



STATE OF WASHINGTON
Department of Ecology
Lacey, Washington

REQUEST FOR PROPOSAL
RFP NUMBER ECY (EXAMPLE number is 0806 HWTR)

PROPOSAL TITLE: Spokane River Regional Toxics Task Force Facilitator / Coordinator

PROPOSAL DUE DATE:

By March 13, 2012

EXPECTED TIME PERIOD FOR CONTRACT:

June 1, 2012 through June 30, 2013. Department of Ecology reserves the right at its discretion, to extend the contract for up to one (1) additional one-year periods.

BIDDER ELIGIBILITY: This procurement is open to those consultants that satisfy the minimum qualifications stated in this RFP and that are licensed and insured to work in Washington State.

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1. INTRODUCTION

1.1 PURPOSE AND BACKGROUND

The Washington State Department of Ecology referenced as "Ecology", is initiating this Request for Proposal (RFP) to solicit proposals from firms interested in providing the services of a facilitator / coordinator for the Spokane River Regional Toxics Task Force (Task Force).

The 2011 Washington NPDES wastewater discharge permits issued by the Department of Ecology for facilities discharging into the Spokane River include the requirement for creation of a Regional Toxics Task Force (Task Force). These permits state that the Task Force membership should include the NPDES permittees in the Spokane River Basin, conservation and environmental interests, the Spokane Tribe of Indians, Spokane Regional Health District, Ecology, and other appropriate interests. It is anticipated that similar permit requirements will be in the future permits issued by the Environmental Protection Agency to the NPDES permittees with facilities discharging to the Spokane River in Idaho.

A Memorandum of Agreement (MOA) that describes the Task Force operational and organizational concepts was finalized on November 29, 2011 and Task Force members have been requested to sign the MOA by February 1, 2012. The MOA describes the organizational structure, identification of the roles and responsibilities of the membership, and governance structure for formation of the Task Force. The goal of the Task Force will be to develop a comprehensive plan to bring the Spokane River into compliance with applicable water quality standards for PCBs.

To accomplish that goal it is anticipated that the Task Force functions will include:

- Identify data gaps and collect necessary data on PCBs and other toxics on the Washington 2008, Category 5, § 303(d) listing for the Spokane River (PCBs and Dioxins).
- Further analyze the existing and future data to better characterize the amounts, sources, and locations of PCBs and other toxics as defined above entering the Spokane River.
- Prepare recommendations for controlling and reducing the sources of listed toxics in the Spokane River.
- Review proposed Toxic Management Plans, Source Management Plans, and BMPs.
- Monitor and assess the effectiveness of toxic reduction measures.
- Identify a mutually agreeable entity to serve as the clearinghouse for data, reports, minutes, and other information gathered or developed by the Task Force and its members. This information shall be made publicly available by means of a website and other appropriate means.

To accomplish these functions the Task Force will provide for 1) an independent facilitator / coordinator, and 2) a community technical advisor(s) who shall assist in review of data, studies, and control measures, as well as assist in providing technical education information to the public.

This RFP solicits information from individuals and/or firms interested in providing the facilitation and coordination needs of the Task Force. Additional background information is included in the Task Force MOA which is attached to this RFP. Initially, the Task Force will hire the facilitator under an independent contract. Later, at the discretion of the Task Force, the services of the facilitator may be merged into a services agreement with the community technical advisor(s).

1.2 DESIRED SERVICES

The selected candidate (individual or team) may be called upon to provide a wide range of expertise, skills, and services including, but not limited to:

1. Scheduling Task Force meetings and subcommittee meetings, developing agendas, chairing meetings, facilitating discussions, prioritizing/scheduling topics, confirming follow-up assignments, keeping notes and writing meeting summaries.
2. Tracking the technical, regulatory and jurisdictional issues related to PCBs and surface water quality relating to the Task Force goals.
3. Coordinating with the Task Force technical advisor(s).
4. Facilitating the Task Force implementation of the MOA with attention to the relevant roles and responsibilities of the various participants.
5. Assisting the Task Force in developing strategies related to the Task Force goals, as appropriate.
6. Assisting in preparing Task Force documents, such as consolidating review comments, preparing draft letters, preparing grant application proposals, and preparing other draft documents that represent the Task Force interests.
7. Distributing communications among the Task Force and to the public.
8. Maintaining the Task Force web page and ensuring that Task Force notices and information are posted and that the web page is up-to-date.
9. Assisting with the planning and facilitation of any public meetings and technical workshops sponsored by the Task Force.
10. Supporting other activities related to the development of a Spokane River toxics reduction plan.

