

**STATE OF WASHINGTON
Puget Sound Partnership
TACOMA, WASHINGTON**

**REQUEST FOR QUALIFICATIONS AND QUOTATIONS
RFQQ NO. PSC-2011-10**

If you download this RFQQ from the PUGET SOUND PARTNERSHIP (PSP) website located at www.psp.wa.gov, you are responsible for sending your name, address, e-mail address and telephone number to the RFQQ Coordinator in order for your organization to receive any RFQQ amendments or bidder questions/PSP answers.

PROJECT TITLE: PSP Stewardship Evaluation Framework

PROPOSAL DUE DATE: May 31, 2011

EXPECTED TIME PERIOD FOR CONTRACT: July 1, 2011

CONSULTANT ELIGIBILITY: This procurement is open to those consultants that satisfy the minimum qualifications stated herein and that are available for work in Washington State.

CONTENTS OF THE REQUEST FOR QUALIFICATIONS AND QUOTATIONS:

1. Introduction
2. General Information for Consultants
3. Proposal Contents
4. Evaluation and Award
5. Exhibits
 - A. Certifications and Assurances
 - B. Personal Service Contract with General Terms and Conditions

TABLE OF CONTENTS

- 1. Introduction..... 3**
 - 1.1 Purpose and Background 4
 - 1.2 Objective 4
 - 1.3 Minimum Qualifications..... 4
 - 1.4 Funding 4
 - 1.5 Period of Performance 5
 - 1.6 Definitions 5
 - 1.7 ADA 2 5

- 2. General Information for Consultants 6**
 - 2.1 RFQQ Coordinator 6
 - 2.2 Estimated Schedule of Procurement Activities 6
 - 2.3 Preproposal Conference..... 7
 - 2.4 Submission of Proposals 7
 - 2.5 Proprietary Information/Public Disclosure..... 7
 - 2.6 Revisions to the RFQQ 8
 - 2.7 Minority & Women-Owned Business Participation 8
 - 2.8 Acceptance Period 8
 - 2.9 Responsiveness..... 8
 - 2.10 Most Favorable Terms 9
 - 2.11 Contract and General Terms & Conditions 9
 - 2.12 Costs to Propose 9
 - 2.13 No Obligation to Contract..... 9
 - 2.14 Rejection of Proposals 9
 - 2.15 Commitment of Funds..... 9
 - 2.16 Insurance Coverage..... 9

- 3. Proposal Contents..... 12**
 - 3.1 Letter of Submittal (Mandatory) 12
 - 3.2 Qualifications Section 12
 - 3.2.1 Business Information (Mandatory)..... 12
 - 3.2.2 Qualifications 13
 - 3.3 Quotations Section..... 14
 - 3.3.1 Identification of Costs (SCORED)..... 14
 - 3.3.2 Computation..... 14

- 4. Evaluation and Contract Award 15**
 - 4.1 Evaluation Procedure 15
 - 4.2 Clarification of Proposal 15
 - 4.3 Evaluation Weighting and Scoring 15
 - 4.4 Oral Presentations Required..... 15
 - 4.5 Notification to Proposers..... 15
 - 4.6 Debriefing of Unsuccessful Proposers 15
 - 4.7 Protest Procedure 15

- 5. RFQQ Exhibits..... 18**
 - Exhibit A Certifications and Assurances 19
 - Exhibit B Personal Service Contract Format including General Terms and Conditions (GT&Cs).....20

1 INTRODUCTION

1.1 PURPOSE AND BACKGROUND

The Puget Sound Partnership was established as a state agency by the Legislature and the Governor to develop and implement an action agenda to restore the health of Puget Sound. The Partnership is charged with taking a collaborative and accountable approach to accomplishing its mission.

The Partnership's Stewardship Program implements and coordinates regional, citizen-based stewardship initiatives, with an emphasis on the social strategy work described in Action Agenda Section E.4 (available at www.psp.wa.gov/aa_action_agenda.php). The work includes a wide range of public awareness, behavior change, and human and social capital development initiatives. These are implemented through a combination of direct grants to partnering organizations, competitive grants, interagency agreements, contracts, and in-house labor.

The program focuses on three primary areas of influence: 1) Issue Awareness and Understanding, 2) Changing Practices and Behaviors, and 3) Social and Institutional Infrastructure. Its theoretical foundation includes diffusion of innovations, social capital, stages of change (i.e., transtheoretical model), and behavioral economics.

The primary purpose of this announcement is to solicit for and establish a contract with a qualified contractor who will help the Partnership build an evaluation framework for their Stewardship Program.

1.2 OBJECTIVE

The objectives of the work under this Request for Quotes & Qualifications are to:

1. Develop an ongoing evaluation framework for the Stewardship Program,
2. Establish protocols to evaluate collective outcomes of work conducted by grantees, contractors, and partnering agencies,
3. Establish baselines to measure progress, and
4. Develop and refine the program's theory of change.

The services to be provided during this project are:

1. Work with Partnership staff and key program partners to develop and document a theory of change for the Partnership's Stewardship Program. Work with Partnership staff and key program partners to guide the development process.

- Develop and document a program logic model.
- Develop and document an outcome map or maps.
- Ensure that the resulting outcome map(s) integrate, to the extent possible, with results chains (i.e., outcome maps) previously developed by the Partnership (see Using Results Chains to Develop Objectives and Performance Measures for the 2008 Action Agenda, available at www.psp.wa.gov/pm.php)

- Facilitate an outcome map development process to engage a variety of program partners.
2. Based on the work above, work with Partnership staff and key program partners to develop a framework for ongoing evaluation of the Stewardship Program.
 - Identify evaluation measures for the program's progress.
 - Develop/identify metrics for use in the Partnership's stewardship grants and sub-awards.
 - Integrate grant/sub-award metrics into the overall program evaluation strategy.
 - Develop protocols to evaluate collective outcomes of work conducted by grantees, contractors, and partnering agencies.
 - Produce written policies and procedures to guide and implement the evaluation framework.
 - Ensure the resulting policies and procedures meet state and federal-EPA procurement and reporting requirements.
 3. Based on the work in Task 1 and 2, Work with partnership staff and key program partners to establish baselines to measure program progress.
 - Identify and prioritize specific baseline measures.
 - Identify existing and future sources of baseline data and ongoing trend data.
 4. Provide ongoing expert advice and technical assistance to assist the Partnership in the implementation of products developed in Tasks 1-3 above.
 5. Work with Partnership staff and key program partners to assess overall program performance from 16 May 2011 to 31 May 2015, based on the products developed in Tasks 1-3. Prepare a written report of findings and recommendations for future actions.

