

## **Scope of Work Southern Shrimp Alliance**

### **Background:**

With the encouragement of the South Carolina Shrimp Industry Taskforce and after authorization by NOAA-NMFS, Clemson University Public Service Activities is redirecting \$150,000 of that portion of the grant approved for contractual services under “2.4.d. Marketing Activities” to the Southern Shrimp Alliance Trade Action Trust Account to fund trade actions examining violations of U.S. trade laws by six countries: Brazil, China, Ecuador, India, Thailand, and Vietnam. The South Carolina shrimp industry will thereby continue to participate and contribute to the ongoing trade actions because it will benefit directly from the imposition and defense of anti-dumping duties.

Although a number of critical steps have been completed, a number of important elements of the trade litigation continue. For example, the Commerce Department has announced amended final dumping margins. That announcement requires Southern Shrimp Alliance attorneys to review and analyze the revisions to confirm that no other mistakes have occurred and to respond to any further allegations of error by counsel for the affected countries. The International Trade Commission, at the same time it reached its January 6 affirmative final determinations of injury with respect to each of the affected countries, announced that it would seek comments to assess the effect of the recent tsunami on shrimp production in two of the affected countries. To preserve the duties, that process would require additional information and argument in response, and participation in any changed circumstances review at the Commission that may result.

Appeals of the decisions by these two agencies are likely and the domestic industry would be well served to defend these decisions. Private parties may appeal to the U.S. Court of International Trade. Foreign governments may also appeal these decisions to the World Trade Organization. Thailand and other countries have already begun the appeal process at the WTO by requesting consultations. Such appeals could result in more than a dozen separate legal proceedings.

Ongoing work will likely be necessary to work with U.S. Customs and Border Protection officials to monitor and prevent transshipment and misidentification of imported shrimp. Importers have a significant incentive to evade payment of the antidumping duties owed. In addition, in approximately one year, private parties can request an administrative reviews of the dumping margins found. Such requests would result in substantial litigation on many of the issues recently decided by the Commerce Department.

To secure a level playing field, the South Carolina shrimp industry will help finance these legal initiatives through this subaward. The overall objectives of the recovery plan remain the same and the amendment in strategy will enhance the collaborative marketing efforts of Clemson University and the South Carolina shrimp industry to reestablish profitable price margins by ensuring fair trade practices

Funds from South Carolina will be applied to the Southern Shrimp Alliance's efforts to stabilize the entire domestic shrimp industry. They will be applied to legal expenses for fair trade action

litigation for the industry has exceeded the original estimate and are still accruing due to continuing litigation with the industry's opponents. These legal fees must be paid for the Southern Shrimp Alliance to stabilize the industry. This action in turn will help all domestic commercial shrimp fisherman return to their profitable careers.

**Activities:**

1. Funds from South Carolina will be applied only to the Southern Shrimp Alliance's efforts to stabilize the entire domestic shrimp industry with the following special conditions.
  - a. Any agreement for legal services entered into by the sub-recipient using funds provided by this sub-award will be provided to NOAA for review 10 working days prior to being executed. Southern Shrimp Alliance will mail or e-mail such agreements to Kadija Baffoe-Harding, US Department of Commerce, NOAA, Grants Management Division, 1325 East West Highway, SSMC 2-OFA621 – Room 9326, Silver Springs MD 20910-3283; phone 301-713-0922 ext 194; e-mail: [Kadija.BaffoeHarding@noaa.gov](mailto:Kadija.BaffoeHarding@noaa.gov). Southern Shrimp Alliance will provide copies of NOAA approvals for legal services agreements to Clemson University with invoice and/or prior to any payment.
  - b. Any agreement for legal services entered into by the sub-recipient using funds provided by this sub-award will contain provisions that: i) preclude the contractor from future work that may present a conflict of interest as a result of his/her employment under this agreement; ii) state that the attorney work will be provided only to the parties to the agreement; iii) state that the contract will run for the limited time and in any event not exceed the performance period of this sub-agreement; and iv) provide in accordance with OMB Circular A 21, Cost Principles for Educational Institutions, J.13g, "Costs of legal, accounting and consultant services, and related costs, incurred in connection with defense against Federal government claims or appeals, or the prosecution of claims or appeals against the Federal government are unallowable."
2. Southern Shrimp Alliance will invoice for no more than \$150,000.00 in total legal expenses and will invoice for those expenses within the timeframe of this sub-award (6-1-05 to 5-31-06).
3. Southern Shrimp Alliance will provide a written quarterly report of all activities related to the sub-award to Dr. Susan Barefoot, the SC Shrimp Industry Assistance Project Manager at Clemson University.

**Contact:**

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