1.3 MINIMUM QUALIFICATIONS

The Bidder must have the facilitation skills and other qualifications necessary to meet the Desired Services described in the section above. There is no minimum number of years experience required in this RFP.

1.4 FUNDING

Any contract awarded as a result of this procurement is contingent upon the availability of funding. In the event additional funding becomes available, any contract awarded may be renegotiated to provide for additional related services.

1.5 PERIOD OF PERFORMANCE

The period of performance of any contract resulting from this solicitation is tentatively scheduled to begin on or about (June 4, 2012) and to end on (June 30, 2013). Amendments extending the period of performance, if any, shall be at the sole discretion of Ecology. Ecology reserves the right to extend the contract for one (1) additional one (1) year periods.

1.6 DEFINITIONS

Definitions for the purposes of this solicitation include:

Bidder – Individual or company submitting a proposal in order to attain a contract with Ecology.

Contractor– Individual or company whose proposal has been accepted by Ecology and is awarded a fully executed, written contract.

Ecology – The Department of Ecology is the agency of the state of Washington that is issuing this solicitation.

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

Request for Proposal (RFP) – Formal procurement document in which a service or need is identified but no specific method to achieve it has been chosen. The purpose of a solicitation is to permit the Bidder community to suggest various approaches to meet the need at a given price.

1.7 ADA

Ecology complies with the Americans with Disabilities Act (ADA). Bidders may contact the RFP Coordinator to receive this Request for Proposals in Braille or on tape.

1.8 CONTRACTING WITH CURRENT OR FORMER STATE EMPLOYEES

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. Proposers should familiarize themselves with the requirements prior to submitting a proposal that includes current or former state employees.

2. GENERAL INFORMATION FOR BIDDERS

2.1 RFP COORDINATOR

The RFP Coordinator is the sole point of contact in Ecology for this procurement. All communication between the Bidder and Ecology upon receipt of this RFP shall be with the RFP Coordinator, as follows:

Name	David Moore
Address	Washington State Department of Ecology 4601 N. Monroe St.
City, State, Zip Code	Spokane, WA 99205-1295
Phone Number	509-329-3514
Fax Number	509-329-3570
E-Mail Address	david.moore@ecy.wa.gov

Any other communication will be considered unofficial and non-binding on Ecology. Bidders are to rely on written statements issued by the RFP Coordinator. Communication directed to parties other than the RFP Coordinator may result in disqualification of the Bidder.

2.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Issue Request for Proposals	March 2, 2012
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Proposals due	April 13, 2012
Selection committee evaluation of proposals	Week of April 16, 2012
Notification of short list candidates for interviews	April 23, 2012
Conduct candidate interviews	Week of May 7, 2012
Selection committee evaluation of interviews	Week of May 14, 2012
Notice of selected candidate	Week of May 21, 2012
Negotiate contract	May 22 – June 1, 2012
Begin contract work	Week of June 4, 2012

Department of Ecology reserves the right to revise the above schedule.

2.3 QUESTIONS AND ANSWERS DURING RFP PROCESS

The RFP Coordinator is the sole point of contact in Ecology for this procurement.

Written questions must be submitted in advance to the RFP Coordinator. Ecology shall be bound only to written answers to questions. Any oral responses given at anytime during the RFP process shall be considered unofficial.

Questions arising at any time during the RFP process with the RFP Coordinator will be documented and answered in written form. A copy of the questions and answers in the form of an Addendum to the solicitation will be placed on Ecology’s website at same location of this solicitation (www.ecy.wa.gov select “Business” and “Doing Business with Ecology,” then the appropriate solicitation) and Department of General Administration website (<https://fortress.wa.gov/ga/webscust/>).

2.4 SUBMISSION OF PROPOSALS and PROPOSAL CONTENTS

Proposals must be limited to no more than fifteen (15) pages, excluding attached resumes. One (1) hard copy and an electronic copy must be submitted. Proposals shall not be transmitted via facsimile. The proposal must be received by Ecology no later than date and time stated in Section 2.2 of this solicitation. The proposal is to be sent to the RFP Coordinator at the address noted in Section 2.1 of this solicitation.

