

**THE WASHINGTON STATE
HOUSING FINANCE COMMISSION**

**REQUEST FOR PROPOSALS
TO PERFORM UTILITY ALLOWANCE ANALYSIS
FOR LIHTC PROPERTIES**

**Deadline for submission:
Monday, November 6, 2017 4:00PM Pacific Time**

All bids must be submitted in hard copy format, delivered to the
Commission's offices as follows:

WSHFC
1000 2nd Avenue
Suite 2700
Seattle WA 98104
ATTN: Melissa Donahue

REQUEST FOR PROPOSALS
TO PERFORM UTILITY ALLOWANCE ANALYSIS
FOR LIHTC PROPERTIES
for the
WASHINGTON STATE HOUSING FINANCE COMMISSION

OVERVIEW

The Washington State Housing Finance Commission (the “**Commission**”) is requesting submissions in response to this Request for Proposals from firms with experience conducting analysis on utility allowance types and methods for federally-funded multifamily rental housing. The purpose is for a consultant to analyze requests for alternate utility allowance methods to be used in Low Income Housing Tax Credit (LIHTC) properties in Washington State. The contract includes analyzing data for the Commission’s policy-making purposes, and may include making recommendations regarding the effectiveness of creating a single energy consumption utility allowance model and process for all state-financed LIHTC properties.

Important Dates

- Written Requests for Additional Information deadline: October 23, 2017
- Written Q&A to be published in response to all Requests for Additional Information October 30, 2017
- **Proposal Delivery Deadline:** **November 6, 2017**
- Tentative Selection of Contractor November 27, 2017
- Negotiate and sign contract December 2017
- Begin contract work January 1, 2018

The RFP document, written response to Requests for Additional Information and any additional amendments to the RFP will be published on both the Commission’s website (<http://www.wshfc.org/index.htm>) as well as the Washington Electronic Business Solution for Vendors (<https://fortress.wa.gov/ga/webs/>) (requires registration).

BACKGROUND AND PURPOSE

Treasury Regulation 1.42-10 provides utility allowance regulations for the LIHTC Program. In 2008, the IRS expanded the regulations to include additional acceptable methods for owners to use in calculating utility allowances for their LIHTC properties.

To ensure compliance with IRS Code Section 42, the Commission currently analyzes all requests for the use of alternate utility allowance methods for electric, natural gas, water and sewer utilities, including the Energy Consumption model, the HUD Utility Schedule model, and Actual Building

Usage model. Due to increased workload in this area, the Commission wishes to outsource review of this analysis and the approval/denial of alternate method requests. The Commission is also interested in using utility allowance data to inform policy decisions and in considering whether to transition to a single energy consumption model as the allowable alternate utility allowance method for all LIHTC properties. A qualified consultant is critical to helping us through this thought process.

All services will be performed under an agreement with the selected Contractor (the “**Services**”). Such agreement will be in the form of a master agreement (the “**Master Agreement**”) describing the general terms under which unspecified statements of work and services will be individually defined. The actual amount of work and services executed under the Master Agreement may range from no authorized work in a given year up to the dollar limit for the contract period.

More than one Contractor may be selected based on qualification and selection criteria and scoring of responses.

MINIMUM REQUIREMENTS

Required experience, knowledge, skills, and abilities are as follows:

1. Licensed to do business in the State of Washington or provide a commitment that it will become licensed in Washington within thirty (30) calendar days of being selected as the Apparently Successful Contractor.
2. Must be able to demonstrate that core business or a substantial part of consulting business is related to multifamily building utility analysis, both by unit and in common areas.
3. Must be able to demonstrate familiarity with regional and national data and trends of utility consumption and building performance.
4. Must have at least 5 years of experience working on utility and building performance issues.
Preference will be given to Contractors who work regularly with Housing Finance Agencies, particularly those HFAs whose properties operate in climates substantively the same as the Pacific Northwest.