1.3 MINIMUM QUALIFICATIONS

The Consultant must be licensed to do business in the state of Washington and have at least ten (10) years of experience with evaluation methodologies, logic model development, outcome mapping, facilitation, consultation, and developing metrics for measurement purposes.

Bidders who do not meet these minimum qualifications will be rejected as non-responsive and will not receive further consideration. Any proposal that is rejected as non-responsive will not be evaluated or scored.

1.4 FUNDING

The overall budget for this project shall not exceed **\$70,000**. Proposals in excess of \$70,000 will be rejected as non-responsive and will not be evaluated. In the event additional funding becomes available, any contract awarded may be renegotiated to provide for additional related services.

Any contract(s) awarded as a result of this procurement is contingent upon the availability of funding.

1.5 PERIOD OF PERFORMANCE

The period of performance of any contract(s) resulting from this RFQQ is tentatively scheduled to begin on or about **July 1, 2011** and to end on **May 30, 2015**.

1.6 DEFINITIONS

Definitions for the purposes of this RFQQ include:

Agency. Puget Sound Partnership is the Washington state agency that is issuing this RFQQ.

Consultant. Individual, company, or firm submitting a proposal in order to attain a contract with the Puget Sound Partnership.

Contractor. Individual or company whose proposal has been accepted by the Puget Sound Partnership and is awarded a fully executed, written contract.

Proposal. A formal offer submitted in response to this solicitation.

Request for Qualifications and Quotations (RFQQ). Formal procurement document in which services needed are identified and firms are invited to provide their qualifications to provide the services and their hourly rates.

1.7 ADA

The Puget Sound Partnership complies with the Americans with Disabilities Act (ADA). Consultants may contact the RFQQ Coordinator to receive this Request for Qualifications and Quotations in Braille or on tape.

2 GENERAL INFORMATION FOR CONSULTANTS

2.1 RFQQ COORDINATOR

The RFQQ Coordinator is the sole point of contact in the Puget Sound Partnership for this procurement. All communication between the Consultant and the Puget Sound Partnership upon receipt of this RFQQ shall be with the RFQQ Coordinator, as follows:

| | |
|----------------|-------------------------------------|
| Name | Debbie Ruggles |
| Street Address | 326 East D Street, Tacoma, WA 98421 |
| Phone Number | (360) 464-1224 |
| E-Mail Address | debbie.ruggles@psp.wa.gov |

Any other communication will be considered unofficial and non-binding on the Puget Sound Partnership. Consultants are to rely on written statements issued by the RFQQ Coordinator. Communication directed to parties other than the RFQQ Coordinator may result in disqualification of the Consultant.

2.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

| | |
|--|-------------------------|
| Issue Request for Qualifications and Quotations | April 19, 2011 |
| Preproposal Conference (if applicable) | May 2, 2011 2 – 3 p.m. |
| Question & answer period | April 28 – May 18, 2011 |
| Issue addendum to RFQQ (if applicable) | N/A |
| Proposals due | May 31, 2011 |
| Evaluate proposals | June 1-6, 2011 |
| Conduct oral interviews with finalists, if required | Week of June 6, 2011 |
| Announce “Apparent Successful Contractor” and send notification via e-mail to unsuccessful proposers | By June 10, 2011 |
| Hold debriefing conferences (if requested) | Week of June 13, 2011 |
| Negotiate contract | June 10-20, 2011 |
| File contract with OFM | June 20, 2011 |
| Begin contract work | July 1, 2011 |

The Puget Sound Partnership reserves the right to revise the above schedule.

2.3 PREPROPOSAL CONFERENCE

A preproposal conference call/webinar is scheduled to be held on **May 2, 2011 at 2 p.m.** local time. Call-in/log-in information will be posted on the Partnership's website by April 26, 2011. All prospective Consultants should attend; however, attendance is not mandatory.

PSP will be bound only to PSP's written answers to questions. Questions arising at the preproposal conference call or in subsequent communication with the RFQQ Coordinator will be documented and answered in written form. A copy of the questions and answers will be posted on PSP's website by May 19, 2011, after the open Question & Answer period.

2.4 SUBMISSION OF PROPOSALS

Consultants are required to submit two (2) hard copies of their proposal. These must have original signatures. Additionally, a copy of the proposal must be sent electronically via e-mail to the RFQQ Coordinator by the date and time listed below. This electronic version must be a signed copy of the original. The proposal, whether mailed or hand delivered, must arrive at the Puget Sound Partnership no later than 4:00 p.m., local time, on **May 31, 2011**.

The proposal is to be sent to the RFQQ Coordinator at the address noted in Section 2.1. The envelope should be clearly marked to the attention of the RFQQ Coordinator.

Consultants mailing proposals should allow normal mail delivery time to ensure timely receipt of their proposals by the RFQQ Coordinator. Consultants assume the risk for the method of delivery chosen. Puget Sound Partnership assumes no responsibility for delays caused by any delivery service. Proposals may not be transmitted using facsimile transmission.

Late proposals will not be accepted and will be automatically disqualified from further consideration. All proposals and any accompanying documentation become the property of the Puget Sound Partnership and will not be returned.

2.5 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE

Proposals submitted in response to this competitive procurement shall become the property of the Puget Sound Partnership. All proposals received shall remain confidential until the contract, if any, resulting from this RFQQ is signed by the Director of the Puget Sound Partnership, or his Designee, and the apparent successful Contractor; thereafter, the proposals shall be deemed public records as defined in Chapter 42.56 of the Revised Code of Washington (RCW).

Any information in the proposal that the Consultant desires to claim as proprietary and exempt from disclosure under the provisions of Chapter 42.56 RCW, or other state or federal law that provides for the nondisclosure of your document, must be clearly designated. The information must be clearly identified and the particular exemption from disclosure upon which the Consultant is making the claim must be cited. Each page containing the information claimed to be exempt from disclosure must be clearly identified by the words "Proprietary Information" printed on the lower right hand corner of the page. Marking the entire proposal exempt from disclosure or as Proprietary Information will not be honored.