When submitting the proposal electronically, the response must be submitted as a WORD document and as an attachment to an e-mail to the RFP Coordinator, see Section 2.1. Ecology does not assume responsibility for any problems in the e-mail system(s). The original signed Exhibit A, Certifications and Assurances, must be sent to RFP Coordinator in addition to the electronic submittal.

Late proposals will not be accepted and will be automatically disqualified from further consideration. The proposal must be complete and must stand on its own merits.

Proposals must be submitted or able to print on eight and one-half by eleven (8 1/2 x 11) inch paper. The four major sections of the proposal are to be submitted in the order noted below:

State of Washington
 Department of Ecology
 RFP ECY _____

- Original signed Certifications and Assurances (Exhibit A to this solicitation)
- Technical Proposal (Exhibit C to this solicitation)
- Management Proposal (Exhibit D to this solicitation)
- Cost Proposal (Exhibit E to this solicitation)
- References (Exhibit F to this solicitation)

Proposals must provide information in the same order as presented in this solicitation with the same headings. Items in this section marked “mandatory” or “mandatory/scored” must be included as part of the proposal for the proposal to be considered responsive.

2.5 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE

Proposals submitted in response to this competitive procurement shall become the property of the AGENCY.

All proposals received shall remain confidential until the contract, if any, resulting from this RFP is signed by the Director of the AGENCY and the apparent successful Contractor; thereafter, the proposals shall be deemed public records as defined in RCW 42.56.

Any information in the proposal that the Consultant desires to claim as proprietary and exempt from disclosure under the provisions of RCW 42.56 must be clearly designated. The page must be identified and the particular exception from disclosure upon which the Consultant is making the claim. Each page claimed to be exempt from disclosure must be clearly identified by the word “Confidential” printed on the lower right hand corner of the page.

The AGENCY will consider a Consultant’s request for exemption from disclosure; however, the AGENCY will make a decision predicated upon RCW 42.56. Marking the entire proposal exempt from disclosure will not be honored. The Consultant must be reasonable in designating information as confidential. If any information is marked as proprietary in the proposal, such information will not be made available until the affected proposer has been given an opportunity to seek a court injunction against the requested disclosure.

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 RFP Coordinator is required. All requests for information should be directed to the RFP Coordinator.

2.6 REVISIONS TO THE SOLICITATION

If it becomes necessary to revise any part of this solicitation, addenda will be published on Ecology’s web site, as follows: www.ecy.wa.gov, select “Business” and “Doing Business with Ecology,” then the appropriate solicitation, as well as at the Department of General Administration’s WEBS website <https://fortress.wa.gov/ga/webscust/>.

Ecology also reserves the right to cancel or to reissue the solicitation in whole or in part, prior to execution of a contract.

2.7 MINORITY & WOMEN-OWNED BUSINESS PARTICIPATION

The state of Washington encourages participation by firms certified by the Office of Minority and Women's Business Enterprises (OMWBE). However, no preference will be included in the evaluation of proposals. Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the contract documents will apply. 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 Ecology from the due date for receipt of proposals.

2.9 RESPONSIVENESS

All proposals will be reviewed by the RFP Coordinator in consultation with the Task Force selection committee to determine compliance with administrative requirements. Failure to comply with any part of the solicitation may result in rejection of the proposal as non-responsive.

Ecology also reserves the right to waive minor administrative irregularities.

2.10 MOST FAVORABLE TERMS

Ecology reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal shall be submitted initially on the most favorable terms that the Bidder can propose. There will be no best and final offer procedure. Ecology does reserve the right to contact a Bidder for clarification of the proposal during the evaluation process. In addition, if the Bidder is selected as the apparent successful contractor, Ecology reserves the right to enter into contract negotiations with the apparent successful contractor, which may include discussion regarding the terms of the proposal. Contract negotiations may result in incorporation of some or all of the Bidder's proposal. The Bidder is to be prepared to accept this RFP for incorporation into a contract resulting from this RFP. It is also understood that the proposal will become part of the official procurement file.

2.11 CONTRACT AND GENERAL TERMS & CONDITIONS

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

2.12 COSTS TO PROPOSE

Ecology will not be liable for any costs incurred by the Bidder in preparation of a proposal submitted in response to this RFP, in conduct of a presentation, or any other activities related to responding to this RFP.

