

**WASHINGTON STATE HOUSING FINANCE COMMISSION**

**REQUEST FOR PROPOSALS (RFP)**

**RFP NO. WSHFC 20240621HO**

**NOTE:** *If you download this RFP from the Washington State Housing Finance Commission website, you are responsible for sending your name, address, e-mail address, and telephone number to the RFP Coordinator in order for your organization to receive any RFP amendments or bidder questions/Commission's answers.*

**PROJECT TITLE:** Homeowner Counseling, Support, and Outreach for Covenant Homeownership Program

**PROPOSAL DUE:** August 16, 2024 at 5:00 pm, Pacific Time, Seattle, WA

**ESTIMATED TIME PERIOD FOR CONTRACT:** August 2024 – June 30, 2025

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

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  - C. Workers' Rights Certification
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# WASHINGTON STATE HOUSING FINANCE COMMISSION REQUEST FOR PROPOSALS

## 1. INTRODUCTION

### 1.1. PURPOSE AND BACKGROUND

The Washington State Housing Finance Commission (the "Commission") is initiating this Request for Proposals (RFP) to solicit proposals from non-profit entities interested in providing Homeownership Counseling Services, document research and production services and/or outreach for potential applicants to the Commission's newly created Covenant Homeownership Program that will provide downpayment assistance to first-time homeowners who suffered discrimination against black, indigenous, and people of color and other historically marginalized communities in Washington state.

Commission intends to award *one or more* contracts to provide the services described in this RFP.

### 1.2. OBJECTIVES AND SCOPE OF WORK

The purpose of this solicitation is to select one or more nonprofits who will assist potential first-time homeowners in preparing for and applying to receive downpayment assistance from the Commission's Covenant Homeownership Program. Non-profit HUD-Approved applicants should be able to provide HUD-Approved counselors and services as a part of the following Scope of Work:

1. Provide Homeownership Housing Counseling services to prospective applicants, at no cost to the applicants, for the Commission's Covenant Homeownership Program
  - a. Have a dedicated employee to receive "warm hand-offs" from the Washington Homeownership Resource Center during normal business hours
  - b. Provide housing counseling services—subject to the applicant's schedule—within one business day of receiving a referral for assistance.
  - c. Provide without cost to each applicant at least 2 hour(s) of counseling services that includes, at a minimum, the following topics:
    - i. The decision to purchase a home
    - ii. The selection and purchase of a home
    - iii. Issues arising during or affecting the period of ownership of a home (including financing, refinancing, default and foreclosure, and other financial decisions
    - iv. The sale or other disposition of a home.
    - v. Other challenges facing a first-time homebuyer
    - vi. Specifically explain the short and long term benefits, challenges and other issues involved with very large amounts of downpayment assistance as a second mortgage on a property.
2. Provide assistance in determining and proving eligibility for the program. Assist potential homeowners and applicants by assisting and reviewing records, public and otherwise, to obtain the documents as set forth in RCW 43.181.040, specifically set forth as genealogical records, vital records, church records, military records, probate records, public records, census data, newspaper clippings, and other similar documents and any other documents that may determine eligibility.
3. Provide Outreach to communities that are eligible for the Covenant Homeownership Program. Provide outreach strategies to reach potentially eligible applicants to the Covenant Homeownership Program.
4. Provide Assistance Throughout the Entire State of Washington. Preference will be given to proposals that provide services to the entire state of Washington over those that just provide services to a geographic region of the State.
5. Other services as defined at time of contract.

**Items 1 through 3 are the main subject of this RFP. However, you do NOT need to provide a proposal to all 3; you may choose to respond to 1 or more.**

### 1.3. MINIMUM QUALIFICATIONS

Minimum qualifications include:

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- Non-Profit Entity licensed to do business in the State of Washington with employees physically located in the state of Washington.
- If providing a response to section 1 above (housing counseling services) then the following requirements apply:
  - HUD-Approval as a Housing Counselor Provider
  - Minimum of five years (does not need to be consecutive) providing housing counseling services in Washington state.
  - Minimum of five years (does not need to be consecutive) providing Homeownership Counseling services in Washington state.
  - Employ at least 2 HUD-Approved Counselors
- Due to the sensitive nature of the program and its requirements, experience with providing trauma-informed services.
- Ability to provide services throughout the state of Washington.

## 1.4. FUNDING

The amount of funding for the components of this proposal has not been finalized. However, the Commission has an expected total budget of \$500,000 for the entirety of the programs contemplated in this RFP. Proposals should include a breakdown of estimated costs and a separate bid for each component you seek to participate in. It is not required to propose for all three components; nor should it be expected that a single contract will be awarded totaling \$500,000.00. The Commission reserves the right to select among proposers and proposed components to ensure all aspects of the RFP are covered.

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

## 1.5. PERIOD OF PERFORMANCE

The period of performance of any contract resulting from this RFP is tentatively scheduled to begin September of 2024 and to end on June 30, 2025 (or an earlier date, should funds be unavailable to continue the Covenant Homeownership Program). Amendments extending the period of performance, if any, shall be at the sole discretion of the Commission.

Commission reserves the right to extend the contract for two one-year periods.

## 1.6. CONTRACTING WITH CURRENT OR FORMER STATE EMPLOYEES

Specific restrictions apply to contracting with current or former state or state agency employees, including Commission 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 or state agency employees to ensure that the proposal complies with these requirements.