If a public records request is made for the information that the Consultant has marked as "Proprietary Information" the Puget Sound Partnership will notify the Consultant of the request and of the date that the records will be released to the requester unless the Consultant obtains a court order enjoining that disclosure. If the Consultant fails to obtain the court order enjoining disclosure, the Puget Sound Partnership will release the requested information on the date specified. If a Consultant obtains a court order from a court of competent jurisdiction enjoining disclosure pursuant to Chapter 42.56 RCW, or other state or federal law that provides for nondisclosure, the Puget Sound Partnership shall maintain the confidentiality of the Consultant's information per the court order.

A charge will be made for copying and shipping, as outlined in RCW 42.56. No fee shall be charged for inspection of contract files, but twenty-four (24) hours' notice to the RFQQ Coordinator is required. All requests for information should be directed to the RFQQ Coordinator.

2.6 REVISIONS TO THE RFQQ

In the event it becomes necessary to revise any part of this RFQQ, addenda will be provided to all who notify Puget Sound Partnership of their receipt of the RFQQ.

The Puget Sound Partnership also reserves the right to cancel or to reissue the RFQQ in whole or in part, prior to execution of a contract.

2.7 MINORITY & WOMEN-OWNED BUSINESS PARTICIPATION

In accordance with the legislative findings and policies set forth in Chapter 39.19 RCW, the state of Washington encourages participation in all of its contracts by firms certified by the Office of Minority and Women's Business Enterprises (OMWBE). Participation may be either on a direct basis in response to this solicitation or on a subcontractor basis. However, no preference will be included in the evaluation of proposals, no minimum level of MWBE participation shall be required as a condition for receiving an award, and proposals will not be rejected or considered non-responsive on that basis.

The established annual procurement participation goals for MBE is 10% and for WBE, 4%, for this type of project. These goals are voluntary. Bidders may contact OMWBE at 360/753-9693 to obtain information on certified firms.

2.8 ACCEPTANCE PERIOD

Proposals must provide 60 days for acceptance by Puget Sound Partnership from the due date for receipt of proposals.

2.9 RESPONSIVENESS

All proposals will be reviewed by the RFQQ Coordinator to determine compliance with administrative requirements and instructions specified in this RFQQ. The Consultant is specifically notified that failure to comply with any part of the RFQQ may result in rejection of the proposal as non-responsive.

The Puget Sound Partnership also reserves the right, however, at its sole discretion to waive minor administrative irregularities.

2.10 MOST FAVORABLE TERMS

The Puget Sound Partnership reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms that the Consultant can propose. The Puget Sound Partnership does reserve the right to contact a Consultant for clarification of its proposal.

The Consultant should be prepared to accept this RFQQ for incorporation into a contract resulting from this RFQQ. Contract negotiations may incorporate some or all of the Consultant's proposal. It is understood that the proposal will become a part of the official procurement file on this matter without obligation to the Puget Sound Partnership.

2.11 CONTRACT AND GENERAL TERMS & CONDITIONS

The apparent successful contractor will be expected to enter into a contract, which is substantially the same as the sample contract and its general terms and conditions attached as Exhibit B. In no event is a Consultant to submit its own standard contract terms and conditions in response to this solicitation. The Consultant may submit exceptions as allowed in the Certifications and Assurances section, Exhibit A to this solicitation. The Puget Sound Partnership will review requested exceptions and accept or reject the same at its sole discretion.

It is anticipated the first deliverable under the contract will be a scoping plan, which will define the specific services to be provided by the CONTRACTOR based upon agreement between the Puget Sound Partnership and the CONTRACTOR.

2.12 COSTS TO PROPOSE

The Puget Sound Partnership will not be liable for any costs incurred by the Consultant in preparation of a proposal submitted in response to this RFQQ, in conduct of a presentation, or any other activities related to responding to this RFQQ.

2.13 NO OBLIGATION TO CONTRACT

This RFQQ does not obligate the state of Washington or the Puget Sound Partnership to contract for services specified herein.

2.14 REJECTION OF PROPOSALS

The Puget Sound Partnership reserves the right at its sole discretion to reject any and all proposals received without penalty and not to issue a contract as a result of this RFQQ.

2.15 COMMITMENT OF FUNDS

The director of the Puget Sound Partnership or the director's delegate are the only individuals who may legally commit the Puget Sound Partnership to the expenditures of funds for a contract resulting from this RFQQ. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

2.16 INSURANCE COVERAGE

The Contractor is to furnish the Puget Sound Partnership with a certificate of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below.

The Contractor shall, at Contractor's own expense, obtain and keep in force insurance coverage, which shall be maintained in full force and effect during the term of the contract. The Contractor shall furnish evidence in the form of a Certificate of Insurance that insurance shall be provided, and a copy shall be forwarded to the Puget Sound Partnership within fifteen (15) days of the contract effective date.

Liability Insurance

Commercial General Liability Insurance (CGL): Contractor shall maintain general liability insurance and, if necessary, commercial umbrella insurance, with a limit of not less than \$1,000,000 per each occurrence. If CGL insurance contains aggregate limits, the general aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit. CGL insurance shall be written on ISO occurrence from CG 00 01 (or a substitute form providing equivalent coverage). All insurance shall cover liability assumed under an insured contract (including the tort liability of another assumed in a business contract), and contain separation of insureds (cross liability) condition.

Additionally, the Contractor is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

Business Auto Policy: As applicable, the Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto." Business auto coverage shall be written on ISO form CA 00 01, 1990 or later edition, or substitute liability form providing equivalent coverage.

Employers Liability ("Stop Gap") Insurance

In addition, the Contractor shall buy employers liability insurance and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

Additional Provisions

Above insurance policy shall include the following provisions:

- **Additional Insured.** The Puget Sound Partnership, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella and property insurance policies. All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state.
- **Cancellation.** The Puget Sound Partnership shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications. Insurers subject to 48.18 RCW (Admitted and Regulation by the Insurance Commissioner): The insurer shall give the state 45 days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the state shall be given 10 days advance notice of cancellation. Insurers subject to 48.15 RCW (Surplus lines): The state shall be given 20 days advance notice of cancellation. If cancellation is due to non-payment of premium, the state shall be given 10 days advance notice of cancellation.