SCOPE OF WORK TO BE PERFORMED

The Commission expects the responsibilities of the successful Contractor to include the following:

- Analyze all requests for the use of alternate utility allowance methods.
- Communicate with Agency staff on all requests.
- Ensure stakeholders receive timely notifications of receipt, analysis and final determinations concerning their requests.
- Ensure stakeholders have submitted sufficient documentation to provide accurate analysis of requested method.
- Ensure stakeholder submissions follow all requirements of the alternate utility allowance policy as outlined in the Commission Compliance Procedures Manual.
- Follow up as needed with stakeholder-hired firms or individuals who have prepared the proposed methods.

- Maintain all request and analysis-related data in accessible format so Agency can make informed decisions about utility allowance procedures/policies and use data to inform other key business decisions.
- Have the capacity and resources in-house to perform additional analysis - using state-specific housing profiles, geographic, climate and building data - to determine if creating an Agency-maintained single utility allowance energy consumption model would be a more effective business decision than current options allowed by Agency policy.
 - NOTE: The development of a single utility allowance energy consumption model is not included in the Scope of Work of this Request for Proposals. Should the Commission decide to proceed with the development of a single utility allowance energy consumption model, that work would be governed by a separate contract.

Upon notification by the Commission, the Contractor will analyze a LIHTC property owner's request to use utility allowances calculated using an alternate utility allowance method. The analysis must include analysis of methodology, inputs, calculations, assumptions, current utility rates, fees and taxes, and final outputs. Analysis must include confirmation that all relevant documentation has been submitted and that it supports final decision regarding request.

For each individual property analysis, Contractor shall prepare and electronically submit via email a final summary after analysis and an approval or denial letter for the Commission's signature and forwarding to the property owner. The summary and final decision should be completed within 2 weeks of the initial request or annual update deadline.

The Consultant will keep track of which owners need to annually submit utility allowance schedule renewals and send them correspondence reminding them of pertinent documentation and deadlines. Such renewals typically involve applying new utility rates to previously approved consumption estimates.

The Consultant must keep all data in reference to property analyses available for reporting to Commission staff.

The Consultant must have sufficient resources to assist Commission in reviewing current utility allowance policies to ensure they are positioned for maximum efficiency and success.

The Consultant must have sufficient resources to make a formal recommendation to the Commission regarding the possibility of creating a single energy consumption model to be the allowable alternate utility allowance model for all LIHTC properties. The Consultant should have sufficient resources to be able to develop an alternate model platform and related materials for stakeholders if the Commission determines this is an appropriate course of action.

NOTE: The development of a single utility allowance energy consumption model is not included in the Scope of Work of this Request for Proposals. Should the Commission decide to proceed with the development of a single utility allowance energy consumption model, that work would be governed by a separate contract.

A copy of any communication, i.e. correspondence, documentation, summary of telephone meetings, or other documentation or documented communication relating to this contract, other than the documents specifically bound by timeframes described above, must be provided to the Commission upon request.

PROPOSAL FORMAT

1. Each item in **PROPOSAL CONTENT** section of this Request for Proposals must be addressed.
2. Identify the item to be addressed in each response.

PROPOSAL CONTENT

1. The Contractor shall provide an Executive Summary which gives in brief and concise terms a summation of the proposal.
2. The proposal itself shall be organized in the following format and informational sequences:

Part I - Business Organization: State full name and address of your organization and identify parent company if the entity is a subsidiary. Specify the branch office or other subordinate element that will perform, or assist in performing, work herein. Indicate whether the entity operates as a partnership, corporation, or individual. Include the State in which the individual or entity is incorporated or licensed to operate and the organization's Federal tax ID number.