## 1.7. DEFINITIONS

Definitions for the purposes of this RFP include:

**Apparent Successful Contractor:** The contractor selected as the entity to perform the anticipated services, subject to completion of contract negotiations and execution of a written contract.

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

**Commission:** The Washington State Housing Finance Commission is the entity that is issuing this RFP.

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

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**Proposer:** Individual or company that submits a proposal in order to attain a contract with Commission.

**Request for Proposals (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 an RFP is to permit the community to suggest various approaches to meet the need at a given price.

## 1.8. ADA

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

## 2. GENERAL INFORMATION FOR CONTRACTORS

### 2.1. RFP COORDINATOR

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

Name	Rich Zwicker
E-Mail Address	<a href="mailto:rich.zwicker@wshfc.org">rich.zwicker@wshfc.org</a>
Phone Number	206-287-4480

Any other communication will be considered unofficial and non-binding on Commission. 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.*

### 2.2. PRE-BID CONFERENCE

The optional Pre-Bid Conference is being offered consistent with the Washington State Department of Enterprise Services Supplier Diversity Policy No. POL-DES-090-06. The purpose of the optional Pre-Bid Conference is to address questions, clear up ambiguities, respond to issues or concerns, and establish a common basis for understanding the solicitation requirements. Attendance is optional.

Answers to the questions raised during the pre-bid conference and any amendments made to the solicitation document will be posted to WEBS. Bidders should only rely on written amendments issued via WEBS.

The optional Pre-Bid Conference will take place on Thursday, August 1, 2024 at 4:00 pm, Pacific Time and last for a maximum of one hour or such shorter time if the entire hour is not needed. Interested parties may join the optional Pre-Bid Conference via this Zoom link:

Join Zoom Meeting

<https://us02web.zoom.us/j/84493002426?pwd=a9laQchQt6lOcWaX2rPjwb6QzUXtsl.1&from=addon>

Meeting ID: 844 9300 2426

Passcode: 994412

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One tap mobile

+12532050468,,84493002426#,,,,\*994412# US

+12532158782,,84493002426#,,,,\*994412# US (Tacoma)

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Dial by your location

- +1 253 205 0468 US
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- +1 669 900 9128 US (San Jose)
- +1 719 359 4580 US
- +1 346 248 7799 US (Houston)
- +1 669 444 9171 US
- +1 312 626 6799 US (Chicago)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 646 558 8656 US (New York)
- +1 646 931 3860 US
- +1 689 278 1000 US
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- 877 853 5247 US Toll-free
- 888 788 0099 US Toll-free

Meeting ID: 844 9300 2426

Passcode: 994412

Find your local number: <https://us02web.zoom.us/j/kclQyWPy0g>

**2.3 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES**

Issue Request for Proposals	7/2024
Pre-Bid Conference	Thursday, August 1 at 4:00 pm
Deadline to Submit Questions for Q&A	August 2, 2024
Answers to Q&A posted on website (no questions will be answered prior to this date)	August 9, 2024
Proposals due	August 16, 2024 at 5:00 PM
Evaluate proposals	Week of August 19, 2024
Announce “Apparent Successful Contractor(s)” and send notification via e-mail to unsuccessful proposers	August 23, 2024
Deadline to request debriefing conferences (if requested)	Third business day following the transmittal of the Unsuccessful Contractor Notification
Debriefing conference, if requested	Within 3 business days of request
Negotiate contract	Week of August 26, 2024
Begin contract work	August 30, 2024

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Commission reserves the right to revise the above schedule.

## 2.4. SUBMISSION OF PROPOSALS

### **ELECTRONIC PROPOSALS:**

The proposal must be received by the RFP Coordinator no later than 5:00pm, Pacific Time, in Seattle, Washington, on **Friday, August 16, 2024**.

Proposals must be submitted electronically as an attachment to an e-mail to the RFP Coordinator, at the e-mail address listed in Section 2.1. Attachments to e-mail shall be in Microsoft Word or PDF format. Zipped files cannot be received by Commission and cannot be used for submission of proposals. The cover submittal letter and the Certifications and Assurances form must have a scanned signature of the individual within the organization authorized to bind the Contractor to the offer. Commission does not assume responsibility for problems with Contractor's e-mail. If Commission email is not working, appropriate allowances will be made.

PROPOSALS MAY NOT EXCEED 7 (seven) PAGES IN LENGTH. This 7-page limit includes cover letters, and ALL exhibits and/or attachments (except for the following required exhibits: Certifications and Assurances (Exhibit A to this RFP), Diverse Business Inclusion Plan (Exhibit B to this RFP) and the Workers' Rights Certification (Exhibit C to this RFP). Submissions that exceed these limitations may not be considered.

Proposals may not be transmitted using facsimile transmission.

Contractors should allow sufficient time to ensure timely receipt of the proposal by the RFP Coordinator. **Late proposals will not be accepted and could be automatically disqualified from further consideration**, unless Commission e-mail is found to be at fault at Commission's sole determination. Requests for deadline extensions will not be granted.

## 2.5. PROPRIETARY INFORMATION AND PUBLIC DISCLOSURE

Proposals submitted in response to this competitive procurement shall become the property of Commission and will not be returned. All proposals received shall remain confidential until the Apparent Successful Contractor is announced; thereafter, the proposals shall be deemed public records as defined in Chapter 42.56 of the Revised Code of Washington (RCW).