- **Identification.** Policy must reference the state's contract number and the agency name.
- **Insurance Carrier Rating.** All insurance and bonds should be issued by companies admitted to do business within the state of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by the Puget Sound Partnership, the risk manager for the state of Washington, before the contract is accepted or work may begin. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.
- **Excess Coverage.** By requiring insurance herein, the state does not represent that coverage and limits will be adequate to protect Contractor, and such coverage and limits shall not limit Contractor's liability under the indemnities and reimbursements granted to the state in this contract.

Workers' Compensation Coverage

The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable. The state will not be held responsive in any way for claims filed by the Contractor or their employees for services performed under the terms of this contract.

3 PROPOSAL CONTENTS

Proposals must be submitted on eight and one-half by eleven-inch (8 ½" x 11") paper with tabs separating the major sections of the proposal. The three major sections of the proposal are to be submitted in the order noted below:

1. Letter of Submittal, including signed Certifications and Assurances (Exhibit A to this RFQQ)
2. Qualifications
3. Quotation

Proposals must provide information in the same order as presented in this document with the same headings. This will not only be helpful to the evaluators of the proposal, but should assist the Consultant in preparing a thorough response.

Items in this section marked "mandatory" must be included as part of the proposal for the proposal to be considered responsive, however, these items are not scored. Items marked "scored" are those that are awarded points as part of the evaluation conducted by the evaluation team.

3.1 LETTER OF SUBMITTAL (MANDATORY)

The Letter of Submittal and the attached Certifications and Assurances form (Exhibit A to this RFQQ) must be signed and dated by a person authorized to legally bind the Consultant to a contractual relationship, e.g., the president or executive director of a corporation, the managing partner of a partnership, or the proprietor of a sole proprietorship. Attach the Certifications and Assurances form to the Letter of Submittal.

3.2 QUALIFICATIONS SECTION

The qualifications section of the proposal must contain information that will demonstrate to the evaluation committee the Consultant's understanding of the types of services proposed, the firm's ability to accomplish them, and the ability to meet tight timeframes.

The qualifications response is to be submitted in three sections as follows: 1) Business Information, 2) Experience and Staffing, and 3) Schedule. The optional fourth section would include proof of certification for minority and women-owned businesses participating on the project.

3.2.1 BUSINESS INFORMATION (MANDATORY)

- A. State the name of the company, address, phone number, fax number, e-mail address, legal status of entity (ownership) and year entity was established as it now substantially exists.
- B. Provide the firm's Federal Employer Tax Identification number or Social Security number and the Washington Uniform Business Identification (UBI) number issued by the state of Washington Department of Revenue.
- C. Indicate how many employees are with the firm. Name the firm principles and their roles.

- D. Identify any state employees or former state employees employed by the Consultant or on the Consultant's governing board as of the date of the proposal. Include their position and responsibilities within the Consultant's organization. If following a review of this information, it is determined by the Puget Sound Partnership that a conflict of interest exists, the Consultant may be disqualified from further consideration for the award of a contract.
- E. If the Consultant's staff or subcontractor's staff was an employee of the state of Washington during the past 24 months, or is currently a Washington State employee, identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date.
- F. If the Consultant has had a contract terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the Consultant's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and such litigation determined that the Proposer was in default.
- G. Submit full details of the terms for default, including the other party's name, address, and phone number. Present the Consultant's position on the matter. The Puget Sound Partnership will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. If the Consultant has experienced no such termination for default in the past five years, so indicate.

3.2.2 QUALIFICATIONS

1. EXPERIENCE (SCORED)

- A. Describe services provided by the Consultant that indicate the firm's ability to provide the services described in this RFQQ.
- B. Describe the firm's recent experience performing similar duties as those outlined in Section 3.2 - Qualification Section of this request.

2. STAFFING (SCORED)

- A. Provide a description of the proposed project team structure and internal controls to be used during the course of the project, including any subcontractors.
- B. Provide the name and a resume' of the person who will be the lead contact for the project. Provide names and resumes' for other staff, which includes information on the individual's particular skills related to this project, education, experience, significant accomplishments and any other pertinent information.
- C. List any sub-consultants you may want to include to complete your roster of services. Describe what services each would provide. Provide the information in Section 3.2.1 about each.

3. SCHEDULE (SCORED)

Describe the firm's ability to meet deadlines, especially on a short-time frame, and give examples of how past tight deadlines have been successfully met.

4. REFERENCE (MANDATORY)

List names, addresses, telephone numbers, fax numbers and e-mail addresses of three business references for whom work has been accomplished and briefly describe the type of service provided for them. The Consultant must grant permission to the Puget Sound Partnership to contact the references and others who may have pertinent information. Do not include current Puget Sound Partnership staff as references. The Puget Sound Partnership may evaluate references at the Puget Sound Partnership's discretion.

5. OMWBE CERTIFICATION (OPTIONAL AND NOT SCORED)

Include proof of certification issued by the Washington State Office of Minority and Women's Business Enterprises if certified minority-owned firm and/or women-owned firm(s) will be participating on this project.

3.3 QUOTATIONS SECTION

3.3.1 IDENTIFICATION OF COSTS (SCORED)

The Quotations section must list all hourly rates and total cost PER TASK, with a total for all services anticipated under the proposed contract. The hourly rates are to represent fully weighted costs. This includes the hourly rates of staff that would be assigned to the project, administrative costs, local travel costs, or any other applicable fees that would be charged under this contract.

Costs for subcontractors are to be broken out separately. Please note if any subcontractors are certified by the Washington State Office of Minority and Women's Business Enterprises.

Consultants are required to collect and pay Washington State taxes as applicable.

The evaluation process is designed to award this procurement not necessarily to the Consultant of least cost, but rather to the Consultant whose proposal best meets the requirements of this RFQQ. Consultants are encouraged, however, to submit proposals that are consistent with state government efforts to conserve state resources.

3.3.2 COMPUTATION

The score for the cost proposal will be computed by dividing the lowest average hourly rate received by the Consultant's average hourly rate. Then the resultant number will be multiplied by the maximum possible points for the cost section.

4 EVALUATION AND CONTRACT AWARD

4.1 EVALUATION PROCEDURE

Responsive proposals will be evaluated strictly in accordance with the requirements stated in this solicitation and any addenda issued. The evaluation of proposals shall be accomplished by an evaluation team to be designated by the Puget Sound Partnership, which will determine the ranking of the proposals.