Part II - Program: Describe the technical plan or standard operating procedures for accomplishing required work. Include such displays, graphs, and charts as necessary to show tasks, sub-tasks, milestones, and decision points related to the Scope of Work and the plan for accomplishment. Specifically indicate:

- A. A description of steps to be performed in proceeding from receipt of a property alternate utility allowance request to final decision and completion of reports.
- B. A description of familiarity with various utility modeling platforms (i.e. eQuest, BEopt, Trace, etc.) and ability to review utility allowance submissions that may use a variety of software platforms. Please describe experience with electric, natural gas and water/sewer consumption analysis.
- C. A description of your experience with IRS utility allowance regulations.
- D. A description of steps to be taken in the review of the Commission's utility allowance policies regarding whether the Commission should adopt a single utility allowance energy consumption model.
 - a. Description of the Contractor's capability and/or relevant experience in

developing and maintaining a single utility allowance energy consumption model (optional).

- E. The ability to perform analyses on a timely basis.
- F. A statement of the entity's compliance with all applicable rules and regulations of Federal, State and Local governing entities. Contractor must state the Contractor's intent to comply with the terms of this Request for Proposals.

Part III - Project Management Structure: Provide a general explanation and an organizational chart which specifies project leadership and reporting responsibilities. Identify personnel who would be working with Commission staff.

Part IV - Prior Experience: Describe only relevant corporate experience and individual experience for personnel who will be actively engaged in the project. Do not include corporate experience unless personnel assigned to this project actively participated. Supply the project title, year, and reference name, as well as title, present address, phone number and email address of principal person for whom prior projects were completed.

Part V - Personnel: Include names, qualifications, including specific training and education, and pertinent certifications and licenses of all professional personnel who will be assigned to this project. State the primary work assigned to this person and the percentage of time each person will devote to this work. Identify key persons by name and title. Provide resumes for all key persons identified.

Part VI - Authorized Negotiator: Include name, address, email address, and telephone number of person in the organization authorized to negotiate contract terms and render binding decisions on contract matters.

Part XII – Conflict of Interest: Contractor must disclose and provide an affidavit of any potential conflicts with any of the Commission's affiliated Developments, Owners and/or Management Companies.

- A. Successful Contractor cannot enter new contracts with the owner or management company of a new or existing Commission property that may be analyzed by Consultant under this contract.
- B. Contractors who have previously provided utility allowance analyses for Commission-regulated properties must describe how they intend to minimize conflicts of interest, such as through the use of subcontractors.

Part XIII - Price Proposal: The proposed method of pricing must be included and described. The bid amount must include all costs associated with the scope of work.

Additional information which is reasonably necessary for the Commission to fairly and comprehensively evaluate proposals may be enclosed. It should be limited to information which

clarifies and substantiates written responses. All proposals will become the property of the Commission and will not be returned. The response to the RFP will be made part of the contract.

SUBMISSION REQUIREMENTS

Instructions and Deadline for Submitting Proposals

Five (5) paper copies of each proposal must be submitted to Melissa Donahue by 4:00 p.m., Pacific Time, Monday, November 6, 2017 at the office of the Washington State Housing Finance Commission, 1000 Second Avenue, Suite 2700, Seattle, Washington 98104. A proposal will be considered late if received at any time after 4:00 p.m. 11/6/17. Late proposals will not be considered.

No facsimile (FAX) transmitted proposals OR emailed proposals will be accepted.

RFP Coordinator at the Commission:

All correspondence:

Melissa A. Donahue, Manager
Asset Management & Compliance Division
Washington State Housing Finance Commission
1000 Second Avenue, Suite 2700
Seattle, Washington 98104
melissa.donahue@wshfc.org
Direct Phone: (206) 287-4444

Contractors 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 Contractor.

Questions about the RFP:

Contractors may email the RFP Coordinator with questions regarding the information contained in this RFP no later than 5:00PM Pacific Time on **October 23, 2017**. This will be the deadline by which to ask questions about the RFP. The RFP Coordinator will respond to all written questions received by 10/23/17 by creating a written *Questions and Answers* document which will be published to the Commission's website and Washington State's W.E.B.S. website. The Q&A document will be published no later than 5:00PM Pacific Time on **October 30, 2017**.