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

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

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## 2.6. REVISIONS TO THE RFP

In the event it becomes necessary to revise any part of this RFP, addenda will be provided via e-mail to all individuals who have made the RFP Coordinator aware of their interest. Addenda will also be published on Washington's Electronic Bid System (WEBS). The website can be located at <https://fortress.wa.gov/ga/webs/>. For this purpose, 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 website. Such addenda will also be published on the Commission's website, located at [www.wshfc.org](http://www.wshfc.org)

If you downloaded this RFP from the Commission's website located at [www.wshfc.org](http://www.wshfc.org), you are responsible for sending your name, e-mail address, and telephone number to the RFP Coordinator in order for your organization to receive any RFP addenda.

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

## 2.7. DIVERSE BUSINESS INCLUSION PLAN

The Commission is committed to increasing opportunities for small and diverse businesses that contract with the Commission. This contract may provide opportunities for businesses working with small and diverse businesses through an Inclusion Plan. Accordingly, Responders must submit an Inclusion Plan as part of their proposal in the form at Exhibit B.

Inclusion goals are aspirational. No preference is given for inclusion plans or goals in the evaluation of proposals. While no minimum level of OMWBE certified, Veteran Owned, or Washington Small Business participation will be required as a condition for receiving an award, the plan must include the actions the Contractor will take to increase subcontracting opportunities for those business types. The Commission currently considers Responders non-responsive if they fail to submit an inclusion plan.

## 2.8. ACCEPTANCE PERIOD

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

## 2.9. COMPLAINT PROCESS

Vendors may submit a complaint to Commission based on any of following:

- a) The solicitation unnecessarily restricts competition;
- b) The solicitation evaluation or scoring process is unfair; or
- c) The solicitation requirements are inadequate or insufficient to prepare a response.

A complaint may be submitted to Commission at any time prior to 5 days before the bid response deadline. The complaint must meet the following requirements:

- a) The complaint must be in writing;
- b) The complaint must be sent to the RFP coordinator in a timely manner;
- c) The complaint should clearly articulate the basis for the complaint; and
- d) The complaint should include a proposed remedy.

The RFP coordinator will respond to the complaint in writing. The response to the complaint and any changes to the solicitation will be posted on WEBS. The Executive Director of Commission will be notified of all complaints and will be provided a copy of Commission's response. The complaint may not be raised again during the protest period. Commission's action or inaction in response to the complaint will be final. There will be no appeal process.



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## 2.10. RESPONSIVENESS

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

Commission also reserves the right at its sole discretion to waive minor administrative irregularities.

## 2.11. MOST FAVORABLE TERMS

Commission reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms which the Contractor can propose. There will be no best and final offer procedure. Commission reserves the right to contact a Contractor for clarification of its proposal.

## 2.12. CONTRACT GENERAL TERMS & CONDITIONS

The Apparent Successful Contractor will be expected to enter into a contract which is substantially the same as the sample contract and its general terms and conditions attached as Exhibit D. In no event is a Contractor to submit its own standard contract terms and conditions in response to this solicitation. The Contractor may submit exceptions as allowed in the Certifications and Assurances form, Exhibit A to this solicitation. All exceptions to the contract terms and conditions must be submitted as an attachment to Exhibit A, Certifications and Assurances form. The Commission will review requested exceptions and accept or reject the same at its sole discretion.

This RFP and the Apparent Successful Contractor's proposal will be incorporated into the contract resulting from this RFP.

## 2.13. COSTS TO PROPOSE

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

## 2.14. NO OBLIGATION TO CONTRACT

This RFP does not obligate the Commission to contract for services specified herein.

## 2.15. REJECTION OF PROPOSALS

Commission 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.

## 2.16. COMMITMENT OF FUNDS

The Executive Director of the Commission or his delegee is the only individual who may legally commit Commission 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.

## 2.17. ELECTRONIC PAYMENT

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

## 2.18. INSURANCE COVERAGE

The Contractor shall, at its own expense, obtain and keep in force insurance coverage which shall be maintained in full force and effect during the term of the contract. Standard insurance requirements

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are included in Section 5 of the special terms and conditions within the sample contract attached as Exhibit D.

Within ten business days of notification of an award, the Apparent Successful Contractor will be required to furnish Commission with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth within the contract.

### 3. PROPOSAL CONTENTS

Proposals can be submitted for any or all of the three items set forth in the Scope of Work above. There are restated here as:

1. Provide Homeownership Housing Counseling services to prospective applicants for the Commission's Covenant Homeownership Program
2. Provide assistance in determining eligibility for the program, including assisting and reviewing records, public and otherwise, to obtain the documents as set forth in RCW 43.181.040, specifically set forth as genealogical records, vital records, church records, military records, probate records, public records, census data, newspaper clippings, and other similar documents and any other documents that may determine eligibility.
3. Provide Outreach to communities that are eligible for the Covenant Homeownership Program.

Proposals must be written in English and submitted electronically to the RFP Coordinator in the order noted below:

1. Letter of Submittal, including signed Certifications and Assurances (Exhibit A to this RFP)
2. Proposal
3. Cost Proposal
4. Diverse Business Inclusion Plan (Exhibit B to this RFP)
5. Workers' Rights Certification (Exhibit C to this RFP)

Items marked "mandatory" must be included as part of the proposal for the proposal to be considered responsive.