Puget Sound Partnership, at its sole discretion, may also elect to select the top-scoring firms as finalists for an oral presentation.

4.2 CLARIFICATION OF PROPOSAL

The RFQQ Coordinator may contact the Consultant for clarification of any portion of the Consultant's proposal.

4.3 EVALUATION WEIGHTING AND SCORING

The following weighting and points will be assigned to the proposal for evaluation purposes:

| | |
|--|--------------------------|
| Qualifications Section – 60% | 60 points |
| Firm Experience.....35 points (maximum) | |
| Staff Qualifications.....15 points (maximum) | |
| Schedule.....10 points (maximum) | |
| Quotation Section – 40% | <u>40 points</u> |
| Grand Total | <u>100 Points</u> |

4.4 ORAL PRESENTATIONS MAY BE REQUIRED

Oral presentations, if considered necessary by the Puget Sound Partnership, may be utilized in selecting the winning proposal. The Puget Sound Partnership, at its sole discretion, may elect to select the top-scoring firm(s) from the written evaluation for an oral presentation and contact the top-scoring firm(s) to schedule a date, time and location for an oral presentation. Commitments made by the Consultant at the oral interview, if any, will be considered binding.

The oral presentation shall determine the apparently successful bidder.

4.5 NOTIFICATION TO PROPOSERS

Firms whose proposals have not been selected for further negotiation or award will be notified by e-mail.

4.6 DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Upon request, a debriefing conference will be scheduled with an unsuccessful Proposer. The request for a debriefing conference must be received by the RFQQ Coordinator within three (3) business days after the Notification of Unsuccessful Consultant letter is faxed/e-mailed to the Consultant. The debriefing must be held within three (3) business days of the request.

Discussion will be limited to a critique of the requesting Consultant's proposal. Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a maximum of one hour.

4.7 PROTEST PROCEDURE

This procedure is available to Consultants who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Consultant is allowed three (3) business days to file a protest of the acquisition with the RFQQ Coordinator. Protests may be submitted by email, but should be followed by the original document.

Consultants protesting this procurement shall follow the procedures described below. Protests that do not follow these procedures shall not be considered. This protest procedure constitutes the sole administrative remedy available to Consultants under this procurement.

All protests must be in writing and signed by the protesting party or an authorized Agent. The protest must state the grounds for the protest with specific facts and complete statements of the action(s) being protested. A description of the relief or corrective action being requested should also be included. All protests shall be addressed to the RFQQ Coordinator.

Only protests stipulating an issue of fact concerning the following subjects shall be considered:

- A matter of bias, discrimination or conflict of interest on the part of the evaluator
- Errors in computing the score
- Non-compliance with procedures described in the procurement document or Puget Sound Partnership policy

Protests not based on procedural matters will not be considered. Protests will be rejected as without merit if they address issues such as: 1) An evaluator's professional judgment on the quality of a proposal, or 2) Puget Sound Partnership's assessment of its own and/or other agencies' needs or requirements.

Upon receipt of a protest, a protest review will be held by the Puget Sound Partnership. The Puget Sound Partnership director or an employee delegated by the director who was not involved in the procurement, will consider the record and all available facts and issue a decision within five business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

In the event a protest may affect the interest of another Consultant that submitted a proposal, such Consultant will be given an opportunity to submit its views and any relevant information on the protest to the RFQQ Coordinator.

The final determination of the protest shall:

- Find the protest lacking in merit and uphold the Puget Sound Partnership's action.
- Find only technical or harmless errors in the Puget Sound Partnership's acquisition process and determine the Puget Sound Partnership to be in substantial compliance and reject the protest.
- Find merit in the protest and provide the Puget Sound Partnership options which may include:
 - Correct the errors and re-evaluate all proposals
 - Reissue the solicitation document and begin a new process
 - Make other findings and determine other courses of action as appropriate

If the Puget Sound Partnership determines that the protest is without merit, the Puget Sound Partnership will enter into a contract with the apparently successful contractor. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

5 RFQQ EXHIBITS

- Exhibit A Certifications and Assurances
- Exhibit B Personal Service Contract Format including General Terms and Conditions (GT&Cs)

CERTIFICATIONS AND ASSURANCES

1. I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):
2. I/we declare that all answers and statements made in the proposal are true and correct.
3. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
4. The attached proposal is a firm offer for a period of 60 days following receipt, and it may be accepted by the Puget Sound Partnership without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
5. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
6. I/we understand that the Puget Sound Partnership will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of the Puget Sound Partnership, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
7. Unless otherwise required by law, the prices and/or cost data that have been submitted have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Proposer or to any competitor.
8. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
9. No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
10. I/we grant the Puget Sound Partnership the right to contact references and others, who may have pertinent information regarding the Proposer's prior experience and ability to perform the services contemplated in this procurement.
11. If any staff member(s) who will perform work on this contract has retired from the State of Washington under the provisions of the 2008 Early Retirement Factors legislation, his/her name(s) is noted on a separately attached page.

Signature of Proposer

Title

Date

**Contract for Personal Services
between the
State of Washington
(Agency)
and
(Contractor)**

This Contract is made and entered into by and between the state of Washington, Puget Sound Partnership, hereinafter referred to as the "AGENCY", and the below named firm, hereinafter referred to as "CONTRACTOR."

(contractor name)

(address)

(city, state zip)

Phone:

FAX: [redacted]

Email: [redacted]

WA State UBI Number: [redacted]

PURPOSE

The purpose of this contract is to (enter detailed description of the contract purpose).

SCOPE OF WORK

A. Exhibit A, attached hereto and incorporated by reference, contains the *General Terms and Conditions* governing work to be performed under this contract, the nature of the working relationship between the AGENCY and the CONTRACTOR, and specific obligations of both parties.

B. The CONTRACTOR will provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

Option 1: Identify all tasks, work elements and objectives of the contract, and timetables by which major parts of the work are to be completed. The scope of work may be included within the text of the contract or attached as a separate exhibit as shown in Option 2 below.

Option 2: As included in the AGENCY'S Request for Proposals No. [REDACTED], attached as Exhibit B, and the CONTRACTOR'S proposal dated [REDACTED], attached as Exhibit C.