2.13 NO OBLIGATION TO CONTRACT

This solicitation does not obligate the state of Washington or Ecology to contract for services specified in this RFP.

2.14 REJECTION OF PROPOSALS

Ecology 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 RFP.

2.15 COMMITMENT OF FUNDS

The Director of Ecology or his/her delegate are the only individuals who may legally commit Ecology to the expenditures of funds for a contract resulting from this RFP. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

2.16 ELECTRONIC PAYMENT

The state of Washington prefers to utilize electronic payment in its transactions. The successful contractor will be provided a form to complete with the contract to authorize such payment method.

2.17 INSURANCE COVERAGE

The Contractor shall, at its own expense, obtain and keep in force insurance coverage that 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 Ecology within fifteen (15) days of the contract effective date.

Liability Insurance

- 1) Commercial General Liability Insurance: shall maintain general liability (CGL) 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. 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 insured’s (cross liability) condition.

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

- 2) 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.”

Additional Provisions

Above insurance policy shall include the following provisions:

- 1. Additional Insured. The state of Washington, Department of Ecology, 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.

2. Cancellation. State of Washington, Department of Ecology, shall be provided written notice before cancellation or non-renewal of any insurance referred to and 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.
3. Identification. Policy must reference the State's contract number and the agency name.
4. Insurance Carrier Rating. All insurance and bonds shall 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 Ecology Risk Manager, 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.
5. Excess Coverage. By requiring insurance, 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.

Worker's 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 (MANDATORY)

Proposals must be limited to no more than fifteen (15) pages, excluding attached resumes. One (1) hard copy and an electronic copy must be submitted. The proposal must be received by the Ecology no later than date and time stated in Section 2.2 of this solicitation. The proposal is to be sent to the RFP Coordinator at the address noted in Section 2.1 of this solicitation. The proposal must be complete and must stand on its own merits.

When submitting the proposal electronically, the response must be submitted as a WORD document and as an attachment to an e-mail to the RFP Coordinator, see Section 2.1. Ecology does not assume responsibility for any problems in the e-mail. Proposals must be submitted or able to print on eight and one-half by eleven (8 1/2 x 11) inch paper.

Late proposals will not be accepted and will be automatically disqualified from further consideration.

3.1 LETTER OF SUBMITTAL (MANDATORY)

The Letter of Submittal and the attached Certifications and Assurances form (Attachment A to this RFP) 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 if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Along with introductory remarks, the Letter of Submittal is to include by attachment the following information about the Consultant and any proposed subcontractors:

1. Name, address, principal place of business, telephone number, and fax number/email address of legal entity or individual with whom a contract would be written.
2. Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.).
3. Legal status of the Consultant (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
4. 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.
5. Location of the facility from which the Consultant would operate.
6. Identity of state employees or former state employees employed or on the firm'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 ECOLOGY that a conflict of interest exists, the Consultant may be disqualified from further consideration for the award of a contract.

3.2 TECHNICAL PROPOSAL (MANDATORY/SCORED)

The Technical Proposal must contain a comprehensive description of services SUCH AS the following elements:

- A. Project Approach/Methodology – Include a complete description of the Contractor's proposed facilitation approach and methodology for the project, the tasks associated with facilitating a typical Task Force meeting, and project considerations. This section should convey Contractor's understanding of the proposed project.
- B. Work Plan – Include all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project defined in this RFP. This section of the Technical Proposal must contain sufficient detail to convey to members of the evaluation team the Contractor's knowledge of the subjects and skills necessary to successfully complete the project. Include any required involvement of Ecology staff. The Contractor may also present any

creative approaches that might be appropriate and may provide any pertinent supporting documentation.

C. Project Schedule – Include a project schedule relating to a typical Task Force meeting indicating when the elements of the work will be completed and when deliverables will be provided.

D. Deliverables – Fully describe deliverables relating to a typical Task Force meeting to be submitted under the proposed contract.

E. Outcomes and Performance Measurement – Describe the impacts/outcomes the Contractor proposes to achieve as a result of the delivery of these services including how these outcomes would be monitored, measured and reported to Ecology.