#### 3.1. LETTER OF SUBMITTAL (MANDATORY)

The Letter of Submittal and the attached Certifications and Assurances form (Exhibit A to this RFP) must be signed and dated by a person authorized to legally bind the Contractor 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 Contractor and any proposed subcontractors:

- A. Name, address, principal place of business, telephone number, and e-mail address of legal entity or individual with whom contract would be written.
- B. Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.)
- C. Legal status of the Contractor (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
- D. 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. If the Contractor does not have a UBI number, the Contractor must state that it will become licensed in Washington within thirty (30) calendar days of being selected as the Apparently Successful Contractor.

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## 3.2. PROPOSAL (MANDATORY)

The Proposal must contain a comprehensive description of services including the following elements:

- A. **Project Approach & Staffing:** Include a complete description of the Contractor's proposed approach for the project. This section should convey Contractor's understanding of the Scope of Work. Identify staff, including subcontractors, who will be assigned to the contract, indicating the responsibilities and qualifications of such personnel, and include the amount of time each will be assigned to the project. Provide resumes 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.
- B. **Work Plan:** Include all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the Scope of Work defined in this RFP. This section of the 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 Commission staff.

The Contractor may also present any creative approaches that might be appropriate and may provide any pertinent supporting documentation, for instance, other ways to establish an applicant's eligibility for the Covenant Homeownership Program.

- C. **Project Schedule:** Include a project schedule indicating when the elements of the work will be completed.

## 3.3. EXPERIENCE PROVIDING TRAUMA-INFORMED SERVICES

Because of the historical government-caused trauma, as demonstrated in the study that is the basis of this program, applicants should have experience in working with impacted groups and be able to provide its services in a manner that respects the impacts on people of color who may be eligible for assistance with the underlying downpayment assistance program. Responses should demonstrate Contractor's experience with delivering trauma-informed services.

## 3.4. REFERENCES (MANDATORY)

List names, addresses, telephone numbers, and e-mail addresses of three (3) business references for the Contractor, preferably for contracts the Contractor has performed in the last five years, if any, and three (3) business references for the lead staff person for whom work has been accomplished and briefly describe the type of service provided. Do not include current Commission staff as references.

By submitting a proposal in response to this Work Request, the vendor and team members grant permission to Commission to contact these references and others, who from Commission's perspective, may have pertinent information. Commission may or may not, at Commission's discretion, contact references. Commission may evaluate references at Commission's discretion.

## 3.5. OMWBE CERTIFICATION (OPTIONAL)

Include proof of certification issued by the Washington State Office of Minority and Women's Business Enterprises (OMWBE) if certified minority-, women-, veteran-owned or small business firm(s) will be participating on this project. For more information please visit: <http://www.omwbe.wa.gov>.

## 3.6. COST PROPOSAL

The evaluation process is designed to award this procurement not necessarily to the Contractor of least cost, but rather to the Contractor whose proposal best meets the requirements of this RFP.

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However, Contractors are encouraged to submit proposals which are consistent with state government efforts to conserve state resources.

**A. Identification of Costs.** Identify all costs to be charged for performing the services necessary to accomplish the objectives of the contract. Break out costs separately for each scope being proposed. The Contractor is to submit a fully detailed budget including staff costs and any expenses necessary to accomplish the tasks and to produce the deliverables under the contract. Contractors are required to collect and pay Washington state sales and use taxes, as applicable.

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

## 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(s), to be designated by Commission, which will determine the ranking of the proposals.

Commission, at its sole discretion, may elect to invite the top-responding firms as finalists for an oral presentation.

Commission, at its sole discretion, may award the contracts without an oral presentation.

The RFP Coordinator may contact the Contractor for clarification of any portion of the Contractor's proposal.

### 4.2. EVALUATION CRITERIA

The following items will be used for evaluation purposes:

- Providing culturally competent, trauma-informed assistance to potential applicants and community partners
- Experience in Providing the Specified Services throughout the entire state of Washington, specifically:
  - Experience Providing Housing Counseling Services (if providing a proposal regarding housing counseling)
  - Providing targeted outreach to potentially eligible applicants (if providing a proposal regarding outreach)
  - Providing services to assist potential applicants in gathering the required documentation necessary to qualify for the Covenant Homeownership Program (if providing a proposal regarding outreach)
- Experience with Commission's other Downpayment Assistance Programs
- Demonstrated commitment to the underlying goals of the development of the Covenant Homeownership Program

In addition to the items above, the Commission may give weight to proposals from firms which certify that they **do not** require their employees to sign an individual arbitration clause as a condition of employment (see [Exhibit C](#)).

**Commission reserves the right to award the contract to the Contractor whose proposal is deemed to be in the best interest of Commission and the state of Washington.**

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### 4.3. NOTIFICATION TO PROPOSERS

Commission will notify the Apparently Successful Bidder of their selection in writing upon completion of the evaluation process. Individuals or firms whose proposals were not selected for further negotiation or award will be notified separately by e-mail.