C. The CONTRACTOR shall produce the following written reports or other written documents (deliverables) by the dates indicated below.

All written reports required under this contract must be delivered to [REDACTED], the Contract Manager, in accordance with the schedule above.

PERIOD OF PERFORMANCE

The period of performance under this contract will be from [REDACTED], or date of execution, whichever is later, through [REDACTED].

OFM FILING REQUIREMENT

NOTE: Use only one applicable paragraph and delete the italicized phrases for the final contract.

10-Day Filing *(Competitively awarded 20K or more or sole source 20K or more and subject to OFM approval)*

The provisions of Chapter 39.29 RCW require the AGENCY to file this personal service contract with the Office of Financial Management (OFM) for approval. No contract so filed is effective nor shall work commence under it until the tenth (10th) working day following the date of filing, subject to OFM approval.

OR:

10-Day Filing *(Sole source 5K - \$19,999 and subject to OFM approval)*

The provisions of Chapter 39.29 RCW require the AGENCY to file this personal service contract with the Office of Financial Management (OFM) for review. No contract so filed is effective nor shall work commence under it until the tenth (10th) working day following the date of filing.

OR:

Effective Date of Filing *(Competitively awarded 20K or more and subject to OFM review)*

The provisions of Chapter 39.29 RCW require the AGENCY to file this competitively awarded personal service contract with the Office of Financial Management (OFM) for review. The contract start date is the working day that the contract is filed, date of execution, or any date thereafter.

OR:

Emergency Contracts (5K or more and subject to OFM review)

The provisions of Chapter 39.29 RCW require the AGENCY to file this personal service contract with the Office of Financial Management (OFM) for review. The emergency contract must be filed within three working days following the date of contract execution or start of work, whichever occurs first.

COMPENSATION

Total compensation payable to CONTRACTOR for satisfactory performance of the work under this contract shall not exceed [REDACTED] (\$ [REDACTED]). CONTRACTOR'S compensation for services rendered shall be based on the following rates or in accordance with the following terms:

NOTE: *List detail of compensation to be paid, e.g., hourly rates, number of hours per task, unit prices, cost per task, cost per deliverable, etc., or reference documents that specify CONTRACTOR'S compensation and payment, e.g., CONTRACTOR'S compensation for services rendered shall be based on the schedule set forth in Exhibit B, Fees and Expenses. Compensation section should be consistent with Billing Procedures.*

NOTE: *Expenses are optional. Do not include Expenses paragraph below if expenses are not allowable. If allowable, include only expenses that are appropriate for the contract. If expenses will be reimbursed outside of the contract, it is advisable to state that in the contract to ensure clear understanding as to what expenses the State may be paying for directly.*

Expenses

CONTRACTOR shall receive reimbursement for travel and other expenses as identified below or as authorized in advance by the AGENCY as reimbursable. The maximum amount to be paid to the CONTRACTOR for authorized expenses shall not exceed \$ [REDACTED], which amount is included in the contract total above.

Such expenses may include airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. CONTRACTOR shall receive compensation for travel expenses at current state travel reimbursement rates.

BILLING PROCEDURES AND PAYMENT

AGENCY will pay CONTRACTOR upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Contract Manager [*not more often than monthly.*]

NOTE: Payment can also be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the contract, payment at conclusion of the contract, etc.

The invoices shall describe and document, to the AGENCY'S satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the contract reference number [REDACTED]. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

Payment shall be considered timely if made by the AGENCY within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.

The AGENCY may, in its sole discretion, terminate the contract or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to satisfactorily comply with any term or condition of this contract.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the AGENCY.

NOTE: Optional Provision - the AGENCY shall withhold 10 percent from each payment until acceptance by the AGENCY of the final report (or completion of the project, etc.).

CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this contract.

| CONTRACTOR Contract Manager Information | AGENCY Contract Manager Information |
|--|---|
| Enter Contract Manager's Name Enter Name of CONTRACTOR Enter CONTRACTOR Address Enter City, State & Zip Code Phone : () Fax: () Email address: | Enter Contract Manager's Name Enter Name of AGENCY Enter AGENCY Address Enter City, State & Zip Code Phone: () Fax: () Email address: |

INSURANCE

(NOTE: Include as applicable)

The CONTRACTOR shall provide insurance coverage as set out in this section [or as set forth in the Request for Proposals No.]. The intent of the required insurance is to protect the state should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the CONTRACTOR or subcontractor, or agents of either, while performing under the terms of this contract.

The CONTRACTOR shall provide insurance coverage, which shall be maintained in full force and effect during the term of this contract, as follows:

1. Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence.

Additionally, the CONTRACTOR is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

2. Automobile Liability. In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or unowned by the CONTRACTOR, automobile liability insurance shall be required. The minimum limit for automobile liability is:

\$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

3. The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insureds under the insurance policy/ies.

All policies shall be primary to any other valid and collectable insurance. CONTRACTOR shall instruct the insurers to give AGENCY thirty (30) calendar days advance notice of any insurance cancellation.

CONTRACTOR shall submit to AGENCY within fifteen (15) calendar days of the contract effective date, a certificate of insurance that outlines the coverage and limits defined in the *Insurance* section. CONTRACTOR shall submit renewal certificates as appropriate during the term of the contract.

NOTE: *For further information about insurance, including recommended language for contracts, refer to the OFM Risk Management Division's manual, "Contracts: Transferring and Financing Risk," available at: <http://www.ofm.wa.gov/rmd/contrman.htm>.*

ASSURANCES

AGENCY and the CONTRACTOR agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

ORDER OF PRECEDENCE

Each of the exhibits listed below is by this reference hereby incorporated into this contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable federal and state of Washington statutes and regulations
2. Special terms and conditions as contained in this basic contract instrument
3. Exhibit A – General Terms and Conditions
4. Exhibit B – Request for Qualifications and Quotations No. PSC-2011-10
5. Exhibit C – Contractor's Proposal dated [REDACTED]
6. Any other provision, term or material incorporated herein by reference or otherwise incorporated

ENTIRE AGREEMENT

GENERAL TERMS AND CONDITIONS

DEFINITIONS

As used throughout this contract, the following terms shall have the meaning set forth below:

- A. **"AGENCY"** shall mean the Puget Sound Partnership of the State of Washington, any division, section, office, unit or other entity of the AGENCY, or any of the officers or other officials lawfully representing that AGENCY.
- B. **"AGENT"** shall mean the Director, and/or the delegate authorized in writing to act on the Director's behalf.
- C. **"CONTRACTOR"** shall mean that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the CONTRACTOR.
- D. **"SUBCONTRACTOR"** shall mean one not in the employment of the CONTRACTOR, who is performing all or part of those services under this contract under a separate contract with the CONTRACTOR. The terms **"SUBCONTRACTOR"** and **"SUBCONTRACTORS"** means SUBCONTRACTOR(s) in any tier.