Revisions to the RFP

In the event it becomes necessary to revise any part of this RFP, addenda will be published on the Commission's website at www.wshfc.org, and will be posted on the State of Washington's Web Based vendor system at (<https://fortress.wa.gov/ga/webs/>). For this proposal, the published questions and answers and any other pertinent information shall be provided as an addendum to the RFP and will be placed on the Commission's website as well as the WEBS site.

ADDITIONAL INFORMATION

The Commission reserves the right to seek clarification of each proposal and the right to negotiate a final contract in its best interest, considering cost effectiveness and the level of time and effort required for the services.

The Master Agreement shall contain the terms set forth in Section 4 below and Attachment III hereto and other terms and conditions customary for this type of contract.

By submitting a proposal, Contractors agree that they waive any claim against the Commission, the State of Washington, and their respective agents, affiliates, officers, and employees for recovery of any costs or expenses incurred in or associated with preparing and submitting a proposal.

Contractor Reporting

Successful Contractor will be expected to meet on a periodic basis with the Commission's lead staff person to report on progress toward completing specific work under the Master Agreement Contract.

Method and Schedule of Contract Payment

The basis for payment will be agreed upon prior to commencement of a contract. The successful Contractor will submit a request for payment on the form and in the manner to be specified by the Commission in accordance with state requirements. Any other services will be billed per an agreed upon services plan.

Criteria for Evaluating Proposals

The Commission's staff will evaluate all proposals/bids and accept the one that it believes to be in the best interest of the Commission. Price will not be the sole determining factor in the selection of a proposal/bid. The Commission shall not be obligated to award a contract pursuant to this Request for Proposal/Bid and may reject any or all proposals/bids.

Principal considerations will be:

1. The qualifications and relevant experience of the individual personnel assigned to the Master Agreement.
2. The capacity to respond timely to requests for work within fifteen (15) days of request during Master Agreement Term.

Award Notice

After completing the evaluation of all proposals and, if deemed necessary, interviews, the selection committee will tentatively select the company that will provide the services. A final award, however, will be contingent upon successful negotiation of a final Master Agreement.

If the Commission is unable to negotiate a mutually satisfactory Master Agreement with its first choice, it may, in its sole discretion, negotiate with its secondary choices or cancel and reissue a new RFP.

Commission Support for the Contractor

Identified members of the Commission staff will assist in coordinating the work of the successful Contractor with the Commission staff and other persons as required for the completion of the Master Agreement. The staff will work with the Contractor to complete the work in a timely manner as required by the Master Agreement. Contractor is expected to provide their own materials necessary to complete the work under the Master Agreement Contract.

MASTER AGREEMENT AND GENERAL TERMS AND CONDITIONS

The apparent successful Contractor will be expected to enter into the Master Agreement generated by the Commission in accordance with guidelines provided by the State of Washington, including its general terms and conditions (as set forth in Attachment III hereto), and other standard provisions customary to such services agreements. In no event is the Contractor to submit its own standard terms and conditions in response to this procurement. The Contractor may submit exceptions to the general terms and conditions. The Commission will review requested exceptions and accept or reject the same at its sole discretion.

Insurance Coverage

The selected Contractor is to furnish the Commission with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below.

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 Master Agreement. 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 Commission within fifteen (15) days of the Master Agreement effective date.

Liability Insurance

- 1) Commercial General Liability Insurance: Contractor 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.

- 2) Additionally, the Contractor is responsible for ensuring that any Sub-Contractors provide adequate insurance coverage for the activities arising out of subcontracts. 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 the Commission thirty (30) calendar days advance notice of any insurance cancellation.

Contractor shall submit to the Commission 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.

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:

1. Additional Insured. The state of Washington, Washington State Housing Finance Commission, 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 the Master Agreement shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State.
2. Cancellation. State of Washington, Washington State Housing Finance Commission 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 forty-five (45) days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the State shall be given ten (10) days advance notice of cancellation. Insurers subject to 48.15 RCW (Surplus lines): The State shall be given twenty (20) days advance notice of cancellation. If cancellation is due to non-payment of premium, the State shall be given ten (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 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 Washington State Housing Finance Commission. 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 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 Master Agreement.