### 4.4. DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Any Contractor who has submitted a proposal and been notified that they were not selected for contract award may request a debriefing. Debriefing requests must be received by the RFP Coordinator no later than 5:00 PM, local time, in Seattle, Washington, on the third business day following the transmittal of the Unsuccessful Contractor Notification. The debriefing may be scheduled within three (3) business days of the request.

Discussion at the debriefing conference will be limited to the following:

- Evaluation of the firm's proposal;
- Critique of the proposal based on the evaluation;

Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted at Commission's discretion in person, virtually or on the telephone and will be scheduled for a maximum of one hour.

### 4.5. PROTEST PROCEDURE

Protests may be made only by 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 five (5) business days to file a protest of the acquisition with the RFP Coordinator. Protests must be received by the RFP Coordinator no later than 5:00 PM, local time, in Seattle, Washington on the fifth business day following the debriefing. Protests may be submitted by e-mail but must then be followed by the document with an original signature.

Contractors 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 Contractors under this procurement.

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

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;
- 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 issues such as: 1) an evaluator's professional judgment on the quality of a proposal, or 2) 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 Commission. The Commission's Executive 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 seven (7) business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

## **WASHINGTON STATE HOUSING FINANCE COMMISSION REQUEST FOR PROPOSALS**

In the event a protest may affect the interest of another Contractor that also 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 Commission's action; or
- Find only technical or harmless errors in Commission's acquisition process and determine Commission to be in substantial compliance and reject the protest; or
- Find merit in the protest and provide 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 Commission determines that the protest is without merit, Commission will enter into a contract with the apparently successful contractor. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

### **5. RFP EXHIBITS**

Exhibit A – Certifications and Assurances

Exhibit B – Diverse Business Inclusion Plan

Exhibit C – Workers' Rights Certification

Exhibit D – Service Contract Format with Special and General Terms and Conditions

**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:

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 Commission 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 or state agency including the Commission 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. If there are exceptions to these assurances, I/we have described them in full detail on a separate page attached to this document.
5. I/we understand that Commission will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of Commission, 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 Proposer and will not be knowingly disclosed by him/her prior to opening, directly or indirectly, to any other Proposer 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 Proposer 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 Commission the right to contact references and others who may have pertinent information regarding the ability of the Contractor and the lead staff person to perform the services contemplated by this RFP.
10. If any staff member(s) who will perform work on this contract has retired from the State of Washington under the provisions of the 2008 Early Retirement Factors legislation, his/her name(s) is noted on a separately attached page.

**We (check one):**

- are** submitting proposed Contract exceptions. (See Section 2.12, Contract and General Terms and Conditions.) If Contract exceptions are being submitted, I/we have attached them to this form.
- are not** submitting proposed Contract exceptions (*default if neither are checked*).

On behalf of the Contractor submitting this proposal, my signature below attests to the accuracy of the above statement as well as my authority to bind the submitting organization.

_____ Signature of Proposer	_____ Date
_____ Printed Name	_____ Title

**EXHIBIT B**

**DIVERSE BUSINESS INCLUSION PLAN**

1. Status of Firm or Use of Subcontractors

Do you anticipate using, or is your firm, a State Certified Minority Business?	Y/N
Do you anticipate using, or is your firm, a State Certified Women's Business?	Y/N
Do you anticipate using, or is your firm, a State Certified Veteran Business?	Y/N
Do you anticipate using, or is your firm, a Washington State Small Business?	Y/N

2. If you answered No to all of the questions above, please explain:

---

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3. Please describe approaches your firm is taking to advance diversity, equity and inclusion within your firm.

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4. If your answer to (1) above was Yes to any of the questions, please list the approximate percentage of work to be accomplished by each group:

Minority	___%
Women	___%
Veteran	___%
Small Business	___%

5. Please identify the person in your organization who will manage your Diverse Inclusion Plan responsibility:

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

E-Mail: \_\_\_\_\_



**EXHIBIT C**

**CONTRACTOR CERTIFICATION  
EXECUTIVE ORDER 18-03 – WORKERS’ RIGHTS  
WASHINGTON STATE GOODS & SERVICES CONTRACTS**

*Pursuant to the Washington State Governor’s Executive Order 18-03 (dated June 12, 2018), the Washington State Housing Finance Commission is seeking to contract with qualified entities and business owners who certify that their employees are not, as a condition of employment, subject to mandatory individual arbitration clauses and class or collective action waivers.*

Solicitation No.: \_\_\_\_\_

I hereby certify, on behalf of the firm identified below, as follows (check one):

NO MANDATORY INDIVIDUAL ARBITRATION CLAUSES AND CLASS OR COLLECTIVE ACTION WAIVERS FOR EMPLOYEES. This firm does **NOT** require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

OR

MANDATORY INDIVIDUAL ARBITRATION CLAUSES AND CLASS OR COLLECTIVE ACTION WAIVERS FOR EMPLOYEES. This firm requires its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

OR

This firm certifies it has no employees.

I hereby certify, under penalty of perjury under the laws of the State of Washington, that the certifications herein are true and correct and that I am authorized to make these certifications on behalf of the firm listed herein.

FIRM NAME: \_\_\_\_\_  
Name of Contractor/Bidder – Print full legal entity name of firm

By: \_\_\_\_\_  
Signature of authorized person                                          Printed Name

Title: \_\_\_\_\_ Place: \_\_\_\_\_  
Title of person signing certificate                                          Print city and state where signed

Date: \_\_\_\_\_

Return Contractor Certification to Procurement Coordinator as part of your complete response.