ACCESS TO DATA

In compliance with RCW 39.29.080, the CONTRACTOR shall provide access to data generated under this contract to AGENCY, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the CONTRACTOR'S reports, including computer models and methodology for those models.

ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the AGENCY.

AMENDMENTS

This contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The CONTRACTOR must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

ASSIGNMENT

Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the CONTRACTOR without prior written consent of the AGENCY.

ATTORNEYS' FEES

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

The **CONTRACTOR** shall not use or disclose any information concerning the **AGENCY**, or information that may be classified as confidential, for any purpose not directly connected with the administration of this contract, except with prior written consent of the **AGENCY**, or as may be required by law.

CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the **AGENCY** may, in its sole discretion, by written notice to the **CONTRACTOR** terminate this contract if it is found after due notice and examination by the **AGENT** that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the **CONTRACTOR** in the procurement of, or performance under this contract.

In the event this contract is terminated as provided above, the **AGENCY** shall be entitled to pursue the same remedies against the **CONTRACTOR** as it could pursue in the event of a breach of the contract by the **CONTRACTOR**. The rights and remedies of the **AGENCY** provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the **AGENT** makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

COPYRIGHT PROVISIONS

Unless otherwise provided, all materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the **AGENCY**. The **AGENCY** shall be considered the author of such materials. In the event the materials are not considered "works for hire" under the U.S. Copyright laws, **CONTRACTOR** hereby irrevocably assigns all right, title, and interest in materials, including all intellectual property rights, to the **AGENCY** effective from the moment of creation of such materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For materials that are delivered under the contract, but that incorporate pre-existing materials not produced under the contract, **CONTRACTOR** hereby grants to the **AGENCY** a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The **CONTRACTOR** warrants and represents that **CONTRACTOR** has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the **AGENCY**.

The **CONTRACTOR** shall exert all reasonable effort to advise the **AGENCY**, at the time of delivery of materials furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document that was not produced in the performance of this contract.

The **AGENCY** shall receive prompt written notice of each notice or claim of infringement received by the **CONTRACTOR** with respect to any data delivered under this contract. The **AGENCY** shall have the right to modify or remove any restrictive markings placed upon the data by the **CONTRACTOR**.

COVENANT AGAINST CONTINGENT FEES

The **CONTRACTOR** warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the **CONTRACTOR** for securing business.

The **AGENCY** shall have the right, in the event of breach of this clause by the **CONTRACTOR**, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

DISALLOWED COSTS

The **Contractor** is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its **Subcontractors**.

DISPUTES

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with **AGENT**.

1. The request for a dispute hearing must:

- Be in writing;
- State the disputed issue(s);
- State the relative positions of the parties;
- State the **CONTRACTOR'S** name, address, and contract number; and
- Be mailed to the **AGENT** and the other party's (respondent's) contract manager within 3 working calendar days after the parties agree that they cannot resolve the dispute.

2. The respondent shall send a written answer to the requester's statement to both the agent and the requester within 5 working calendar days.

3. The **AGENT** shall review the written statements and reply in writing to both parties within 10 working days. The **AGENT** may extend this period if necessary by notifying the parties.

4. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this contract shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution method in addition to the dispute resolution procedure outlined above.

DUPLICATE PAYMENT

The **AGENCY** shall not pay the **CONTRACTOR**, if the **CONTRACTOR** has charged or will charge the State of Washington or any other party under any other contract or agreement, for the same services or expenses.

GOVERNING LAW

This contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

INDEMNIFICATION

To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend, and hold harmless State, agencies of State and all officials, agents and employees of State, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. "Claim," as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting therefrom.

CONTRACTOR'S obligations to indemnify, defend, and hold harmless includes any claim by CONTRACTORS' agents, employees, representatives, or any subcontractor or its employees.

CONTRACTOR expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to CONTRACTOR'S or any subcontractor's performance or failure to perform the contract. CONTRACTOR'S obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

CONTRACTOR waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent contractor relationship will be created by this contract. The CONTRACTOR and his or her employees or agents performing under this contract are not employees or agents of the AGENCY. The CONTRACTOR will not hold himself/herself out as or claim to be an officer or employee of the AGENCY or of the State of Washington by reason hereof, nor will the CONTRACTOR make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with the CONTRACTOR.

INDUSTRIAL INSURANCE COVERAGE

The CONTRACTOR shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the CONTRACTOR fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, AGENCY may collect from the CONTRACTOR the full amount payable to the Industrial Insurance accident fund. The AGENCY may deduct the amount owed by the CONTRACTOR to the accident fund from the amount payable to the CONTRACTOR by the AGENCY under this contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the CONTRACTOR.

LICENSING, ACCREDITATION AND REGISTRATION

The CONTRACTOR shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this contract.

LIMITATION OF AUTHORITY

Only the AGENT or AGENT'S delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive

any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the AGENT.

NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

In the event of the CONTRACTOR'S non-compliance or refusal to comply with any nondiscrimination law, regulation, or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the CONTRACTOR may be declared ineligible for further contracts with the AGENCY. The CONTRACTOR shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

NONDISCRIMINATION

During the performance of this contract, the CONTRACTOR shall comply with all federal and state nondiscrimination laws, regulations and policies.

PRIVACY

Personal information including, but not limited to, "Protected Health Information," collected, used, or acquired in connection with this contract shall be protected against unauthorized use, disclosure, modification or loss. CONTRACTOR shall ensure its directors, officers, employees, subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as otherwise required by law.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The CONTRACTOR agrees to indemnify and hold harmless the AGENCY for any damages related to the CONTRACTOR'S unauthorized use of personal information.

