTS FOR SALE ***FORT BRAGG MIL RES, NC***	QUANTITY (No. of Units)	UNIT OF MEASURE	PRICE BID PER UNIT	DOLLARS	CENTS
1	**PINE TREES:** **(One price per ton for all products)** ***Total Sale Area: 384 Acres made up of the following types of harvest:*** ***1) – 68 acres of Operator Selection Thinning*** ***2) - 316 acres of cut-tree marked harvest*** **Harvest guidelines are described on Page 15, Paragraph 4, "Identification of Forest Products".** ***COMPANY OR PERSONAL CHECKS WILL NOT BE ACCEPTED.*** ***TELEPHONE OR FAXED BIDS WILL NOT BE ACCEPTED.*** **LOCATION:** The sale area is located in training area X. Sale area is bound on the north by firebreak 2, on the south by firebreak 7, on the east by James Creek Trail and on the west by Gilliand Road. **COMPLETION DATE:** **31 DECEMBER 2005**	**5,600**	**TON**			

BIDDER IS CAUTIONED TO INSPECT THE PROPERTY BIDDER'S NAME SHOULD APPEAR ON EACH ITEM BID PAGE CONTAINING A BID.	NAME OF BIDDER (Type or print)

DESCRIPTION OF FOREST PRODUCTS SALE AREA(S);

GENERAL LOCATION MAP:

MAP DESIGNATING SALE AREA(S);

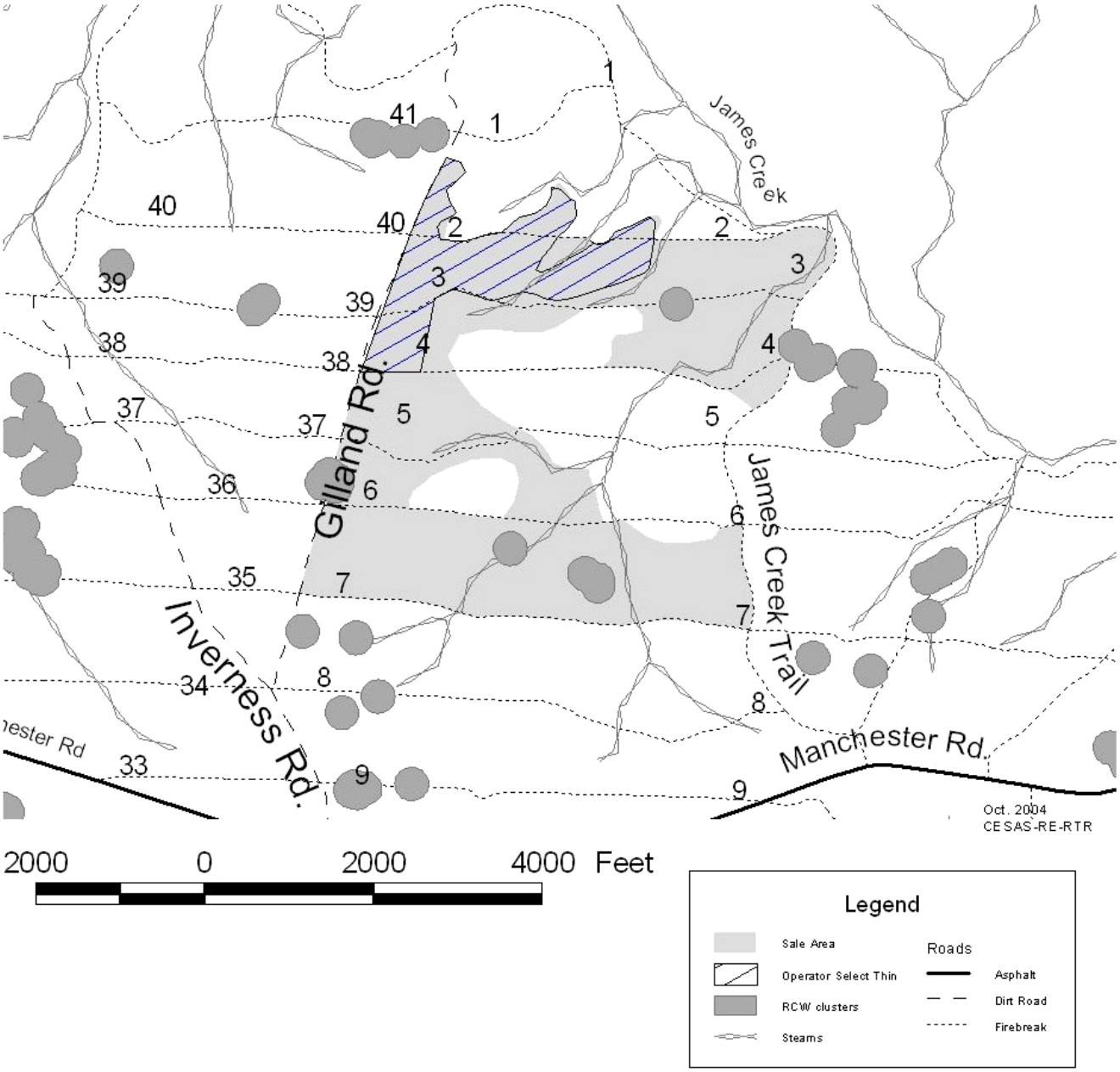


SCALE: _____

DESCRIPTION OF FOREST PRODUCTS SALE AREA(S);

The sale area is located in training area X. Sale area is bound on the north by firebreak 2, on the south by firebreak 7, on the east by James Creek Trail, and on the west by Gilliland Road.