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.

Proprietary Information/ Public Disclosure

All proposals will become the property of the Commission and will not be returned to the Contractor.

All proposals received shall remain confidential until the Master Agreement. If any Master Agreement resulting from this RFP is signed by the Executive Director of the Commission and the apparent successful Contractor, the proposals shall be deemed public records as defined in RCW 42.17.250 to 42.17.340, "Public Records."

Any information in the proposal that the Contractor desires to claim as proprietary and exempt from disclosure under the provisions of RCW 42.17.250 to 42.17.340 must be clearly designated. The page must be identified and the particular exception from disclosure upon which the Contractor 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 Commission will consider a Contractor's request for exemption from disclosure; however, the Commission will make a decision predicated upon Chapter 42.17 RCW and Chapter 143-06 of the Washington Administrative Code. Marking the entire proposal exempt from disclosure will not be honored. The Contractor 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 Contractor 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 42.17.300. No fee shall be charged for inspection of Master Agreement files, but twenty-four (24) hours' notice to the RFP Coordinator is required. All requests for information should be directed to the RFP Coordinator.

Selection Process

Oral Interviews May be Required

Written submittals and oral interviews, if considered necessary, will be utilized in selecting the winning proposal. The Commission, at its sole discretion, may elect to select the top scoring finalists from the written evaluation for an oral presentation. The oral presentation will determine the apparently successful Contractor. Commitments made by a Contractor at the oral interview, if any, will be considered binding.

Debriefing of Unsuccessful Contractors

Contractors whose proposals have not been selected for further consideration will be notified by e-mail. Only Contractors who have submitted a proposal under the criteria established by the Commission may protest the rejection of a proposal and request a debriefing. Upon request a debriefing will be scheduled with an unsuccessful Contractor. The request for a debriefing must be received by the RFP Coordinator within three (3) business days after the Notification of Unsuccessful Bidder Notice is e-mailed to the bidder. The debriefing must be held within three (3) business days of the request.

Discussion will be limited to a critique of the requesting Contractor'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.

Protest Procedures

This procedure is available to Contractors, who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Contractor is allowed three (3) business days to file a protest of the solicitation with the RFP Coordinator. Bidders protesting this solicitation must 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 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 will be addressed to the RFP 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 an evaluator.
- Errors in computing the score.
- Non-compliance with procedures described in the procurement document or Commission policy.

Protests not based on procedural matters will not be considered. Protests will be rejected as without merit if they address such issues as: (1) an evaluator's professional judgment on the quality of the proposal, or (2) the Commission'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 Commission. The Director of the Commission or an employee delegated by the Director who was not involved in the procurement will consider the record and all facts available and issue a decision within five (5) business days of receipt of protest unless additional time is required, in which case the protesting party will be notified by the Commission.

In the event a protest may affect the interest of another Contractor that submitted a proposal, such Contractor 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 the Commission's action; or
- Find only technical or harmless errors in the Commission's solicitation process and determine the Commission to be in substantial compliance and reject the protest; or
- Find merit in the protest and provide the Commission 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 the Commission determines that the protest was without merit, the Commission will enter into a Master Agreement 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.

Commission Perspective

The Commission has the sole discretion and reserves the right to reject any and all proposals received in response to this RFP and to cancel this solicitation if it is deemed in the best interest of the Commission to do so. Issuance of this RFP in no way constitutes a commitment by the Commission to award a Master Agreement, or to pay Contractor's costs incurred either in the preparation of a response to this RFP or during negotiations, if any, of a Master Agreement for services. The Commission also reserves the right to make amendments to this RFP by giving written notice to Contractors, and to request clarification, supplements and additions to the information provided by a Contractor.

By submitting a proposal in response to this solicitation, Contractors understand and agree that any selection of a Contractor or any decision to reject any or all responses or to establish no Master Agreement shall be at the sole discretion of the Commission. Additionally, by submitting a proposal, Contractors agree that they waive any claim against the Commission, the State of Washington, and their respective officers, employees, and agents for the recovery of any costs or expenses incurred in preparing and submitting a proposal.