PUBLICITY

The CONTRACTOR agrees to submit to the AGENCY all advertising and publicity matters relating to this contract wherein the AGENCY'S name is mentioned or language used from which the connection of the AGENCY'S name may, in the AGENCY'S judgment, be inferred or implied. The CONTRACTOR agrees not to publish or use such advertising and publicity matters without the prior written consent of the AGENCY.

RECORDS MAINTENANCE

The CONTRACTOR shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

CONTRACTOR shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the AGENCY, personnel duly authorized by the AGENCY, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

REGISTRATION WITH DEPARTMENT OF REVENUE

The CONTRACTOR shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this contract.

RIGHT OF INSPECTION

The CONTRACTOR shall provide right of access to its facilities to the AGENCY, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.

SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the AGENCY may terminate the contract under the "Termination for Convenience" clause, without the ten-day notice requirement, subject to renegotiation at the AGENCY'S discretion under those new funding limitations and conditions.

SEVERABILITY

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

SITE SECURITY

While on AGENCY premises, CONTRACTOR, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

SUBCONTRACTING

Neither the CONTRACTOR nor any SUBCONTRACTOR shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the AGENCY. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the Department for any breach in the performance of the contractor's duties. This clause does not include contracts of employment between the contractor and personnel assigned to work under this contract.

Additionally, the CONTRACTOR is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subcontracts. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as provided by law.

TAXES

All payments accrued because of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the CONTRACTOR or its staff shall be the sole responsibility of the CONTRACTOR.

TERMINATION FOR CAUSE

In the event the AGENCY determines the CONTRACTOR has failed to comply with the conditions of this contract in a timely manner, the AGENCY has the right to suspend or terminate this contract. Before suspending or terminating the contract, the AGENCY shall notify the CONTRACTOR in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the CONTRACTOR shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

The AGENCY reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the CONTRACTOR from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the CONTRACTOR or a decision by the AGENCY to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the CONTRACTOR: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of the AGENCY provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

TERMINATION FOR CONVENIENCE

Except as otherwise provided in this contract, the AGENCY may, by 10 calendar days written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. If this contract is so terminated, the AGENCY shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

TERMINATION PROCEDURES

Upon termination of this contract, the AGENCY, in addition to any other rights provided in this contract, may require the CONTRACTOR to deliver to the AGENCY any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The AGENCY shall pay to the CONTRACTOR the agreed upon price, if separately stated, for completed work and services accepted by the AGENCY, and the amount agreed upon by the CONTRACTOR and the AGENCY for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by the AGENCY, and (iv) the protection and preservation of property, unless the termination is for default, in which case the AGENT shall determine the extent of the liability of the AGENCY. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The AGENCY may withhold from any amounts due the CONTRACTOR such sum as the AGENT determines to be necessary to protect the AGENCY against potential loss or liability.

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

After receipt of a notice of termination, and except as otherwise directed by the AGENT, the CONTRACTOR shall:

1. **Stop work under the contract on the date, and to the extent specified, in the notice;**
2. **Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;**
3. **Assign to the AGENCY, in the manner, at the times, and to the extent directed by the AGENT, all of the rights, title, and interest of the CONTRACTOR under the orders and subcontracts so terminated, in which case the AGENCY has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;**
4. **Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the AGENT to the extent AGENT may require, which approval or ratification shall be final for all the purposes of this clause;**
5. **Transfer title to the AGENCY and deliver in the manner, at the times, and to the extent directed by the AGENT any property which, if the contract had been completed, would have been required to be furnished to the AGENCY;**
6. **Complete performance of such part of the work as shall not have been terminated by the AGENT; and**
7. **Take such action as may be necessary, or as the AGENT may direct, for the protection and preservation of the property related to this contract, which is in the possession of the CONTRACTOR and in which the AGENCY has or may acquire an interest.**

TREATMENT OF ASSETS

- A. **Title to all property furnished by the AGENCY shall remain in the AGENCY. Title to all property furnished by the CONTRACTOR, for the cost of which the CONTRACTOR is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the AGENCY upon delivery of such property by the CONTRACTOR. Title to other property, the cost of which is reimbursable to the CONTRACTOR under this contract, shall pass to and vest in the AGENCY upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the AGENCY in whole or in part, whichever first occurs.**
- B. Any property of the AGENCY furnished to the CONTRACTOR shall, unless otherwise provided herein or approved by the AGENCY, be used only for the performance of this contract.
- C. **The CONTRACTOR shall be responsible for any loss or damage to property of the AGENCY that results from the negligence of the CONTRACTOR or which results from the failure on the part of the CONTRACTOR to maintain and administer that property in accordance with sound management practices.**
- D. **If any AGENCY property is lost, destroyed or damaged, the CONTRACTOR shall immediately notify the AGENCY and shall take all reasonable steps to protect the property from further damage.**
- E. The CONTRACTOR shall surrender to the AGENCY all property of the AGENCY prior to settlement upon completion, termination or cancellation of this contract

F. All reference to the CONTRACTOR under this clause shall also include CONTRACTOR'S employees, agents or SUBCONTRACTORS.

U.S. DEPARTMENT OF TREASURY, OFFICE OF FOREIGN ASSETS CONTROL

The agency complies with U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) payment rules. OFAC prohibits financial transactions with individuals or organizations, which have been placed on the OFAC Specially Designated Nationals (SDN) and Blocked Persons sanctions list located at <http://www.treas.gov/offices/enforcement/ofac/index.html>. Compliance with OFAC payment rules ensures that the agency does not conduct business with individuals or organizations that have been determined to be supporters of terrorism and international drug dealing or that pose other dangers to the United States.

Prior to making payment to individuals or organizations, the agency will download the current OFAC SDN file and compare it to agency and statewide vendor files. In the event of a positive match, the agency reserves the right to: (1) make a determination of "reasonability" before taking the positive match to a higher authority, (2) seek assistance from the Washington State Office of the State Treasurer (OST) for advanced assistance in resolving the positive match, (3) comply with an OFAC investigation, if required, and/or (4) if the positive match is substantiated, notify the contractor in writing and terminate the contract according to the Termination for Convenience provision without making payment. The agency will not be liable for any late payment fees or missed discounts that are the result of time required to address the issue of an OFAC match.

WAIVER

Waiver of any default or breach shall not be deemed a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing and signed