MAP DESIGNATING SALE AREA(S);



SCALE: _____

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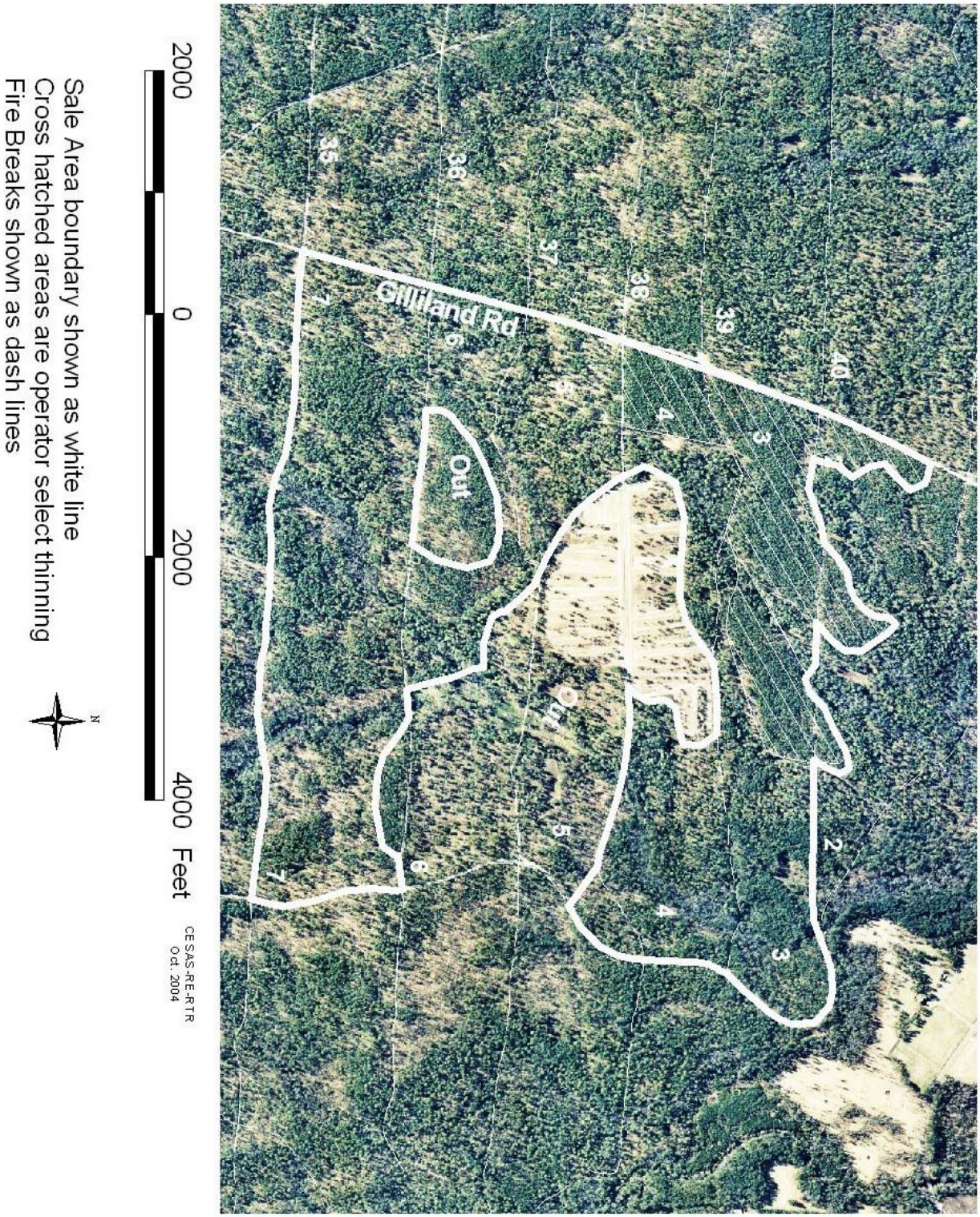

SCALE: _____

SECTION II - SALE OF GOVERNMENT FOREST PRODUCTS - INSTRUCTION TO BIDDERS

1. Knowledge of Sale Terms and Conditions. All bids submitted shall be deemed to have been made with full knowledge of all the terms, conditions, and requirements herein contained. Any oral statement or representation by a representative of the Government, changing or supplementing any condition of this advertisement or contract resulting therefrom is unauthorized and shall confer no right upon the bidder or purchaser.

2. Inspection. The bidders are invited, urged, and cautioned to inspect the property to be sold prior to submitting a bid. Property is available for inspection during the times and through arrangements made as specified on the cover sheet of this invitation. In no case will failure to inspect constitute grounds for the withdrawal of a bid after opening.

3. Condition of Property**.** The property is offered for sale "as is" and "where is" with the bidder being obligated and responsible to provide at his sole expense and without any cost whatsoever to the Government all labor, equipment, materials, and supplies required to harvest and remove the forest products involved. The description of the property is believed to be sufficiently specific for purposes of identification. Any error or omission in the description (including location) shall not constitute any ground or reason for nonperformance of the contract or claim by the successful bidder for any allowance, refund or deduction from the amounts offered. The Government does not make any guarantee or warranty expressed or implied with respect to the property as to quantity, quality, character or condition, size or kind, or that the property is in condition or fit to be used for the purpose for which intended. The purchaser acknowledges that he has satisfied himself as to the location, field conditions, and volume of forest products to be removed from the designated area(s). This contract shall be construed to have the intent of covering all the designated forest products of the specified species and sizes on the area and as described herein and shall include all such forest products whether less than, equal to or in excess of the estimated volume or quantity stated.

4. Preparation and Submittal of Bids.

a. Bid Items. Unless the Invitation otherwise provides, bids may be submitted on any or all items; however, a bid covering any listed item must be submitted on the basis of the unit specified for that item and must cover the total number of units designated for that item.

b. Bid Form. Sealed bids must be executed and submitted on the bid form accompanying this invitation for bids, bid and acceptance, or on exact copies thereof. Bids shall be filled out in ink, or typed, with all erasures, strikeovers, and corrections initialed in ink. Additional copies of the bid form may be obtained from the District Engineer.

c. Execution of Bid. A bid executed by an attorney or agent on behalf of the bidder must be accompanied by an authenticated copy of his Power of Attorney or other evidence of his authority to act on behalf of the bidder. If the bidder is a corporation, the Certificate of Corporate Bidder (page 3), must be executed. If the bid is signed by the Secretary of the Corporation, the Certificate must be executed by some other officer of the corporation under the corporate seal. In lieu of the Certificate of Corporate Bidder, there may be attached to the bid a copy 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 a true copy.

d. Marking and Addressing of Bid Envelope. This invitation number and bid-opening time must be plainly marked on the left side of the sealed envelope in which bids are submitted, for example:

Return Address

Sealed Bid

To be Opened:
Time: 2:00 pm
Date: 02 December 2004
Invitation No. *SAV-RE-05-101*

To: U.S. ARMY ENGINEER DISTRICT, SAVANNAH
ATTN: CESAS-RE-RT
P.O. BOX 889
SAVANNAH, GA 31402-0889

Bids submitted with a guaranteed delivery time prior to the designated opening time by means of U/S. Postal Service Express Mail MUST be addressed as follows:

U. S. ARMY ENGINEER DISTRICT, SAVANNAH
ATTN: CESAS-RE-RT
100 W. OGLETHORPE AVENUE
SAVANNAH, GA 31401-3640

e. Delivery of Bids. It will be the duty of each bidder to see that his bid is delivered by the time and at the place prescribed in the invitation. Bids received prior to the time of opening will be securely kept, unopened. The person whose duty it is to open them will decide when the specified time has arrived, and no bid or modifications of a bid, or withdrawals of a bid received thereafter, will be considered, except those received before award is made and is either (1) sent by registered or certified mail at least 5 calendar days before the specified receipt date, through the U.S. or Canadian Postal Services to the specified address; or (2) sent by Express Mail Next Day Service of the U.S. Postal Service not later than 5:00 p.m. at the place of mailing, 2 working days before the specified bid receipt date to the specified address. No responsibility will be attached for the premature opening of a bid not properly addressed and identified. All modifications of a bid or withdrawals of a bid must be in writing. Telegraphic bids will not be considered, but modifications or withdrawals, by telegraph, of bids already submitted will be considered, if received prior to the time set for opening bids.

5. Bid Deposit. A bid deposit in the amount of not less than 20 percent of the total bid price or the total amount of the bid if the estimated total bid price is less than $1,000 must accompany each bid. Such deposit must be furnished in cash; or postal, express or bank money order; cashier's, certified, or traveler's check; or a combination thereof made payable to the order of **FA Officer, USAED, Savannah.** The deposit of the successful bidder will be retained by the Government and applied against the payment of the forest product sold. The sale will be on all-cash basis with other periodic payments required as hereinafter specified under Condition 3, Section III. In the event that a bidder is sent a Notification of Intent to Award as provided for in Section II (8) of this contract and fails to tender the performance deposit or bond as specified in Section III (2) of this contract, the total bid deposit submitted by said bidder will be retained by the Government.

6. Opening of Bids. At the time fixed for the opening of bids, their contents will be made public by announcement for the information of bidders and others properly interested, who may be present, either in person or by representatives; provided, however, that any information submitted in support thereof, the disclosure of which may tend to subject the person submitting it to competitive business disadvantage, will upon request be held in strict confidence by the Government.

7. Bid Price Determination. When bids are solicited on a unit price basis, bidders will insert their unit prices and total prices in the space provided for each item. In the event the bidder inserts a total price on the item but falls to insert a unit price, the Government will determine the unit price by dividing the total price by the quantity of the item set out in the invitation. The unit price so determined shall be used for the purpose of bid evaluation, award and all phases of contract administration. The unit price shall govern in any case of error in calculation of the estimated total contract price.

8. Award of Contract.
a. The responsible bidder whose bid, conforming to the invitation of bids, is most advantageous to the Government, price and other factors considered, will be notified (Notification of Intent to Award) that an award will be made to him upon tender of the performance deposit or bond as specified in Section III (2) of this contract. In the event that the performance deposit or bond is not tendered within the specified period, the Government may, at its option, select from the remaining bids the responsible bidder whose bid, conforming to the invitation of bids, is most advantageous to the Government, price and other factors considered. That bidder will be notified that an award will be made to him upon tender of the performance deposit or bond as provided in Section III (2) of this contract. The Government may, when in its interest, reject any or all bids or waive any informality in bids received. The Government may accept any item or combination of items of a bid, unless precluded by the invitation for bids or the bidder includes in his bid a restrictive limitation.
b. In the absence of information clearly indicating that the bidder is responsible, the Contracting Officer shall conclude that the bidder does not qualify as a responsible bidder. To determine a bidder to be responsible, a Contracting Officer must find that:
(1) The bidder has adequate financial resources to perform the contract or the ability to obtain them;
(2) The bidder is able to perform the contract within the contract term taking into consideration all existing commercial and governmental business commitments;
(3) The bidder has a satisfactory performance record on timber sale contracts. A prospective bidder that is or recently has been seriously deficient in contract performance shall be presumed not to be responsible, unless the Contracting Officer determines that the circumstances were beyond the bidder's control and were not created through improper actions by the bidder or affiliate, or that the bidder has taken appropriate corrective action. Past failure to apply sufficient tenacity and perseverance to perform acceptably

under a contract is strong evidence that a purchaser is not a responsible bidder. The Contracting Officer shall consider the number of contracts involved and extent of deficiency of each in making this evaluation;

(4) The bidder has a satisfactory record of integrity and business ethics;

(5) The bidder has or is able to obtain equipment and supplies suitable for logging the timber and for meeting the resource protection provisions of the contract;

(6) The bidder is otherwise qualified and eligible to receive an award under applicable laws and regulations.

c. A bidder may protest a determination made in the bid/award process to the Contracting Officer within 30 days of the date of the notification or rejection letter to the bidder. If the protest cannot be disposed of by agreement, the Contracting Officer will within 14 days forward the protest to the District Engineer, U. S. Army Engineer District, Savannah, Georgia and so notify the protester in writing of such action. The District Engineer should consider such protest within 60 days of delivery, but may continue the Sale of Government Forest Products process. In connection with any written protest proceedings under this provision, protestor should clearly:

(1) identify the Invitation For Bid No.;
(2) identify contact parties;
(3) state the reasons for the protest;
(4) provide documentation in support of the protest; and
(5) state what is the desired result.

The decision of the District Engineer shall be final and conclusive. A written copy of the decision shall be mailed or otherwise furnished to the protester. The Government reserves the right to establish management objectives and requirements designed to achieve these objectives. These objectives are not subject to this protest process.

9. Interstate Commerce. The Interstate Commerce Act makes it unlawful for anyone other than those duly licensed under the act to transport this property in interstate commerce for hire. Anyone aiding or abetting in such violation is a principal in committing the offense (49 USC 301-327; 10101-11914).

SECTION III - SALE OF GOVERNMENT FOREST PRODUCTS - GENERAL SALE TERMS AND CONDITIONS.

1. Definitions.

a. The term "Secretary" as used herein means the Secretary of the Army, and the term "his duly Authorized Representative" means the Chief of Engineers, Department of the Army, or an individual or board designated by him.

b. The term "Contracting Officer" as used herein means the person executing this contract on behalf of the Government and includes a duly appointed successor Authorized Representative.