**EXHIBIT D**

**Services Contract with**

<Individual or contractor organization here>

through

<Name of COMMISSION **program** issuing/administering contract here>

**For**

<List project title, if applicable, and/or describe the primary purpose for the funding or the intended outcome/deliverables in approx. 25 words or less>

**Start date:** <Month> <Day>, <Year>

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# FACE SHEET

Contract Number: <Insert Number>

## Washington State Housing Finance Commission <Insert Program(s) and/or Project(s)>

<b>1. Contractor</b> <Insert legal name> <Insert mailing address> <Insert physical address> <Insert location>		<b>2. Contractor Doing Business As (optional)</b> <Insert DBA name> <Insert DBA mailing address> <Insert DBA physical address> <Insert DBA location>	
<b>3. Contractor Representative</b> <Insert name> <Insert title> <Insert phone> <Insert FAX> <Insert e-mail>		<b>4. COMMISSION Representative</b> <Insert name>                      <Insert mailing address> <Insert title>                      <Insert physical address> <Insert phone>                      <Insert location> <Insert FAX> <Insert e-mail>	
<b>5. Contract Amount</b> <Insert \$ amount>	<b>6. Funding Source</b> Federal: <input type="checkbox"/> State: <input checked="" type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/>	<b>7. Start Date</b> <Insert date>	<b>8. End Date</b> <Insert date>
<b>9. Federal Funds (as applicable)</b> <Insert \$ amount>	<b>Federal Commission's:</b> <Insert name>		<b><u>CFDA Number</u></b> <Insert number>
<b>10. Tax ID #</b> <Insert number>	<b>11. SWV #</b> <Insert number>	<b>12. UBI #</b> <Insert number>	<b>13. UEI #</b> <Insert number>
<b>14. Contract Purpose</b> <Briefly describe contract purpose>			
The Washington State Housing Finance Commission, defined as the Commission, and the Contractor, as defined above, acknowledge and accept the terms of this Contract and attachments and have executed this Contract on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Contract are governed by this Contract and the following other documents incorporated by reference: Contractor Terms and Conditions including Attachment "A" - <insert title>, Attachment "B" - <insert title>, Attachment "C" - <insert title>, <etc.>			
<b>FOR CONTRACTOR</b>  _____ <insert name>, <insert title>  _____ Date		<b>FOR THE COMMISSION</b>  _____ <insert name>, <insert title>  _____ Date	

Last revision 10/13/2020

**GENERAL TERMS AND CONDITIONS  
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**1. CONTRACT MANAGEMENT**

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

The Representative for Commission and their contact information are identified on the Face Sheet of this Contract.

The Representative for the Contractor and their contact information are identified on the Face Sheet of this Contract.

**2. COMPENSATION**

Commission shall pay an amount not to exceed \$ \_\_\_\_\_ for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. Contractor's compensation for services rendered shall be based on the following rates or in accordance with the following terms:

**EXPENSES**

Contractor shall receive reimbursement for travel and other expenses as identified below or as authorized in advance by Commission as reimbursable. The maximum amount to be paid to the Contractor for authorized expenses shall not exceed \$ \_\_\_\_\_, which amount is included in the Contract total above.

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

**3. BILLING PROCEDURES AND PAYMENT**

Commission will pay Contractor upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for Commission [*not more often than monthly.*]

The invoices shall describe and document, to Commission's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Contract Number \_\_\_\_\_. 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 Commission within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.

Commission 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 Agreement shall be made by Commission.

**Invoices and End of Fiscal Year**

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commission will provide notification of the end of fiscal year due date.

The grantee must invoice for all expenses from the beginning of the contract through June 30, regardless of the contract start and end date.

**Duplication of Billed Costs**

The Contractor shall not bill Commission for services performed under this Agreement, and Commission shall not pay the Contractor, if the Contractor is entitled to payment or has been or will be paid by any other source, including grants, for that service.

**GENERAL TERMS AND CONDITIONS  
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Disallowed Costs

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

Commission may, in its sole discretion, withhold ten percent (10%) from each payment until acceptance by Commission of the final report or completion of the project.

**4. SUBCONTRACTOR DATA COLLECTION**

Contractor will submit reports, in a form and format to be provided by Commission and at intervals as agreed by the parties, regarding work under this Contract performed by subcontractors and the portion of Contract funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

**5. 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 loss, or negligent or intentional act or omission of the Contractor or Subcontractor, or agents of either, while performing under the terms of this Contract. Failure to maintain the required insurance coverage may result in termination of this Contract.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the Commission, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Contractor shall provide Commission thirty (30) calendar days' advance notice of any insurance cancellation, non-renewal or modification.

The Contractor shall submit to Commission within fifteen (15) calendar days of the Contract start date OR a written request by Commission, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Contract, if required or requested, the Contractor shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The Contractor shall provide, at Commission's request, copies of insurance instruments or certifications from the insurance issuing Commission's. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that Commission will be provided thirty (30) days' advance written notice of cancellation.

The Contractor shall provide insurance coverage that shall be maintained in full force and effect during the term of this Contract, as follows:

**Commercial General Liability Insurance Policy.** Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, 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.

**Automobile Liability.** In the event that performance pursuant to this Contract involves the use of vehicles, owned or operated by the Contractor or its Subcontractor, 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.

