



STATE OF WASHINGTON  
Department of Ecology  
Lacey, Washington

REQUEST FOR PROPOSAL  
RFP NUMBER 1128 AQP

**PROPOSAL TITLE:**

Research for Alternative Methods to Reduce/Eliminate Emissions from Agricultural Burning

**PROPOSAL DUE DATE:**

May 13, 2011, 5 PM Pacific Daylight Time (PDT)

**EXPECTED TIME PERIOD FOR CONTRACT:**

September 1, 2011 through June 1, 2013

**BIDDER ELIGIBILITY:**

This procurement is open to those Bidders who:

- Are licensed and insured to work in Washington State
- Are a public entity and/or a licensed professional engineering firm/individual. (This procurement will result only in intergovernmental agreements and/or licensed professional engineering contracts)
- Have the capability to effectively develop, design and execute a research project

**CONTENTS OF THE REQUEST FOR PROPOSAL:**

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- Exhibit A - Certifications and Assurances  
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## 1. INTRODUCTION

### 1.1 PURPOSE AND BACKGROUND

The Washington State Department of Ecology referenced as "Ecology", is initiating this Request for Proposal (RFP) to solicit proposals from parties interested in conducting research that reduces or eliminates the emissions associated with the agricultural practice of field, pile, or orchard burning.

Agricultural burning, under WAC 173-430-040, is allowed when it is reasonably necessary to carry out the enterprise. A farmer can show that it is reasonably necessary when it meets the criteria of best management practices and no practical alternative is reasonably available. The Washington Clean Air Act under RCW 70.94 established an agricultural burning practices and research task force (Ag Task Force) under the direction of the Department of Ecology. Ecology, as chair of the Ag Task Force, is required to identify research needs related to minimizing emissions from agricultural burning and alternatives to such burning.

The Ag Task Force will make recommendations to Ecology in regard to administering a research fund. This fund is dedicated to finding alternatives to greatly reduce or eliminate the practice of agricultural burning that satisfies all requirements of the law. The Washington Administrative Code (WAC 173-430-060) states that the Ag Task Force may conduct or approve of a study or studies to explore and test economical and practical alternative practices to agricultural burning. To conduct any such study, Ecology may contract with public or private entities. Any approved study shall provide for the identification of such alternatives as soon as possible. The Ag Task Force has recommended that study proposals include an economic evaluation as an element of the study.

Past research conducted with funds from these Ag Task Force grants include alternative farming/cropping practices, feasibility studies, straw use alternatives, and emission quantification.

### 1.2 OBJECTIVE

The purpose of the proposed research shall be to identify, develop, and disseminate alternative methods to reduce/eliminate emissions from agricultural burning. The results and conclusions of research on such methods shall be made available to Ecology and the Ag Task Force before the conclusion of the contract in the form of a final report.

### 1.3 MINIMUM QUALIFICATIONS

The bidder must be licensed and insured to do business in the state of Washington. Only intergovernmental agreements and engineering contracts will result from this procurement, due to the restrictions on Personal Service Contracts under Engrossed Substitute House Bill 2921. Consequently, only public entities and/or a licensed professional engineering firms/individuals are eligible to submit bids. Bidders must also have the capability to effectively develop, design and execute a research project

#### 1.4 FUNDING

Any contract awarded as a result of this procurement is contingent upon the availability of funding. In the event funding becomes unavailable, any contract awarded may be renegotiated or terminated due to Engrossed Substitute House Bill 2921.

The funding source for these grants is from the fees collected for agricultural burn permits. The total money available for research is based on an estimate of the number of acres that will be permitted and the fees collected.

The maximum dollars available for this RFP is estimated to be not more than \$160,000. Proposals in excess of this amount will be considered non-responsive and will not be evaluated.

The \$160,000 is available for projects which identify, develop, and disseminate alternative methods to reduce/eliminate emissions from agricultural burning.

#### 1.5 PERIOD OF PERFORMANCE

The period of performance of any contract resulting from this solicitation is tentatively scheduled to begin on or about September 1, 2011, and to end on June 1, 2013. Amendments extending the period of performance, if any, shall be at the sole discretion of Ecology. Ecology reserves the right to extend the contract for two (2) additional one (1) year periods.