2. Performance Deposit or Bond. In addition to the payments required under the provisions of this contract, the bidder will, within fifteen (15) calendar days after receiving a Notification of Intent to Award, deliver to the Government a certified check, cashier's check, traveler's check, or postal money order, payable to the order of **FA Officer, USAED, Savannah**, in the amount of ---------- or **20** percent of the total of the contract price in order to insure faithful performance under this contract. Should the bidder fail to deliver said amount as specified, the government will proceed as provided for in Section II (8) of this contract. If the contract is performed to the complete satisfaction of the Contracting Officer, said deposit shall be returned to the purchaser upon completion of the contract. In lieu of the deposit of a certified check, cashier's check, traveler's check, or postal money order, the purchaser may furnish a performance bond, with surety approved by, and in a form acceptable to said Contracting Officer, the penal sum of such bond to be the same as the total performance deposits provided for above. Standard Form 25 may be used for this purpose.

3. Payments. The purchaser agrees to make periodic payments in advance for forest products when billed.

a. For unit price sales, such payment shall be made within fifteen (15) calendar days after Notice of Acceptance.

(1) For all contracts of $1,000 or less, the balance of the estimated total purchase price.

(2) For all other contracts, an amount to be established by the Contracting Officer but in no case less than **10** percent of the total estimated price. In the event there is any surplus of funds to purchaser's credit on deposit upon completion of removal operations as required under the terms of the contract, a refund of such surplus will be made to said purchaser.

b. For lump sum sales, the purchase price shall be paid as follows:

(1) ~~On bids below $10,000 payment in full is required~~ **DELETED** ~~within fifteen (15) calendar days after Notice of Acceptance. Bid deposit will be applied toward the amount due.~~

(2) ~~On bids $10,000 to $20,000, $10,000 is required within fifteen~~ **DELETED** ~~(15) calendar days after Notice of Acceptance and the balance when approximately 40 percent of forest products has been cut.~~

(3) ~~On bids $20,000 and larger, $10,000 within fifteen (15) calendar days after Notice of Acceptance and the remainder as requested by the Contracting Officer or as billed. The determination of the frequency of $10,000 payments will be based on the volume of the material cut as determined by the Contracting Officer, having~~ **DELETED** ~~as its objective that the amount paid in shall at all times be the equivalent of at least percent more than the percentage of forest products cut. To aid in this determination, the books of account and inventories by the purchaser shall be available for inspection by the Contracting Officer. Purchaser shall submit a letter stating volumes harvested to date to the Contracting Officer on frequency to be established by said officer.~~

4. Billings. The purchaser will be billed periodically for the estimated quantities of forest products determined by the Contracting Officer to be removed during a given operational period.

5. Methods of Payment. All payments shall be made by certified check, cashier's check, bank draft, postal or express money order, payable to the **FA Officer, USAED, Savannah**. Billing payments will be remitted within ten (10) calendar days to the date of the billing, directly to the Project Office or District Office, as specified under Special Sale Terms and Conditions. Late Payment of bills are subject to interest accrual based on current U.S. Treasury rates.

6. Defaults. If, after the award, the purchaser breaches the contract by failing to make any payments as required, or by failing to remove the property as required, then the Contracting Officer may send the purchaser a fifteen (15) calendar day, written notice of default (calculated from date of mailing), and upon purchaser's failure to cure such default within that period (or such further period as Contracting Officer may allow), the purchaser shall lose all the right, title and interest which he might otherwise have acquired in and to the property as to which a default has occurred. The purchaser agrees that in the event he fails to pay for the property or remove the same within the prescribed time, the Contracting Officer at his election and upon notice of default shall be entitled to retain (or collect) as liquidated damages a sum equal to the total amount of such loss or damages sustained. When the Contracting Officer exercises this election, he shall specifically apprise the purchaser either in the original notice of default (or in separate subsequent written notice) that upon the expiration of the period prescribed for curing the default the formula amount will be retained (or collected) by the Government as liquidated damages. The maximum sum, moreover, which may be recovered by the Government as damages for failure of the purchaser to remove the property and pay for the same shall be such formula amount. If the purchaser otherwise fails in the performance of his obligations thereunder, the Government may exercise such rights and may pursue such remedies as are provided by law or under the contract.

7. Disputes. Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce this decision to writing and mail or otherwise furnish a copy thereof to the purchaser. This decision of the Contracting Officer shall be final and conclusive unless, within thirty (30) calendar days from the date of receipt of such copy, the purchaser mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Secretary of the Army. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the purchaser shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the purchaser shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

8. Title Passage.

a. Unit Price Sale. All right, title, and interest in and to any included forest product shall remain in the Government until it has been removed from the authorized sale area, weighed, measured, accounted for, and paid for, at which time title shall vest in the purchaser.

b. ~~Lump Sum Sale. All right, title, and interest in and to any included forest product shall remain in the Government until it has been paid for, at which time title shall vest in the purchaser.~~ **DELETED** ~~Title shall revert to the Government for any forest product remaining on the sale area upon the termination date of this contract.~~

9. Military Mission and Other Delays.

a. Operations may be delayed from time to time, and sale area closed, because of military training. Purchaser will make daily checks with the Contracting Officer regarding military schedules affecting the sale area. If the sale area is closed as a result of military training for a continuous period of thirty (30) calendar days or a total of sixty (60) calendar days, then at the option of the Contracting Officer, the contract may be extended or terminated.

b. At the option of the Contracting Officer, the contract may be extended or terminated in the event the purchaser experiences delays or interruptions of ten (10) days or longer, which stops included timber removal from the sale area through the Government's curtailment of harvesting operations due to specific legal requirements concerning the protection of "Endangered or Threatened Species" (plant or animal) and/or "Cultural/Historical Resources" within the sale area.

c. Stoppages ordered in writing by the Contracting Officer to protect Government property from excessive damage resulting from poor or wet logging condition or other requirement as stated.

d. The contract may be extended or terminated at the option of the Contracting Officer for causes noted under 9a, 9b, or 9c above. If terminated, the purchaser will be relieved of any further responsibility of removal of the forest products sold hereunder. Any sums prepaid or on deposit will be equitably adjusted upon clearance and final inspection of the area. Under lump sum contracts, this adjustment will be made in the same manner as outlined in Condition 11b below.