3.3 MANAGEMENT PROPOSAL (MANDATORY/SCORED)

A. Project Management (MANDATORY)

1. Project Team Structure/Internal Controls - Provide a description of the proposed project team structure and internal controls to be used during the course of the project, including any subcontractors. Provide an organizational chart of your firm indicating lines of authority for personnel involved in performance of this potential contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management. Include who within the firm will have prime responsibility and final authority for the work.
2. Staff Qualifications/Experience – Identify staff, including subcontractors, who will be assigned to the potential contract, indicating the responsibilities and qualifications of such personnel, and include the amount of time each will be assigned to the project. Provide résumés (no more than 2 pages) for the named staff, which include information on the individual’s particular skills related to this project, education, experience, significant accomplishments and any other pertinent information. The Consultant must confirm availability and commit staff identified in its proposal will actually perform the assigned work. Any staff substitution must have the prior approval of Ecology.

B. Experience of the Consultant (MANDATORY/SCORED)

1. Indicate the experience the Consultant and any subcontractors have in relation to the Desired Services described in Section 1.2 above.
2. Indicate other relevant experience of the Consultant, and any subcontractors, for the performance of the potential contract.

3. Present examples of projects / services provided in the last five years that are similar to the services needed under this RFP. List contract reference numbers, contract period of performance, contact persons, telephone numbers, and fax numbers/e-mail addresses. Indicate if the proposed team members worked on the project and in what role.

C. References (MANDATORY)

List names, addresses, telephone numbers, and fax numbers/e-mail addresses of three business references for whom work has been accomplished and briefly describe the type of service provided. The Consultant and staff proposed to provide the services must grant permission to Ecology to contact references, and others for whom services have been provided. Do not include current Ecology staff as references. References will be contacted and scored for the top-ranking proposal(s) only.

D. Related Information (MANDATORY)

1. If the Consultant or any subcontractor contracted with the state of Washington during the past 24 months, indicate the name of the agency, the contract number and project description and/or other information available to identify the contract.
2. 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.
3. 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.
4. 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. Ecology will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. If no such termination for default has been experienced by the Consultant in the past five years, so indicate.

3.4 OMWBE CERTIFICATION (OPTIONAL)

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

3.5 COST PROPOSAL

The project will be executed on a time and materials basis. Funding available for the first year of Task Force facilitation and coordination support is approximately \$64,000.00.

The evaluation process is designed to award this procurement not necessarily to the Bidder of least cost, but rather to the Bidder whose proposal best meets the requirements of this solicitation and provides the best value to the state of Washington and Task Force. Non-responsive proposals will not be evaluated.

A. Identification of Costs

The Bidder is shall submit a cost estimate for facilitation of one typical Task Force meeting, including staff costs, administrative costs, travel costs, and any other expenses necessary to accomplish the tasks associated with facilitation of a typical meeting. The Bidder shall also provide a description of how costs would be controlled.

Note: A detailed scope of work and project budget will be developed by the selected Bidder during contract negotiations. Bidders are required to collect and pay Washington State sales tax, if applicable.

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 that includes Task Force members, to be designated by Ecology, which will determine the ranking of the proposals. Ecology, at its sole discretion, may elect to select the top-scoring firms as finalists for an oral presentation.

4.2 CLARIFICATION OF PROPOSAL

The RFP Coordinator may contact the Bidder for clarification of any portion of the Bidder’s proposal.

4.3 EVALUATION WEIGHTING AND SCORING

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

1. Demonstrated experience and ability facilitating meetings to build consensus among parties with diverse interests	50
2. Demonstrated experience and ability to assist in strategy formation for solving complex problems	15
3. Demonstrated experience and ability to communicate complex environmental issues	15
4. Understanding of water quality standards and technical issues related to Task Force goals	10
5. Understanding of the regulatory agencies, sovereign governments, and stakeholders involved in the Task Force	<u>10</u>
Total Points	100

The selection of a consultant will be based on qualifications presented in the proposals, interviews and references.

4.4 ORAL PRESENTATIONS MAY BE REQUIRED

Written submittals and oral presentations, if considered necessary, will be utilized in selecting the winning proposal. Ecology, at its sole discretion, may elect to select the top scoring finalists from the written evaluation for an oral presentation and final determination of contract award. Should Ecology elect to hold oral presentations, it will contact the top-scoring firm(s) to schedule a date, time, and location. Commitments made by the Bidder at the oral interview, if any, will be considered binding.

The scores from the written evaluation and the oral presentation may be combined to determine the apparently successful contractor.