No negotiations by the Commission, or any officer, employee, or agent thereof, shall constitute an offer or counteroffer by the Commission. The Commission shall not be bound to any Master Agreement until and unless it's authorized representative has executed a written Master Agreement with a Contractor.

The Commission shall not be required to accept any proposal solely on the basis that it contains the lowest price for completion of the work contemplated by this RFP and the Commission reserves the right to negotiate the final Master Agreement price.

Attachment One

SELECTED STANDARD TERMS AND CONDITIONS

By submitting a response to this Request for Proposal, the Contractor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation and standard for master Agreement.

ASSIGNMENT, TRANSFER AND SUBCONTRACTING: The Contractor shall not assign, transfer or subcontract any portion of the Master Contract without the express written consent of the Commission.

COMPLIANCE WITH LAWS: The Contractor must, in performance of work under the Master Agreement, fully comply with all applicable federal, state, or local laws, rules and regulation. Any subletting or subcontracting by the Contractor subjects Sub-Contractors to the same provision. The Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

CONFORMANCE WITH MASTER AGREEMENT: No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the Master Agreement shall be granted without prior written consent of the Commission.

FACSIMILE RESPONSES: Facsimile responses will not be accepted for responses to this Request for Proposal.

FORCE MAJEURE: Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party is using its best efforts to remedy such failure or delays.

HOLD HARMLESS/INDEMNIFICATION: The Contractor agrees to protect, defend, and save the Commission, its agents and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, Sub-Contractors, except the sole negligence of the Commission, under the Master Agreement.

MASTER AGREEMENT: The apparent successful Contractor will be expected to enter into a Master Agreement generated by the Commission in accordance with guidelines provided by the State of Washington, including its general terms and conditions (as set forth in Attachment III hereto), and other standard provisions customary to such services agreements.

MILESTONES, ACCEPTANCE AND PAYMENT: The Contractor's performance and payment shall be tied to milestones as set forth in the Master Agreement and corresponding Statements of Work.

OWNERSHIP OF PROPRIETARY INFORMATION AND INTELLECTUAL PROPERTY: The deliverables will have been specially ordered and commissioned by the Commission. Contractor agrees that all proprietary and intellectual property rights in the deliverables shall be owned by the Commission and the deliverables shall be "works made for hire". Contractor agrees to assign to the Commission, its successors and assigns, all rights, title and interest in and to the deliverables. Contractor and the Commission acknowledge that each party's existing proprietary information and intellectual property will remain the property to the respective party. Contractor warrants that it has the right to use all proprietary information and intellectual property used to fulfill its obligations under the Master Agreement.

SERVICES: The Contractor will provide the services and personnel as set forth in various mutually agreed statements of work or mutually agreed proposal documents (each, a "Scope of Work" or "SOW"). Each SOW's terms will specify the Contractor's duties and responsibilities as to the respective set of services described in that SOW. The Scopes of Work will be provided by the Contractor within fifteen (15) days of the request by the Commission. Each Scope of Work will specify the purpose, scope, responsibilities, timing and fees prior to work on each individual project and will be consistent with the response to this Request for Proposal.

TERM OF MASTER AGREEMENT: The initial term of the Master Agreement will be for an eighteen (18) month period (to end June 30, 2019) with an option to renew for up to 2 additional one-year periods, at the sole discretion of the Commission.

TERMINATION OF MASTER AGREEMENT: Unless otherwise stated, the Commission may, by written notice to the Contractor, terminate the Master Agreement in whole or in part at any time the Contractor materially fails to perform the Master Agreement.

LICENSE TO USE OF DELIVERABLES - OTHER GOVERNMENTAL ENTITIES: The Contractor acknowledges and agrees that the Commission may permit other governmental entities within Washington State, including without limitation the Department of Commerce, to use the deliverables that are provided to the Commission pursuant to the Master Agreement.