10. Extension of Time. The Contracting Officer may be a Supplemental Agreement or Change Order extend the time allocated for removal under the following conditions:

a. When the total volume of the forest product designated for removal exceeds the estimated volume advertised, the time allocated for removal may be extended for an equitable period, based upon the minimum weekly production required to complete the removal of the original estimated contract volume within the original allocated time. Weekly rate of production shall be determined as specified herein under Condition 2, Section IV, Schedule of Removal and Completion.

b. When purchaser desires a reasonable extension of time for his own convenience, provided that:

(1) The Contracting Officer determines that the extension will not endanger final required installation deadlines; and

(2) The considerations for the extension is mutually agreed upon by purchaser and said officer.

c. For days lost by the purchaser due to closure of the sale areas as ordered by the Contracting Officer as outlined in Conditions 9 above, this section.

d. For reasonable mobilization time (other than initial mobilization) as a result of major interruptions during contract period and where it is determined necessary by the Contracting Officer.

e. When purchaser experiences delay in commencing scheduled operations or interruption in active operations either of which stops removal of included timber from sale area(s) through curtailment of his field operations for ten (10) or more consecutive calendar days during normal operating season due to causes beyond purchaser's control, including but not limited to acts of God, acts of public enemy, acts of Government, labor disputes, fires, insurrections, floods or earthquakes. (Normal precipitation within geographical vicinity of sale area not justification for extension.)

f. When other Government requirements prohibit access or operation in the sale area(s).

NOTE: To qualify for a time extension, the purchaser shall submit a request to the Contracting Officer in writing thirty (30) calendar days prior to the contract termination date citing applicable reasons described in a through f above.

11. Metal Contamination.

a. Some timber included under this sale contract may be contaminated with military bullets and/or shell fragments; and notwithstanding other provisions of this contract, it is not intended that the purchaser be required to harvest such trees when the contamination is determined too excessive by the Contracting Officer. If military metal is encountered, the purchaser will assist in determining the degree and extent of the contamination. After a thorough examination of the timber by the Contracting Officer, and a determination by the Contracting Officer that contamination is excessive, such timber or sale area will either be deleted from the contract or, if mutually agreeable, a reduction in the unit price may be negotiated only for this contaminated material. The reduced price will be based on the extra cost of harvesting and utilizing such contaminated material.

b. In the event any portion of the sale area is deleted under a lump sum sale, the adjustment will be negotiated on the basis of a mutual cruise by representatives of both parties to determine volume and value of the timber deleted. The Government, however, will not substitute or replace contaminated timber with like volume or area of timber for the amount withdrawn.

12. Liability of Government. The purchaser hereby waives all claims and agrees to hold the Government harmless for any damages to property or injury to persons which may arise out of the existence of nonexploded ammunition, metal or foreign objects in trees on the premises, or for any damage whatsoever which may arise from the harvesting of timber by him or operations required hereunder.

13. Supervision. When cutting, logging, or other operations under this contract are in progress, the purchaser shall have a representative, readily available to the area of such operation at all times, who shall be authorized to receive on behalf of the purchaser, any notices and instructions given by the Contracting Officer in regard to performance under this contract, and to take such action thereon as is required by the terms of this contract.

14. Vehicles. A list of vehicles authorized to transport forest products under this contract will be furnished to the Contracting Officer prior to the commencement of any removal operations. A number will be assigned each vehicle and such number will be plainly displayed on the front of the vehicle by use of a decal or other means acceptable to the Contracting Officer. Routes to be used for transportation of forest products from the reservation will be designated by said officer. Vehicles used in the transportation of forest products are subject to Federal, State and local laws and regulations governing the securing of loads, size, weight, and load limitations.

15. Compliance with Laws, Rules, Regulations. All operations in connection with the removal of forest products sold hereunder shall be subject to all installation, local, State, Federal laws and regulations pertaining to security, loading and operation of vehicles, fire, safety, sanitation, environmental protection, and other rules, regulations, and directions prescribed by the Contacting Officer in addition to those outlined below. Failure to abide by such laws, rules, regulations, or directions may result in work stoppage or termination of the contract.

a. Protection of Government Property and Personnel. All Government property including utility lines, ditches, bridges, and fences located within or immediately outside the exterior boundaries of the sale area, shall be protected so far as possible in logging and other operations, and if damaged, shall be repaired and restored immediately by the purchaser. Subject to the approval of the Contracting Officer, any utility line or fence which may be damaged in felling or logging operations may be moved from one location to another, or specified trees may be left uncut. Roads, trails, and designated fire lanes shall at all times be kept free of logs, brush, and debris resulting from the purchaser's operations hereunder, and any road or trail used by the purchaser in connection with this sale that is damaged or injured beyond ordinary wear and tear through such use shall promptly be repaired by the purchaser to its original condition. The purchaser shall exercise due caution to insure the safety of all personnel on the sale area including all Government personnel engaged in inspection of purchaser activities.

b. Littering. The purchaser shall refrain from littering Government property with glass, metal, paper, plastic, oils, lubricants, fuels, detergents or any other solid or liquid pollutants and shall assure that his employees, agents and subcontractors refrain from doing so. Persistent pollution may result in work stoppage or termination of the contract. Clean up costs incurred by the Government will be assessed against the purchaser in accordance with Condition f, Paragraph 18, Liquidated Damages, herein.

c. Fire Suppression. The purchaser, shall exercise due diligence and take all reasonable and practicable action both independently and upon request of the Contracting Officer or Fire Marshall of the reservation to prevent and suppress forest fires both within the sale area, and the area contiguous thereto. The purchaser agrees to reimburse the Government for the cost of fire suppression incurred as the result of his negligence or willful acts.

d. Environmental Quality. Purchaser agrees to adhere to all instructions of the Contracting Officer regarding erosion control, stream crossings, construction of access roads, loading decks, skid trails, water bars, and water diversion ditches. Failure to comply will be grounds for assessment of Liquidated Damages, Paragraph 18, herein, and may result in work stoppage or termination of the contract.

e. Violations. In the event that the purchaser, his/her/its agent or employees, violates any instructions or direction given by the Government or any law, regulation, or policy, the Contracting Officer's Representative may require the purchaser to cease work immediately so that an evaluation of the effected area or the violation itself may be made by appropriate Government personnel. The Contracting Officer will review the evaluation, and at the option of the Contracting Officer, the contract may be terminated. No compensation shall be due the purchaser for any stoppage or termination under this provision. An assessment of the property damage and administrative costs will be made to determine the extent of the damages and costs, and the purchaser shall make payment to the United States in that amount. The purchaser shall be liable for the payment of any penalties or assessments resulting from the acts of the purchaser, his/her/its agent or employees. The purchaser will also be liable for any costs, including, but not limited to, administrative costs, incurred by the Government to complete the removal of the forest products that are the subject of this contract. In addition to penalties assessed under this provision or any other provision of this contract, the purchaser will be subject to appropriate criminal and civil penalties.