4.5 NOTIFICATION TO BIDDERS

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

4.6 DEBRIEFING OF UNSUCCESSFUL BIDDERS

Upon request, a debriefing conference will be scheduled with an unsuccessful Bidder. The request for a debriefing conference must be received by the RFP Coordinator within three (3) business days after the notification of unsuccessful Bidder e-mailed to the Bidder(s). The debriefing must be held within three (3) business days of the request.

Discussion will be limited to a critique of the requesting Bidder'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 (1) hour.

4.7 PROTEST PROCEDURE

This procedure is available to Bidders who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Bidder is allowed three (3) business days to file a protest of the acquisition with the RFP Coordinator.

Bidders 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 Bidders under this solicitation.

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 must also be included. All protests shall be addressed to the RFP Coordinator.

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

State of Washington
Department of Ecology
RFP ECY _____

- A matter of bias, discrimination or conflict of interest on the part of the evaluator.
- Errors in computing the score.
- Ecology failed to follow procedures establish in the solicitation.

Protests not based on procedural matters will not be considered.

Upon receipt of a protest, a protest review will be held by Ecology. Ecology 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 (5) 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 Bidder that submitted a proposal, such Bidder will be given an opportunity to submit its views and any relevant information on the protest to the RFP Coordinator.

The final determination of the protest shall:

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

If Ecology determines that the protest is without merit, Ecology 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.

EXHIBIT A CERTIFICATIONS AND ASSURANCES

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):

1. I/we declare that all answers and statements made in the proposal are true and correct.
2. 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.
3. The attached proposal is a firm offer for a period of 60 days following receipt, and it may be accepted by Ecology without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
4. 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.)
5. I/we understand that Ecology will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of Ecology, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Bidder or to any competitor.
7. 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.
8. No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
9. I/we grant Ecology the right to contact references and others, who may have pertinent information regarding the Bidder's prior experience and ability to perform the services contemplated in this procurement.

On behalf of the firm submitting this proposal, my name below attests to the accuracy of the above statements.

Signature of Bidder Title Date

EXHIBIT B SAMPLE CONTRACT AND GENERAL TERMS/CONDITIONS

CONTRACT NO.

CONTRACT FOR PERSONAL SERVICES

BETWEEN

STATE OF WASHINGTON

AND

This Contract is made and entered into by and between the state of Washington, Department of Ecology, referred to as the "Ecology", and the below named firm, referred to as "Contractor."

Contractor Name

Address

City, State, Zip-Code

Phone

Fax

E-mail

Washington State UBI
Number

Federal ID Number

PURPOSE

The purpose of this contract is to:

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 Ecology 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:

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.

- 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 _____, the Contract Manager, in accordance with the schedule above.

PERIOD OF PERFORMANCE

The period of performance under this contract will be from _____ through _____. Amendments extending the period of performance, if any, shall be at the sole discretion of Ecology. Ecology reserves the right to extend the contract for _____ (_____) additional one (1) year periods.

10-Day Filing (Do not use if contract is not being filed with OFM)

Under the provisions of Chapter 39.29 RCW, this personal service contract [*or amendment*] is required to be filed with the Office of Financial Management (OFM). No contract required to be so filed is effective and no work shall be commenced nor payment made until ten (10) working days following the date of filing, and if required, until approved by OFM. In the event OFM fails to approve the contract, the contract shall be null and void.

COMPENSATION

Total compensation payable to Contractor for satisfactory performance of the work performed under this contract shall not exceed _____ (\$ _____) inclusive of all costs.

Expenses

Contractor may receive reimbursement for travel and other expenses as authorized in advance by Ecology as reimbursable. 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

Ecology will pay Contractor upon acceptance of services provided and receipt of properly completed invoices – using Invoice Voucher A19-1A, which shall be submitted to the Contract Manager not more often than monthly.

The invoices (Invoice Voucher A19-1A) shall describe and document, to Ecology’s satisfaction, a description of the work performed the progress of the project, and fees. The invoice shall include reference to Contract No. . 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 Ecology within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.

Ecology 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 Ecology.

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.