#### 1.6 CONTRACTING WITH CURRENT OR FORMER STATE EMPLOYEES

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

#### 1.7 DEFINITIONS

Definitions for the purposes of this solicitation include:

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

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

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

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

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

#### 1.8 ADA

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

## 2. GENERAL INFORMATION FOR BIDDERS

### 2.1 RFP COORDINATOR

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

Name	<b>Paul Rossow</b>
Address	<b>4601 N Monroe St</b>
City, State, Zip Code	<b>Spokane, WA, 99223</b>
Phone Number	<b>(509) 329-3574</b>
Fax Number	<b>(509) 329-3529</b>
E-Mail Address	<b>Paro461@ecy.wa.gov</b>

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

### 2.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Issue Request for Proposals	<b>April 4, 2011</b>
Question period	<b>April 4 – May 2, 2011</b>
Issue last addendum to RFP/Responses to Questions	<b>May 9, 2011</b>
Proposals due	<b>5 PM PDT, May 13, 2011</b>
Evaluate proposals	<b>May 16 – 20, 2011</b>
Hold oral presentations with finalists	<b>June 14, 2011</b>
Announce “Apparent Successful Contractor” and send notification via fax or e-mail to unsuccessful proposers	<b>June 24, 2011</b>
Negotiate contract(s)	<b>July 1 -- August 31, 2011</b>
Begin contract work	<b>September 1, 2011</b>

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

### 2.3 QUESTION/ANSWER PERIOD

As stated in Section 2.2, there will be a Question and Answer period; see Section 2.2 for timeframe. All questions or communications are to be submitted via email to the RFP Coordinator. The RFP Coordinator is the sole point of contact in Ecology for this procurement.

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

Questions arising at any time during the RFP process with the RFP Coordinator will be documented and answered in written form. A copy of the questions and answers in the form of an Addendum to the solicitation will be placed on Ecology’s website at same location of this solicitation ([www.ecy.wa.gov](http://www.ecy.wa.gov) select “Business” and “Doing Business with Ecology”); then

appropriate solicitation) and Department of General Administration website (<https://fortress.wa.gov/ga/webscust/>).

## 2.4 SUBMISSION OF PROPOSALS

Proposals must be submitted in hard copy and electronically. Proposals shall not be transmitted via facsimile. Submit hard copy response with two (2) copies. One (1) copy must have original signatures and second copy can have photocopied signatures. The proposal must be received by Ecology no later than date and time stated in Section 2.2 of this solicitation. The proposal is to be sent to the RFP Coordinator at the address noted in Section 2.1 of this solicitation.

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

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

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

- Letter of Submittal / Original signed Certifications and Assurances (Exhibit A to this solicitation)
- Technical Proposal
- Management Proposal
- Cost Proposal

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

## 2.5 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE

Materials submitted in response to this solicitation shall become the property of Ecology.

All proposals received shall remain confidential until the contract, if any, resulting from this solicitation, is signed by both parties. Thereafter, the proposals shall be deemed public records as defined in RCW 42.56, “Public Records.”

Any information in the proposal that the Bidder desires to claim as proprietary and exempt from disclosure under the provisions of RCW 42.56 must be clearly designated. Ecology will consider the request for exemption from disclosure. Marking the entire proposal exempt from disclosure will not be honored.

## 2.6 REVISIONS TO THE SOLICITATION

In the event it becomes necessary to revise any part of this solicitation, addenda will be published on Ecology’s web site, as follows: [www.ecy.wa.gov](http://www.ecy.wa.gov) select “Business” and “Doing

Business with Ecology”; then appropriate solicitation, as well as at the Department of General Administration’s WEBS website <https://fortress.wa.gov/ga/webscust/>.

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

#### 2.7 MINORITY & WOMEN-OWNED BUSINESS PARTICIPATION

The state of Washington encourages participation by firms certified by the Office of Minority and Women’s Business Enterprises (OMWBE). However, no preference will be included in the evaluation of proposals. Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the contract documents will apply. Bidders may contact OMWBE at 360/753-9693 to obtain information on certified firms.

#### 2.8 ACCEPTANCE PERIOD

Proposals must provide 120 days for acceptance by Ecology from the due date for receipt of proposals.

#### 2.9 RESPONSIVENESS

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

Ecology also reserves the right to waive minor administrative irregularities.