**Professional Liability, Errors and Omissions Insurance.** The Contractor shall maintain Professional Liability or Errors and Omissions Insurance. The Contractor shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Contractor and licensed staff employed or under contract to the Contractor. The state of Washington, its agents, officers, and employees need *not* be named as additional insureds under this policy.

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**Fidelity Insurance.** Every officer, director, employee, or agent who is authorized to act on behalf of the Contractor for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

- A. The amount of fidelity coverage secured pursuant to this Contract shall be \$100,000 or the highest of planned reimbursement for the Contract period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name Commission as beneficiary.
- B. Subcontractors that receive \$10,000 or more per year in funding through this Contract shall secure fidelity insurance as noted above. Fidelity insurance secured by Subcontractors pursuant to this paragraph shall name the Contractor as beneficiary.

**6. ORDER OF PRECEDENCE**

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
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget
- Any other attachments incorporated by reference on the Face Sheet

**7. DEFINITIONS**

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

- A. "Authorized Representative" shall mean the Executive Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "Commission" shall mean the Washington State Housing Finance Commission.
- C. "Contract" or "Agreement" means the entire written agreement between Commission and the Contractor, including any Exhibits, documents, or materials incorporated by reference. E-mail transmission of a signed copy of this contract shall be the same as delivery of an original.
- D. "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.
- E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- F. "State" shall mean the state of Washington.
- G. "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" mean subcontractor(s) in any tier.

**8. ACCESS TO DATA**

In compliance with RCW 39.26.180, the Contractor shall provide access to data generated under this Contract to Commission, the Joint Legislative Audit and Review Committee, and the Office of the State Auditor at no additional cost. This includes access to all information that supports the findings,

**GENERAL TERMS AND CONDITIONS  
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conclusions, and recommendations of the Contractor's reports, including computer models and the methodology for those models.

**9. 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 Commission.

**10. ALL WRITINGS CONTAINED HEREIN**

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

**11. 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.

**12. 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.

**13. ASSIGNMENT**

Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of Commission.

**14. ATTORNEYS' FEES**

Unless expressly permitted under another provision of the Contract, in the event of litigation or other action brought to enforce Contract terms, each party agrees to bear its own attorneys' fees and costs.

**15. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

- A. "Confidential Information" as used in this section includes:
- i. All material provided to the Contractor by Commission that is designated as "confidential" by Commission;
  - ii. All material produced by the Contractor that is designated as "confidential" by Commission; and
  - iii. All personal information in the possession of the Contractor that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- B. The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of Commission or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide Commission with its policies and procedures on confidentiality. Commission may require changes to such policies and procedures as they apply to this Contract whenever Commission reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by



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Commission. Upon request, the Contractor shall immediately return to Commission any Confidential Information that Commission reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.

- C. Unauthorized Use or Disclosure. The Contractor shall notify Commission within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

**16. CONFLICT OF INTEREST**

Notwithstanding any determination by the Executive Ethics Board or other tribunal, Commission may, in its sole discretion, by written notice to the CONTRACTOR terminate this contract if it is found after due notice and examination by Commission that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the CONTRACTOR in the procurement of, or performance under this contract.

Specific restrictions apply to contracting with current or former state and state agency employees including Commission employees pursuant to chapter 42.52 of the Revised Code of Washington. The CONTRACTOR and their subcontractor(s) must identify any person employed in any capacity by the state or state agency that worked with the Commission program executing this Contract, including but not limited to formulating or drafting the legislation, participating in grant procurement planning and execution, awarding grants, and monitoring grants, during the 24-month period preceding the start date of this Contract. Identify the individual by name, the Commission's previously or currently employed by, job title or position held, and separation date. If it is determined by Commission that a conflict of interest exists, the CONTRACTOR may be disqualified from further consideration for the award of a Contract.

In the event this contract is terminated as provided above, Commission 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 Commission 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 Commission makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

**17. COPYRIGHT**

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

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

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

The Contractor shall exert all reasonable effort to advise Commission, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The Contractor shall provide Commission with prompt written notice of each notice or claim of infringement received by the Contractor with respect to any Materials delivered under this Contract. Commission shall have the right to modify or remove any restrictive markings placed upon the Materials by the Contractor.

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**18. 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 the Director of Commission, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Contractor's name, address, and Contract number; and
- be mailed to the Director and the other party's (respondent's) Contract Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

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

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

**19. DUPLICATE PAYMENT**

Commission shall not pay the Contractor, if the Contractor has charged or will charge the Commission or any other party under any other contract or agreement, for the same services or expenses.

**20. GOVERNING LAW AND VENUE**

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 King County.

**21. INDEMNIFICATION**

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

The Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractor's agents, employees, representatives, or any subcontractor or its employees.

The Contractor expressly agrees to indemnify, defend, and hold harmless the Commission 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 Commission shall not be eliminated or reduced by any actual or alleged concurrent negligence of Commission or its agents, agencies, employees and officials.

The 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, officers, agents or employees.