Contract Manager for CONTRACTOR is:	Contract Manager for Ecology is:
<i>Contract Mgr Name</i> Contractor Name Address City, State Zip Code Phone: () Fax: () E-mail address:	<i>Contract Mgr Name</i> Agency Name Address City, State Zip Code Phone: () Fax: () E-mail address:

INSURANCE

The Contractor shall provide insurance coverage as set out in this section. 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 insured's under the insurance policy/ies. All policies shall be primary to any other valid and collectable insurance. Contractor shall instruct the insurers to give Ecology thirty (30) calendar days advance notice of any insurance cancellation.

Contractor shall submit to Ecology 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.

ASSURANCES

Ecology 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:

- Applicable Federal and state of Washington statutes and regulations;
- Special Terms and Conditions as contained in this basic contract instrument;
- Exhibit A – General Terms and Conditions;
- Exhibit B – Contractor’s Proposal dated _____ ; and
- Request for Proposals No. _____ , incorporated by this reference;
- Any other provision, term or material incorporated by reference or otherwise incorporated.

ENTIRE AGREEMENT

This contract, including referenced exhibits, represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral, shall be deemed a part hereof.

CONFORMANCE

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

APPROVAL

This contract shall be subject to the written approval of Ecology’s authorized representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

THIS CONTRACT is executed by the persons signing below, who warrant they have the authority to execute the contract.

[CONTRACTOR’S NAME]

Department of Ecology

Signature

Signature

Title

Date

Title

Date

Approved as to form only: Attorney General Office

EXHIBIT B 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 Department of Ecology 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.

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:
 - A. Be in writing;
 - B. State the disputed issue(s);
 - C. State the relative positions of the parties;
 - D. State the CONTRACTOR's name, address, and contract number; and

- E. Be mailed to the AGENT and the other party's (respondent's) contract manager within three (3) business 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 five (5) business days.
3. The AGENT shall review the written statements and reply in writing to both parties within ten (10) business 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 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.

Funding

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 (10) day notice requirement, subject to renegotiation at the AGENCY'S discretion under those new funding limitations and conditions.

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.

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 the 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 Washington State Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's right to collect from the CONTRACTOR.

Invoice

Invoice Voucher A-19-1 shall provide:

1. Contract Number
2. Month of Service
3. Other Janitorial tasks as directed to perform indicated hours work, hourly rate, and total cost
4. Total amount of invoice

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.

Non-compliance with Non-discrimination Laws

In the event of the CONTRACTOR's non-compliance or refusal to comply with any non-discrimination 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 non-compliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

Payment

Payment shall be made within thirty (30) days of a properly completed invoice, form A19-1A.

OSHA/WISHA Standards

CONTRACTOR agrees to comply with conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA), and the Washington Industrial Safety and Health Act of 1973 (WISHA) during the entire term(s) of said contract.

Prevailing Wage

CONTRACTOR agrees to comply with conditions, <http://www.lni.wa.gov/TradesLicensing/PrevWage/default.asp> during the entire term(s) of said contract.

Questions should be directed to the Industrial Statistician, Department of Labor and Industries. By this reference these wage rates are made part of this contract.

The CONTRACTOR must submit to the Industrial Statistician of the Department of Labor and Industries a "Statement of Intent to Pay Prevailing Wages." A copy of the approved intent statements must be submitted to the AGENCY in order to receive the first progress payment on this contract.

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 (6) 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.

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 AGENCY 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 thirty (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 ten (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 AGENCY 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 AGENCY, 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 AGENCY, 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 AGENCY to the extent AGENCY 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 AGENCY 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 AGENCY; and
7. Take such action as may be necessary, or as the AGENCY 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

1. Title to all property furnished by the AGENCY shall remain in the AGENCY. 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.
2. 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.
3. The CONTRACTOR shall be responsible for any loss or damage to property of the AGENCY that results from the negligence of the CONTRACTOR or that results from the failure on the part of the CONTRACTOR to maintain and administer that property in accordance with sound management practices.

4. 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.
5. The CONTRACTOR shall surrender to the AGENCY all property of the AGENCY prior to settlement upon completion, termination or cancellation of this contract.
6. All reference to the CONTRACTOR under this clause shall also include CONTRACTOR's employees, agents or SUBCONTRACTOR's.

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 by authorized representative of the AGENCY.

EXHIBIT C COST PROPOSAL

This will be the required “cost proposal” format Program wants the bidders to utilize.

EXHIBIT D PROFESSIONAL REFERENCE FORM

This will be the format Program wants bidders to use when providing reference's information.