#### 2.10 MOST FAVORABLE TERMS

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

#### 2.11 CONTRACT AND GENERAL TERMS & CONDITIONS

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

#### 2.12 COSTS TO PROPOSE

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

### 2.13 NO OBLIGATION TO CONTRACT

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

### 2.14 REJECTION OF PROPOSALS

Ecology reserves the right at its sole discretion to reject any and all proposals received without penalty and not to issue a contract as a result of this RFP.

### 2.15 COMMITMENT OF FUNDS

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

### 2.16 ELECTRONIC PAYMENT

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

### 2.17 INSURANCE COVERAGE

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

#### Liability Insurance

- 1) Commercial General Liability Insurance: shall maintain general liability (CGL) insurance and, if necessary, commercial umbrella insurance, with a limit of not less than \$1,000,000 per each occurrence. If CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit. All insurance shall cover liability assumed under an insured contract (including the tort liability of another assumed in a business contract), and contain separation of insured's (cross liability) condition.

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

- 2) Business Auto Policy: As applicable, the Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto."

#### 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, Department of Ecology, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella and property insurance policies. All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State.
2. **Cancellation.** State of Washington, Department of Ecology, shall be provided written notice before cancellation or non-renewal of any insurance referred to and in accord with the following specifications. Insurers subject to 48.18 RCW (Admitted and Regulation by the Insurance Commissioner): The insurer shall give the State 45 days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation. Insurers subject to 48.15 RCW (Surplus lines): The State shall be given 20 days advance notice of cancellation. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.
3. **Identification.** Policy must reference the State's contract number and the agency name.
4. **Insurance Carrier Rating.** All insurance and bonds shall be issued by companies admitted to do business within the state of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by Ecology Risk Manager, before the contract is accepted or work may begin. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.
5. **Excess Coverage.** By requiring insurance, the State does not represent that coverage and limits will be adequate to protect Contractor, and such coverage and limits shall not limit Contractor's liability under the indemnities and reimbursements granted to the State in this contract.

#### Worker's Compensation Coverage

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

#### 3. PROPOSAL (MANDATORY)

Proposals must be submitted in hard copy and electronically. Proposals shall not be transmitted via facsimile. Submit hard copy response with two (2) copies. One (1) copy must have original signatures and second copy can have photocopied signatures. The proposal must be received by the Ecology no later than date and time stated in Section 2.2 of this solicitation. The proposal is to be sent to the RFP Coordinator at the address noted in Section 2.1 of this solicitation. The proposal must be complete and must stand on its own merits.

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

Proposal format is as follows: proposals should be prepared using letter-quality type, 11 characters per inch (or larger), single-spaced, with approximately 1" margins. All pages following the first page should have page numbers on them. Double-sided copies and the use of recycled paper are encouraged.

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

3.1 LETTER OF SUBMITTAL /  
CERTIFICATIONS AND ASSURANCES (MANDATORY)

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

- A. Project Title: Please be brief and descriptive.
- B. Name, address, principal place of business, telephone number, and fax number/email address of legal entity or individual with whom a contract would be written.
- C. Project Contact/ Coordinator: Name, title, research association/affiliation (if any), address, telephone number, FAX number and e-mail address. This individual will be the contact person if a contract/grant is awarded. Only one person may be listed as the contact person. This will usually be the project coordinator, but may be anyone involved with the project.
- D. Major participants: Name, title, research association/affiliation (if any), address, telephone number of each major participant.
- E. Cooperators: Name, title, research association/affiliation (if any), and telephone number of each cooperator (i.e., farmers, Experiment Station or Extension personnel, other organizations, etc.)
- F. Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.).
- G. Legal status of the Bidder (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
- H. 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.
- I. Location of the facility from which the Bidder would operate.
- J. Identity of state employees or former state employees employed or on the firm's governing board as of the date of the proposal. Include their position and responsibilities within the

Bidder's organization. If following a review of this information it is determined by ECOLOGY that a conflict of interest exists, the Bidder may be disqualified from further consideration for the award of a contract.