16. Gratuities.

a. The Government may, by written notice to the purchaser, terminate the right to the purchaser to proceed under this contract if it is found, after notice and hearing by the Secretary of Army or his duly Authorized Representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the purchaser, or any agent or representative of the purchaser, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the performing of such contract, provided that the existence of the facts upon which the Secretary or his duly Authorized Representative makes such findings shall be in issue and may be reviewed in any competent court.

b. In the event this contract is terminated as provided in the subparagraph above, the Government shall be entitled to:

(1) Pursue the same remedies against the purchaser as it could pursue in the event of a breach of the contract by the purchaser, and

(2) Exemplary damages in an amount (as determined by the Secretary or his duly Authorized Representative) which shall be not less than three (3) nor more than ten (10) times the costs incurred by the purchaser in providing any such gratuities to any such officer or employee as a penalty in addition to any other damages to which the Government may be entitled by law.

c. The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

17. Nondiscrimination in Employment. If the total value of this contract is in excess of $10,000, purchaser agrees during its performance as follows:

a. Purchaser will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. Purchaser will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; the selection for training, including apprenticeship. Purchaser agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this subsection.

b. Purchaser will, in all solicitations or advertisements for employees placed by or on behalf of purchaser, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

c. Purchaser will send to each labor union or representative or workers with which he has a collective-bargaining agreement or other contract or understanding, a notice to be provided by Contracting Officer, advising the said labor union or worker's representative of purchaser's commitments under this subsection, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. Purchaser will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and the rules, regulations and relevant orders of the Secretary of Labor.

e. Purchaser will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books or records

and accounts by Contracting Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

f. In event of purchaser's noncompliance with this subsection or with any of such rules, regulations or orders, this contract may be canceled, terminated, or suspended in whole or in part and purchaser may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Orders No. 11246 or September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. Purchaser will include the provisions of subparagraphs a through f in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. Purchaser will take such action with respect to any subcontract or purchase order as Contracting Officer may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event purchaser becomes involved in, or is threatened with, litigation with

a subcontractor or vendor as a result of such direction by Contracting Officer, purchaser may request the United States to enter into such litigation to protect the interests of the United States.

18. Liquidated Damages. Without derogation of any other rights afforded it by this contract, the Government through its Contracting Officer may determine the extent of damages arising from any of the causes hereinafter set forth, and the purchase agrees to pay a penalty therefor in an amount to be determined by the Contracting Officer as liquidated damages for the injury and/or cost suffered by the Government; but in no event to exceed the maximum penalty shown in the schedule below:

Cause	Liquidated Payment*
	(To include administrative cost incurred by the Government.)
a. Cutting or damaging undesignated trees intentionally or through negligence or carelessness.	Triple unit sale price or double fair market value for the respective forest products.
b. Removal of material harvested from the designated sale area without measurements in accordance with the terms of the contract.	Triple the unit price for the respective forest products.
c. Continued failure to cut stumps in accordance with specifications.	**$1.00** per stump.
d. Failure to cut designated trees not exempted and to utilize merchantable material.	Unit sale price for respective forest product.
e. Degradation of environmental quality through persistent littering, pollution, negligent or willful acts to Government land or water	Actual clean up or restoration costs incurred by the Government as determined by the Contracting Officer.

* When sale is under the lump sum method, the unit value will be determined through appraisal by the Contracting Officer.

19. Contract Termination. The Government may terminate this contract at any time by giving ten (10) calendar days notice in writing to the purchaser. In the event the contract is so terminated, the purchaser shall release the Government from liability for any damages or claims of whatsoever nature which result from said termination, except that funds on deposit in excess of that required in payment of material cut and removed shall be refunded, unless otherwise provided herein. Under lump sum contracts, this refund will be based on volumes and values determined under the same procedures as outlined in paragraph 11b supra.

20. Records. Books and records of the purchaser relating to all operations covered by this contract shall be open to inspection at any time by the Contracting Officer an available for audit with the understanding that the information obtained shall be regarded as confidential.

21. Invitation, Bid and Acceptance. Invitation, Bid and Acceptance shall constitute the entire contract of sale between the purchase and the Government.

Section IV - Special Sale Terms and Conditions

1. Commencement. The purchaser will commence removal of the forest products within **DELETED** days after issuance of Notice to Proceed.

2. Schedule of Removal and Completion. The purchaser agrees to remove from the sale area all forest products designated to be removed under this contract prior to date(s) shown below and at the minimum production rate specified herein:

Item 1: **31 DECEMBER 2005** Item 2: _____ Item 3: _____

The minimum rate of production will be determined by dividing the number of weeks within the period of time established for the item purchased into the estimated volume or quantity of the forest product included under such item.

3. Period of Operations. Unless authorized by the Government, removal of forest products will not be permitted on Saturdays, Sundays, or any Government holiday and will be accomplished only during the hours designated by the Contracting Officer. The daily schedule of hours may be modified due to seasonal changes by notice in writing to the purchaser

4. Identification of Forest Product(s) included in Sale.

a. ***Operator Select Thinning*: (68 Acres) Sale area designated by trees marked with yellow paint with the paint facing into the operator select area.** Thinning from below that will harvest small and defective trees first, leaving dominant and co-dominant trees at a basal area no less than sixty (60) square feet per acre and no more than seventy (70) square feet per acre**.** Longleaf pine should be favored where it occurs in the sale area. Thinning along drains or drainages must be coordinated in advance with Public Works Business Center (PWBC), Natural Resources Branch. *Trees marked with blue paint will not be cut or damaged.* Skid trails will be a minimum of seventy-five (75) feet apart and have a maximum width of twenty (20) feet. Skid trails will follow contours and the preferred skid trail pattern is the "Herring Bone" pattern. Skid trails will not cross drains or be located within seventy-five (75) feet of drains.

b. ***Cut-tree marked*. (316 Acres)** Harvest all pine trees marked with blue paint at dbh and on the stump.

c. No skidding or log decks allowed within environmentally sensitive areas (marked with yellow signs) or plant areas (marked with signs and/or orange flagging). Areas may be thinned with the trees carried outside the boundary by a feller-buncher.

d. The contractor is responsible for adhering to the sale area boundary lines as identified by this contract, the Contracting Officer, or his authorized representative.