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**22. INDEPENDENT CAPACITY OF THE CONTRACTOR**

The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and its employees or agents performing under this Contract are not employees or agents of the state of Washington or Commission. The Contractor will not hold itself out as or claim to be an officer or employee of Commission or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

**23. INDUSTRIAL INSURANCE COVERAGE**

The Contractor shall comply with all applicable 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, Commission may collect from the Contractor the full amount payable to the Industrial Insurance Accident Fund. Commission may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by Commission under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

**24. LAWS**

The Contractor shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

**25. LICENSING, ACCREDITATION AND REGISTRATION**

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

**26. LIMITATION OF AUTHORITY**

Only the Authorized Representative or the Authorized Representative'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 Authorized Representative.

**27. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this Contract, the Contractor shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with Commission. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

**28. PAY EQUITY**

The Contractor agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- B. Contractor may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
  - (i) A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.

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(ii) A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.

(iii) A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Contract may be terminated by the Commission, if the Commission determines that the Contractor is not in compliance with this provision.

**29. POLITICAL ACTIVITIES**

Political activity of Contractor employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

**30. PUBLICITY**

The Contractor agrees not to publish or use any advertising or publicity materials in which the state of Washington or Commission's name is mentioned, or language used from which the connection with the state of Washington's or Commission's name may reasonably be inferred or implied, without the prior written consent of Commission.

**31. RECAPTURE**

In the event that the Contractor fails to perform this Contract in accordance with state laws, federal laws, and/or the provisions of this Contract, Commission reserves the right to recapture funds in an amount to compensate Commission for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by Commission. In the alternative, Commission may recapture such funds from payments due under this Contract.

**32. 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.

The Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by Commission, personnel duly authorized by Commission, 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.

**33. REGISTRATION WITH DEPARTMENT OF REVENUE**

If required by law, the Contractor shall complete registration with the Washington State Department of Revenue.

**34. RIGHT OF INSPECTION**

The Contractor shall provide right of access to its facilities to Commission, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all

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reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.

**35. SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, Commission may suspend or terminate the Contract under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

**36. 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.

**37. SITE SECURITY**

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

**38. SUBCONTRACTING**

The Contractor may only subcontract work contemplated under this Contract if it obtains the prior written approval of Commission.

If Commission approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, Commission in writing may: (a) require the Contractor to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The Contractor is responsible to Commission if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to Commission for any breach in the performance of the Contractor's duties.

Every subcontract shall include a term that Commission are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

**39. SURVIVAL**

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

**40. TAXES**

All payments accrued on account of payroll taxes, unemployment contributions, the Contractor's income or gross receipts, any other taxes, insurance or expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

**41. TERMINATION FOR CAUSE**

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

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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.

Commission 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 Commission 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 Commission provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

**42. TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Contract, Commission may, by ten (10) business 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, Commission 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.

**43. TERMINATION PROCEDURES**

Upon termination of this contract, Commission, in addition to any other rights provided in this contract, may require the Contractor to deliver to Commission 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.

Commission shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by Commission, and the amount agreed upon by the Contractor and Commission 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 Commission, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of the Authorized Representative. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. Commission may withhold from any amounts due the Contractor such sum as the Authorized Representative determines to be necessary to protect Commission against potential loss or liability.

The rights and remedies of Commission 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 Authorized Representative, 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 Commission, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case Commission 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 Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;

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5. Transfer title to Commission and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to Commission;
6. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
7. Take such action as may be necessary, or as the Authorized Representative 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 Commission has or may acquire an interest.

**44. TREATMENT OF ASSETS**

Title to all property furnished by Commission shall remain in Commission. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in Commission upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in Commission 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 Commission in whole or in part, whichever first occurs.

- A.** Any property of Commission furnished to the Contractor shall, unless otherwise provided herein or approved by Commission, be used only for the performance of this contract.
- B.** The Contractor shall be responsible for any loss or damage to property of Commission that results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.
- C.** If any Commission property is lost, destroyed or damaged, the Contractor shall immediately notify Commission and shall take all reasonable steps to protect the property from further damage.
- D.** The Contractor shall surrender to Commission all property of Commission prior to settlement upon completion, termination or cancellation of this contract.
- E.** All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

**45. NONDISCRIMINATION**

- a. **Nondiscrimination Requirement.** During the term of this Agreement, Sub-Grantee, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Sub-Grantee, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Sub-Grantee, or subcontractor, has a collective bargaining or other agreement.
- b. **Obligation to Cooperate.** Sub-Grantee, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Sub-Grantee, including any subcontractor, has engaged in discrimination prohibited by this Agreement pursuant to RCW 49.60.530(3).
- c. **Default.** Notwithstanding any provision to the contrary, Commission may suspend Sub-Grantee, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Agreement, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until Commission receives notification that Sub-Grantee, including any subcontractor, is cooperating with the investigating state agency. In the event Sub-Grantee, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), Commission may terminate this Agreement in whole or in part, and Sub-Grantee, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. Sub-Grantee or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.

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d. Remedies for Breach. Notwithstanding any provision to the contrary, in the event of Agreement termination or suspension for engaging in discrimination, Sub-Grantee, subcontractor, or both, shall be liable for contract 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, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. Commission shall have the right to deduct from any monies due to Sub-Grantee or subcontractor, or that thereafter become due, an amount for damages Sub-Grantee or subcontractor will owe Commission for default under this provision.

**46. WAIVER**

Waiver of any default or breach shall not be deemed to be 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 Commission.



**Attachment A – Scope of Work**

**[To mirror language in RFP above]**

**Attachment B – Budget**