### 3.2 TECHNICAL PROPOSAL (MANDATORY/SCORED)

The purpose of this RFP is to solicit proposals from Bidders interested in conducting research that reduces or eliminates the emissions associated with the agricultural practice of field, pile, or orchard burning. The Technical Proposal must contain a comprehensive description of services addressing the following elements:

#### A. Proposal Summary

The importance of this one-page summary cannot be overemphasized. The summary should briefly convey the following: 1) project rationale, 2) relevant background information, 3) project objectives, 4) procedures, and 5) dissemination of results. The project title must be listed. You may use any format that you choose (diagrams, etc.) for the summary, but it must fit on one side of an 8 1/2" x 11" piece of paper, with 1" margins on all sides. The type size should be as listed above. (MANDATORY)

#### B. Project Narrative

The project narrative should not exceed six (6) type-written pages, single-spaced, including all figures, diagrams, tables, and graphs. The six page limit does not include the Project Summary page(s), budget page(s) and justification, current and pending support page(s), and references. Ecology reserves the right to request additional reports relating to various aspects of the project.

The Project Narrative must contain the following elements and be presented in this order:

1. Background: Describe how the problem or opportunity addressed by this proposal will explore and test economical and practical alternative practices to agricultural burning. (MANDATORY)
2. Related and Current Work in the Area: What work has already been done or is under way to solve this problem? (MANDATORY)
3. Project Objectives: List the objectives of the proposed project. Objectives should be brief and logically related to the solution of the problem or the opportunity identified. Each objective should be a concise phrase or sentence, composed so that progress toward the objective can be clearly recognized, monitored, or measured. At least one objective must address dissemination of results which should include a grower education component. This section should convey the Bidder's understanding of the proposed project. (MANDATORY/SCORED)
4. Approach: Materials & Methods: Repeat each objective and describe in detail how the program will be carried out. Experimental research projects are expected to employ appropriate measurement procedures with replications and controls; however, a replicated design may be impractical in an exploratory project. This section should include the role of the project coordinator(s), major participants, cooperators, producers, and/or

organizations involved in the project. Plans for effective dissemination of results should be included in this section. Projects involving the development or evaluation of alternative farming methods or systems should include an economic analysis.

This section should convey to members of the evaluation team the Bidder's knowledge of the subject and skills necessary to successfully complete the research. The Bidder may also present any creative approaches that might be appropriate and may provide any pertinent supporting documentation. (MANDATORY/SCORED)

5. Project Schedule: Give a timetable for completion of each project objective or major step, and when deliverables, if any, will be provided. (MANDATORY/SCORED)
6. Project Deliverables: Fully describe deliverables to be submitted for this project. (MANDATORY/SCORED)
7. Outcomes & Performance Measurement: Describe what potential impacts/outcomes your proposed study to explore and test economical and practical alternative practices may have on agricultural burning. Include how these outcomes could be monitored, measured and reported. (MANDATORY/SCORED)

### 3.3 MANAGEMENT PROPOSAL (MANDATORY/SCORED)

Provide all information requested below in response to the management requirements of this RFP.

#### A. Project Management

1. Project Staffing Structure/ Internal Controls: Provide a description of the proposed project staffing structure and internal controls to be used during the course of the project, including any subcontractors. Provide an organizational chart of your firm/university indicating lines of authority for staff involved in performance of this project and relationships of this staff to other programs or functions of the firm/university. This chart must also show lines of authority to the next senior level of management. Include who within the firm/university will have prime responsibility and final authority for the research project. (MANDATORY/SCORED)
2. Staff Qualifications/Experience: Identify staff, including subcontractors, who will be assigned to this project, indicating the responsibilities and qualifications of such staff, and include the amount of time each will be assigned to the project. (MANDATORY/SCORED)
  - i. Provide resumes for all staff to be assigned to the project which include information on the individual's particular skills related to this project, education, experience, significant accomplishments and any other pertinent information.
  - ii. Provide personal backgrounds (VITAE): Include a short description of the personal backgrounds for the project coordinator(s) and each major participant. Please limit these to one page or less per person. Include name, title, address (including departmental affiliation), telephone number, and disciplinary training or experience. Briefly describe research or educational expertise and interests that are relevant to the project. A list of selected publications may also be included. In the case of major

participants not affiliated with a university, provide other information that would assist reviewers in judging qualifications and experience for the proposed project (i.e., facilities, organization affiliations, etc.)

The Bidder must commit that the staff identified in its proposal will actually be assigned to this project. Any substitution must have the approval of Ecology.