The purchaser accepts the marking as final, except that, by mutual agreement between the Contracting Officer and the purchaser, changes in the marking can be made by marking additional trees or removing the marks from trees already marked when such changes are clearly the result of errors or omissions in the original marking. Trees to be removed in the construction of logging trails and loading points, and trees damaged in logging will be marked or designated for cutting as needed by the Contracting Officer.

5. Merchantability Standards.

a. Unit Price Sale. Trees and forest products cut from those trees which equal or exceed the specifications set forth in paragraph c below are considered merchantable and will be cut and utilized as specified. Tops resulting from the harvesting of standing trees which are within said merchantability specifications are included.

b. Lump Sum Sale. Cut and utilize all trees and forest products as specified in paragraph c below.

c. Specifications.

Species and Product	**Unit/Tree**	**Length/Feet**	**Diameter Inside Bark at Small End**
Pine Trees	***1***	***12***	***3.5"***

6. Harvesting Operations.

a. Order of Logging. The order of logging will be designated by the Contracting Officer. Purchaser's proposal for sequence of cutting will be considered. All forest products will be removed and all phases of operations completed within the assigned operational unit prior to commencement of operations in another operational unit. From time to time, due to military activities, the order of operations may be realigned by the Contracting Officer.

Operations under this contract will be conducted in a manner that will not interfere with removal operations under other contracts. Operations will be confined to the designated sale area(s).

b. Conduct of Logging.

(1) Felling and Bucking. Felling shall be done to minimize breakage of sale timber and damage to residual timber and seedlings. Unless otherwise agreed, felling shall be done by saws or shears. Bucking shall be done to permit utilization of all material in accordance will merchantability specifications noted in paragraph 5 above. So far as practicable, trees shall be felled in a direction with reference to skid roads that will facilitate skidding and result in minimum damage to young growth and the residual stand.

(2) Stump Height. All trees to be harvested will be cut as low as possible and not higher than **6** inches for pine above the ground line on the highest side, except when the measurements are impractical in the judgment of the Contracting Officer.

(3) ~~Limbing. All felled trees shall be limbed flush to the bole~~ **DELETED** ~~prior to skidding. Use of limbing gates are not permitted except as expressly approved and used in accordance with instructions of the Contracting Officer.~~

(4) Skidding. When tree length skidding is permitted, logs shall not be skidded against or over residual trees or groups of reproduction. Skidders shall be turned around in openings and backed into the tow. No unmarked trees or reproduction may be cut or damaged to facilitate skidding or loading of trucks except as approved by the Contracting Officer. The Contracting Officer reserves the right to establish the location and size of primary skid trails, landings, and haul roads.

(5) ~~Loading Areas (Landings) and Skid Trails. Loading sites~~ **DELETED** ~~will be in open areas and not less than _____ feet from paved and _____ feet from secondary roads unless otherwise authorized by the Contracting Officer.~~

(6) ~~Lopping. The tops and limbs resulting from the conduct of~~ **DELETED** ~~this sale will be lopped to within _____ inches of the ground within _____ feet of _____ or other areas designated by the Contracting Officer. Purchasers will lop all of their respective tops as tree felling progresses.~~

(7) Slash Disposal. Piling of tops or branches immediately adjacent to live trees will not be permitted. The unused portion of all tops and branches must be removed from roads, drainage ditches, fire lanes, powerlines, pipelines, stream channels, and mowed or other areas designated by the Contracting Officer. When limbing gates are permitted, slash will be dispersed as directed by Contracting Officer.

(8) Roads and Access to Sale Area. The purchaser in accordance with the sale map accompanying this invitation for bids will exercise maximum utilization of existing gates, roadways, bridges, and fire lanes. Only by special permission from the Contracting Officer and then only when conditions warrant will the purchaser be allowed to construct any roads or bridges on the premises. The Contracting Officer must approve truck or other vehicle routes to be followed by the purchaser in connection with the removal of the timber. Restoration of the area where any new route has been constructed by the purchaser to approximately its original condition may be required prior to expiration of the sale agreement. Ingress or egress through or across any private property (non-Government) shall be the responsibility of the purchaser.

7. Weight Factors (Unite Price Sale). Weight factors used to determine the number of units of respective forest product are as follows:

Pine Sawtimber:	**7.25**	tons equal to 1 MBF (Scribner Dec C Log. Rule)
Hardwood Sawtimber:	_____	tons equal to 1 MBF (Scribner Dec C Log. Rule)
Pine Pulpwood:	**2.705**	tons equal to 1 standard cord (128 cubic feet)
Hardwood Pulpwood:	_____	tons equal to 1 standard cord (128 cubic feet)
	_____	tons equal to
	_____	tons equal to

Timber Products Harvested on a ton basis: 1 ton equals 2,000 pounds.

8. Volume Determination.

a. Unit Price Sale. The quantity of units sold under this contract of sale will be determined by weighing each truckload at a Government operated weight station (when available), or at a consumer mill or commercial weight station acceptable to and approved in writing by the Contracting Officer. When the use of consumer mill or commercial scales is authorized, the purchaser will pay the cost of weighing, if any, and furnish to the Contracting Officer, on a frequency to be established, certified weight tickets for each load showing data and information required by the Contracting Officer. With the written consent of the Contracting Officer, the quantity of units may be based upon cubic foot measurements, using an acceptable weight conversion factor. Quantities will be based on net units plus any loss due to purchaser's fault. Mixed loads of various items under the contract may be removed, provided payment shall be at the rate of the item having the highest unit price. Forest products sold under this contract may be removed as a product other than that specified, provided that when the sale is under the weight method, the product is weighed with all bark intact or provisions made for bark weight through mutual agreement.

b. ~~Lump Sum Sale. The timber described as to be harvested~~ **DELETED** ~~is sold as one lot in its entirety for one lump sum, and the Government makes no guarantee or warranty as to the volume, quality or condition of material.~~

9. Binder Chains and Security Seals. On unit price sales, binder chains to secure loads will be affixed to the vehicle in such a prescribed manner that all forest products are securely locked in position by use of a metal security seal as directed by the Contracting Officer prior to the load leaving the sale area. The purchaser will be held responsible for the metal security seals issued to him and each seal will be regarded as representing a load of timber until it has been accounted for in the manner prescribed.