**B. Bidder Experience: (MANDATORY/SCORED)**

1. Indicate the experience the Bidder and any subcontractors have in the following areas:
  - i. Experience in the development, design and execution of a research project.
  - ii. Experience with agricultural burning practices.
  - iii. Experience with economical and/or practical alternative practices to agricultural burning.
2. Indicate other relevant experience that indicates qualifications for the performance of this project.
3. Include a list of contracts the Bidder has had during the last five (5) years that relate to the firm's/university's ability to perform the project needed under this RFP. List contract reference numbers, contract period of performance, contact persons, telephone numbers, and fax numbers/email addresses.

**C. References**

List names, addresses, telephone numbers, and fax numbers/email addresses of three references for which work has been accomplished and briefly describe the type of work performed. The Bidder and staff proposed to provide the services must grant permission to Ecology to contact references, and others for whom services have been provided. Do not include current Ecology staff as references. List citations for pertinent literature, etc. References will be contacted and scored for the top-ranking proposal(s) only. (MANDATORY for all bidders/SCORED for top proposers).

**C. Related Information (MANDATORY)**

1. If the Bidder or any subcontractor contracted with the state of Washington during the past 24 months, indicate the name of the agency, the contract number and project description and/or other information available to identify the contract.
2. If the Bidder's staff or subcontractor's staff was an employee of the state of Washington during the past 24 months, or is currently a Washington State employee, identify the individual by name, the agency previously or currently employed by, job title or position held and separation date.
3. If the Bidder has had a contract terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the Bidder's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and such litigation determined that the Proposer was in default.
4. Submit full details of the terms for default including the other party's name, address, and phone number. Present the Bidder's position on the matter. Ecology will evaluate the

facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. If no such termination for default has been experienced by the Bidder in the past five years, so indicate.

### 3.4 OMBE CERTIFICATION (OPTIONAL)

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

### 3.5 COST PROPOSAL (MANDATORY/SCORED)

Provide a budget detailing costs by Task and by Budget Object (i.e., salary, benefits, supplies, overhead, etc.) The maximum cost allowed for this contract must be \$160,000 or less to be considered responsive to this RFP. Non-responsive proposals will not be evaluated.

The evaluation process is designed to award this procurement not necessarily to the Bidder of least cost, but rather to the Bidder whose proposal best meets the requirements of this solicitation and provides the best value to the state of Washington.

#### A. Identification of Costs

Identify all costs, including expenses to be charged for performing the services necessary to accomplish the objectives of the RFP. The Bidder is to submit a fully detailed budget **detailing costs by task and by budget object** including staff costs, administrative costs, travel costs, and any other expenses necessary to accomplish the tasks and to produce the deliverables under the RFP. Bidders are required to collect and pay Washington State sales tax, if applicable.

#### B. Current and Pending Support

Provide information about any current or pending support received or to be received for your proposed project. To be completed by the Project Coordinator(s) and Major Participants.

## 4. EVALUATION AND CONTRACT AWARD

### 4.1 EVALUATION PROCEDURE

Responsive proposals will be evaluated strictly in accordance with the requirements stated in this solicitation and any addenda issued. The evaluation of proposals shall be accomplished by an evaluation team, to be designated by Ecology, which will determine the ranking of the proposals. Ecology will select the top-scoring proposals as finalists for an oral presentation.

### 4.2 CLARIFICATION OF PROPOSAL

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

#### 4.3 EVALUATION WEIGHTING AND SCORING

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

**Technical Proposal – 35%** **70 points**

Project Objectives	10 (maximum)
Approach: Materials & Methods	30 (maximum)
Project Schedule	10 (maximum)
Project Deliverables	10 (maximum)
Outcomes & Performance Measurement	10 (maximum)

**Management Proposal – 30%** **60 points**

Project Staffing Structure/ Internal Controls	15 points (maximum)
Staff Qualifications/Experience	25 points (maximum)
Bidder Experience	20 points (maximum)

**Cost Proposal – 35%** **70 points**

<b>Sub-Total</b>	<b>200 points</b>
<b>References [top-scoring proposer(s) only]</b>	<b>10 points</b>

**GRAND TOTAL FOR WRITTEN PROPOSAL** **210 points**

#### 4.4 ORAL PRESENTATIONS MAY BE REQUIRED

Written submittals and oral presentations will be utilized in selecting the winning proposal. Ecology will select the top scoring finalists from the written evaluation for an oral presentation and final determination of contract award. Ecology will contact the top-scoring firm(s) to schedule presentations at the June, 2011 meeting of the Ag Task Force, scheduled for June 14, 2011. Commitments made by the Bidder at the oral interview, if any, will be considered binding.

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

#### 4.5 NOTIFICATION TO BIDDERS

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

#### 4.6 DEBRIEFING OF UNSUCCESSFUL BIDDERS

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

Discussion will be limited to a critique of the requesting Bidder's proposal. Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a maximum of one (1) hour.

#### 4.7 PROTEST PROCEDURE

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

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

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

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

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

Protests not based on procedural matters will not be considered.

Upon receipt of a protest, a protest review will be held by Ecology. Ecology Director or an employee delegated by the Director who was not involved in the procurement will consider the record and all available facts and issue a decision within five (5) business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

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

The final determination of the protest shall:

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

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

## **EXHIBIT A**

### CERTIFICATIONS AND ASSURANCES

I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):

1. I/we declare that all answers and statements made in the proposal are true and correct.
2. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
3. The attached proposal is a firm offer for a period of 120 days following receipt, and it may be accepted by Ecology without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 120-day period.
4. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
5. I/we understand that Ecology will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of Ecology, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Bidder or to any competitor.
7. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
8. No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
9. I/we grant Ecology the right to contact references and others, who may have pertinent information regarding the Bidder's prior experience and ability to perform the services contemplated in this procurement.

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

---

Signature of Bidder

Title

Date

**EXHIBIT B**  
SAMPLE CONTRACT AND GENERAL TERMS/CONDITIONS

CONTRACT NO. [REDACTED]

CONTRACT  
BETWEEN  
STATE OF WASHINGTON

AND  
[REDACTED]

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

---

Contractor Name

---

Address

---

City, State, Zip-Code

---

Phone

Fax

---

E-mail

---

Washington State UBI  
Number

Federal ID Number

PURPOSE

The purpose of this contract is to: [REDACTED]

### SCOPE OF WORK

- A. Exhibit A, attached hereto and incorporated by reference, contains the General Terms and Conditions governing work to be performed under this contract, the nature of the working relationship between the Ecology and the Contractor, and specific obligations of both parties.
- B. The Contractor will provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

Identify, develop, and disseminate alternative methods to reduce/eliminate emissions from agricultural burning

- C. The Contractor shall produce the following written reports or other written documents (deliverables) by the dates indicated below:  
All written reports required under this contract must be delivered to [REDACTED], the Contract Manager, in accordance with the schedule above.

### PERIOD OF PERFORMANCE

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

### COMPENSATION

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

#### Expenses

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

### BILLING PROCEDURES AND PAYMENT

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

The invoices (Invoice Voucher A19-1A) shall describe and document, to Ecology's satisfaction, a description of the work performed the progress of the project, and fees. The invoice shall include reference to Contract No. [REDACTED]. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

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

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

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

**CONTRACT MANAGEMENT**

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

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

**INSURANCE**

The Contractor shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the Contractor or subcontractor, or agents of either, while performing under the terms of this contract. The Contractor shall provide insurance coverage, which shall be maintained in full force and effect during the term of this contract, as follows:

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

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

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

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

3. The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insured's under the insurance policy/ies. All policies shall be primary to any other valid and collectable insurance. Contractor shall instruct the insurers to give Ecology thirty (30) calendar days advance notice of any insurance cancellation.

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

#### ASSURANCES

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

#### ORDER OF PRECEDENCE

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

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

#### ENTIRE AGREEMENT

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

#### CONFORMANCE

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

APPROVAL

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

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

[CONTRACTOR'S NAME]

Department of Ecology

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Approved as to form only: Attorney General Office

## GENERAL TERMS AND CONDITIONS

### Definitions

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

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

### Access to Data

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

### Advance Payments Prohibited

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

### Amendments

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

### Americans with Disabilities Act (ADA) of 1990, Public Law 101-336, Also Referred to as the "ADA" 28 CFR Part 35

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

### Assignment

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

### Attorneys' Fees

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

### Confidentiality/Safeguarding of Information

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

#### Conflict of Interest

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

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

#### Covenant Against Contingent Fees

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

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

#### Disallowed Costs

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

#### Disputes

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

1. The request for a dispute hearing must:

- A. Be in writing;
- B. State the disputed issue(s);
- C. State the relative positions of the parties;
- D. State the CONTRACTOR's name, address, and contract number; and
- E. Be mailed to the AGENT and the other party's (respondent's) contract manager within three (3) business days after the parties agree that they cannot resolve the dispute.