10 Tree Paint and Marking Equipment. Marking hammers, paint or equipment for painting, or any other equipment similar to that used by the Government in the marking of trees, logs, or bolts are prohibited from the Government reservation, except as otherwise approved by the Contracting Officer.

11. Logging Equipment. Without regard to weather or ground condition, the purchaser must at all times keep tractors, trucks, or other required equipment in operation on the sale area, as determined by the Contracting Officer, to maintain the minimum production rate during each calendar month and to complete this contract of sale within the time allocated.

12. Other. (Special requirements and instructions.)

a. The purpose of this sale if to improve the habitat of the Red-cockeded Woodpecker (RCW). Only experienced thinning crews should be used in harvest operations. Harvest will be stopped and crews removed from the sale area if, in the opinion of the Contracting Officer's representative, the crews are not harvesting to contract specifications.

b. The contractor or his employees, agents, and subcontractors shall give forty-eight (48) hour advance notice before moving into the sale area to begin work or leaving the sale area to the Fort Bragg Forest Resources Office and the Fort Bragg PWBC, Natural Resources Branch. Harvest operations must be coordinated with the above mentioned offices.

c. Contractor is required to utilize a mechanical feller buncher and limbing gates in harvest operations. A mechanical feller-buncher is defined as a machine capable of grasping a tree, cutting a tree at the stump, and carrying the tree in an upright position to the desired area for felling the tree. Use of logging equipment other than described above must be approved in advance by the Fort Bragg PWBC, Natural Resources Branch and the Contracting Officer's Representative.

d. No harvest activities are allowed within endangered plant site(s). These areas are designated by signs.

e. Harvest operations will not occur within the buffer zone of the RCW from 01 April thru 31 July. RCW buffer zones are designated by trees marked with white paint and/or signs. If the buffer zone is not evident, harvest restrictions will apply within 200 foot radius from the colony tree(s). Colony trees are designated with two (2) bands of white paint.

f. Harvest operations that occur within RCW buffer zones will not damage colony trees or other residual trees within the buffer zone.

g. Areas of rare plants may be located within the sale area. These areas are designated by orange surveyor's flagging and white pin flags. Restricted harvesting will be allowed in the rare plant areas. The trees must be felled outside the orange flagged boundary. Skid trails or log decks are not allowed within the boundaries of the rare plant areas.

h. Harvest activities within environmentally sensitive areas, designated by signs , are the same as described in paragraph d.

Continued from Page 18, Section IV, Paragraph 12:

i. Skid trails have a maximum width of twenty (20) feet. Skid trails shall be at least seventy-five (75) feet apart and will not be located closer than seventy-five (75) feet from drainages. Skid trails will not cross drainages and should follow contours. Thinning trails will have a maximum width of sixteen (16) feet and be at least seventy-five (75) feet apart. Thinning along drainages will be done with the concurrence of Fort Bragg's Public Works Business Center.

j. Losses of contractor property due to criminal acts should be promptly reported by the contractor or his agent to installation law enforcement and to Corps Forest Resources personnel.

k. Limbs, tops, cull logs or other debris will be removed from branches, creeks, ponds, rivers and will be kept free of roads and trails and areas outside of the sale area.

l In the judgment of the Resident Forester that the purchaser has not exercised reasonable care for the protection of the residual stand, the purchaser will procure and apply tree wound paint to any damaged or scarred trees as a result of logging operations.

m. Topwood or other merchantable material accumulating on logging decks will be picked up as it accumulates or be stacked aside for further use. This material will not be pushed, overrun, or buried by skidding or other timber harvesting equipment.

n. The contractor is responsible for adhering to the boundary lines of the sale area(s) as identified on the ground and/or subject timber by the Contracting Officer or his authorized representative.

o In the event that the purchaser, his/her/its agent or employees, violates any instructions given by the Government or any law, regulation, or policy concerning the protection and/or preservation of a cultural resource site, the environment, or particular animal and/or plant species, the Contracting Officer's representative may require the purchaser to cease work immediately so that an evaluation of the effected area may be made by appropriate Government personnel. The Contracting Officer will review the evaluation, and at the option of the Contracting Officer, the contract may be terminated. No compensation shall be due the purchaser for any stoppage or termination under this provision. An assessment of the property damage and administrative costs will be made to determine the extent of the damages and costs, and the purchaser shall make payment to the United States in that amount. The purchaser shall be liable for the payment of any penalties or assessments resulting from the acts of the purchaser, his/her/its agent or employees. The purchaser will also be liable for any costs incurred by the Government to complete the removal of the forest products that are the subject of this contract.

p. All skid trails, loading decks, haul routes, etc. will be approved prior to use by the Contracting Officer or his authorized representative and/or Post Natural Resources personnel. Delimbing must be done on the log deck and all logging slash must be left on the log deck and located within the center of the log deck to facilitate burning.

q. All trash, paper, cans, oil, containers, gas cans, etc. will be picked up and removed by the contractor each day. Failure to comply will be grounds for assessment of liquidated damage. (Page 14, Paragraph 18e.) and may result in work stoppage or termination of the contract.

r. Operations may be temporarily suspended at the discretion of the Contracting Officer or his authorized representative and/or Post Natural Resources personnel if warranted by high fire danger or inclement weather conditions or military mission requirements.

s. Contractor is responsible for conducting harvest operations in a manner that complies with the Forestry Best Management Practices for water quality.

t. Contractor is responsible for adhering to the Endangered Species Act of 1973 and the Endangered Species Act Amendments of 1982.

u. If a coupon system is used in place of the binder chain and security seals system described in Section IV (9.); the purchaser will be responsible for the correct use of coupons as required by the Contracting Officer or his authorized representative. The coupon will be filled out and the travel copy will be in the possession of the driver before the load leaves the log deck area. The purchaser will ensure that the coupon is correctly filled out at the weight station and the weight information is correctly transferred to the supplier and Government copies of the coupon. The purchaser will be held responsible for all coupons issued him/her and each coupon will be regarded as representing a load of timber until if has been accounted for in the manner prescribed. Harvest operations may be stopped if coupons are not filled out correctly, missing, or for any other discrepancy involving the coupon is resolved.