2. The respondent shall send a written answer to the requester's statement to both the agent and the requester within five (5) business days.

3. The AGENT shall review the written statements and reply in writing to both parties within ten (10) business days. The AGENT may extend this period if necessary by notifying the parties.
4. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.  
Nothing in this contract shall be construed to limit the parties' choice of a mutually acceptable method, in addition to the dispute resolution procedure outlined above.

#### Duplicate Payment

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

#### Funding

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the AGENCY may terminate the contract under the "Termination for Convenience" clause, without the ten (10) day notice requirement, subject to renegotiation at the AGENCY'S discretion under those new funding limitations and conditions.

#### Governing Law

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

#### Indemnification

To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend, and hold harmless state, agencies of state and all officials, agents and employees of state, from and against all claims for injuries or death arising out of or resulting from the performance of the contract.

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

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

#### Independent Capacity of the CONTRACTOR

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

Industrial Insurance Coverage

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

Invoice

Invoice Voucher A-19-1 shall provide:

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

Licensing, Accreditation and Registration

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

Limitation of Authority

Only the AGENT or AGENT'S delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the AGENT.

Non-compliance with Non-discrimination Laws

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

Payment

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

OSHA/WISHA Standards

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

Prevailing Wage

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

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

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

Privacy

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

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

Publicity

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

Records Maintenance

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

CONTRACTOR shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the AGENCY, personnel duly authorized by the AGENCY, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

Registration with Department of Revenue

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

Right of Inspection

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

Severability

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

Site Security

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

Subcontracting

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

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

Taxes

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

Termination for Cause

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

In the event of termination or suspension, the CONTRACTOR shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract

and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

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

#### Termination for Convenience

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

#### Termination Procedures

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

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

The AGENCY may withhold from any amounts due the CONTRACTOR such sum as the AGENT determines to be necessary to protect the AGENCY against potential loss or liability. The rights and remedies of the AGENCY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

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

1. Stop work under the contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
3. Assign to the AGENCY, in the manner, at the times, and to the extent directed by the AGENT, all of the rights, title, and interest of the CONTRACTOR under the orders and subcontracts so terminated, in which case the AGENCY has the right, at its discretion, to

- settle or pay any or all claims arising out of the termination of such orders and subcontracts;
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the AGENT to the extent AGENT may require, which approval or ratification shall be final for all the purposes of this clause;
  5. Transfer title to the AGENCY and deliver in the manner, at the times, and to the extent directed by the AGENT any property which, if the contract had been completed, would have been required to be furnished to the AGENCY;
  6. Complete performance of such part of the work as shall not have been terminated by the AGENT; and
  7. Take such action as may be necessary, or as the AGENT may direct, for the protection and preservation of the property related to this contract, which is in the possession of the CONTRACTOR and in which the AGENCY has or may acquire an interest.

#### Treatment of Assets

1. Title to all property furnished by the AGENCY shall remain in the AGENCY. Title to other property, the cost of which is reimbursable to the CONTRACTOR under this contract, shall pass to and vest in the AGENCY upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the AGENCY in whole or in part, whichever first occurs.
2. Any property of the AGENCY furnished to the CONTRACTOR shall, unless otherwise provided herein or approved by the AGENCY, be used only for the performance of this contract.
3. The CONTRACTOR shall be responsible for any loss or damage to property of the AGENCY that results from the negligence of the CONTRACTOR or that results from the failure on the part of the CONTRACTOR to maintain and administer that property in accordance with sound management practices.
4. If any AGENCY property is lost, destroyed or damaged, the CONTRACTOR shall immediately notify the AGENCY and shall take all reasonable steps to protect the property from further damage.
5. The CONTRACTOR shall surrender to the AGENCY all property of the AGENCY prior to settlement upon completion, termination or cancellation of this contract.
6. All reference to the CONTRACTOR under this clause shall also include CONTRACTOR's employees, agents or SUBCONTRACTOR's.

#### Waiver

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