

**STATE OF WASHINGTON**  
**Washington Student Achievement Council**

**REQUEST FOR PROPOSALS (RFP)**

**RFP NO. 23RQ328**

*This RFP is located at the Department of Enterprise Services, Washington Electronic Business Solutions (WEBS) procurement website at <https://fortress.wa.gov/ga/webs/>. All RFP amendments or Bidder questions and WSAC answers will be posted to this website.*

**NOTE:** If you download this RFP from an agency website located at: <http://www.wsac.wa.gov/>, you are responsible for sending your name, address, email address, and telephone number to the RFP Coordinator in order for your organization to receive any RFP amendments or bidder questions/agency answers.

**PROJECT TITLE: Washington College Grant Statewide Marketing**

**PROPOSAL DUE DATE: November 1, 2022 – 5:00 p.m., Pacific Daylight Time,**  
Olympia, Washington, USA

Only emailed bids will be accepted.

**ESTIMATED TIME PERIOD FOR CONTRACT: December 5, 2022 – June 30, 2023.**  
The Agency reserves the right to extend the contract for up to four additional one-year periods at the sole discretion of the Agency.

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

**CONTENTS OF THE REQUEST FOR PROPOSALS:**

1. Introduction
2. General Information for Bidders
3. Proposal Contents
4. Evaluation and Contract Award
5. RFP Exhibits

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## 1. INTRODUCTION

### 1.1. PURPOSE AND BACKGROUND

The Washington Student Achievement Council, hereafter called "AGENCY," is initiating this Request for Proposals (RFP) to solicit proposals from firms interested in participating on a project to promote the Washington College Grant via a statewide marketing awareness campaign.

Washington College Grant (WCG) is the state's largest financial aid program and one of the most generous financial aid programs in the country. Recent high school graduates and working-age adults from many low- and middle-income families can qualify to receive money for college or career training. WCG was expanded in recent years to increase income eligibility limits, guarantee funding to eligible recipients, and support individuals participating in approved apprenticeship programs in addition to those enrolled in traditional college degree programs. The AGENCY administers the Washington College Grant in coordination with financial aid administrators on college campuses and with participating apprenticeship program providers.

WCG's impact as an incentive to enroll in more education beyond high school is curtailed by a lack of awareness about the program and insufficient applications for financial aid. Washington typically ranks in the bottom 5 among the 50 states in financial aid application completion rates. As a result, many eligible students and families who could substantially benefit from WCG instead miss out on the chance to have college or career training paid for by the State of Washington.

This RFP is undertaken pursuant to the requirements of [2SHB 1835 \(2022\)](#), which directs the AGENCY to hire a marketing firm to produce high quality advertisements marketed toward potential postsecondary students and their parents with the goal of increasing awareness of the WCG program to further the state's educational attainment goals. The AGENCY has established a goal that 70% of adults between the ages of 25 and 44 complete a postsecondary degree or credential. The goal was adopted by the state Legislature and signed into law by Governor Jay Inslee. At the end of 2019, the educational attainment rate was 61.7%.

The purpose of the marketing campaign is to increase awareness of the Washington College Grant statewide, and particularly among eligible populations. The campaign's target demographics include but are not limited to: low-income families, undocumented students, rural communities, and underrepresented students of color, including Black students, Indigenous students, Latino students, and Native Hawaiian and Pacific Islander students.

Bidders may submit proposals jointly with one or more business partners or employ subcontractors to carry out designated aspects of the work.

### 1.2. OBJECTIVES AND SCOPE OF WORK

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:

## **A. Action Items**

### **Meetings with Agency**

- CONTRACTOR will meet with AGENCY staff to launch the project, learn more about the WCG program, discuss prior research and marketing strategy, resolve any outstanding questions about project expectations, and discuss project goals and creative direction. This meeting will take place virtually at an agreed-upon time, but no later than December 9, 2022, and is expected to last for up to two hours.
- CONTRACTOR will meet at least monthly with AGENCY staff to discuss short and long-term goals, media mix, timing, and budget in order to develop and procure advertising media for the upcoming period. These meetings will take place virtually.
- CONTRACTOR will provide additional consultations via phone, email, or alternative, mutually agreed upon channels as needed to facilitate the project.

### **Branding**

- On or before January 20, 2023, CONTRACTOR will identify a WCG program tagline in consultation with AGENCY staff for use in branding and marketing materials.
- On or before January 20, 2023, CONTRACTOR will develop and design a program logo and at least one variation in consultation with AGENCY staff.
  - CONTRACTOR must provide logos that are distinct and exclusive to AGENCY.
  - At least one logo variation must be designed with an alternative orientation or dimensions as compared with the primary logo.
  - CONTRACTOR will deliver to the AGENCY all final logo files in vector-based (.ai and .eps) format.
- CONTRACTOR will appropriately license and package any fonts used for either the logo(s) or tagline with the design files.

### **Marketing Planning**

- CONTRACTOR will develop and execute the campaign's marketing plan.
- CONTRACTOR will provide an initial marketing plan for AGENCY review and approval on or before January 20, 2023, that:
  - Includes an initial media schedule.
  - Includes an updated project budget based on planned ad placements.
  - Outlines audience-specific approaches intended to increase awareness among the campaign's target demographics, including but not limited to: low-income families, undocumented students, rural communities, and underrepresented students of color, including Black students, Indigenous students, Latino students, and Native Hawaiian and Pacific Islander students.
  - Addresses the need for Spanish-language advertisements.
- Strategies to target specific audiences will be based on CONTRACTOR experience, market research, evidence-based marketing practices, or some combination thereof.
- CONTRACTOR will track and analyze engagement and success metrics to inform ongoing and future ad placements and adjust marketing plan as necessary.
- CONTRACTOR will execute the marketing plan over the course of the contract period, with all creative content developed, ads placed and run, and reporting complete prior to June 30, 2023.

### **Creative Content Development**

- CONTRACTOR will develop a minimum of three creative concepts for the campaign. Initial creative concepts will be proposed to the AGENCY on or before January 10,

2023. The AGENCY will select one concept for further development and use in the campaign.
- CONTRACTOR will design and develop—in both English and Spanish—campaign creative and related collateral, including video, photography, and print and web graphics for use in out-of-home, digital, and social media advertisements. For Spanish-language ads, additional creative pieces may include Spanish-language broadcast television and radio commercials, or newspaper ads.
    - CONTRACTOR will develop Spanish-language adaptations of content rather than applying Spanish translation to creative developed for an English-language audience.
    - Once a contract is in place, the AGENCY will provide the CONTRACTOR with examples of established WCG messaging to inform message development for the campaign.
  - CONTRACTOR will implement a visual strategy that respectfully integrates families, students, and individuals that are relatable to the campaign’s target demographics.
  - CONTRACTOR will plan and manage all social media, including paid social ads and any posts, messages, and engagement on AGENCY social media channels related to the marketing campaign.
  - CONTRACTOR will design, direct, and supervise any approved photo shoots and production of any approved videos, television commercials, or radio commercials (if applicable).
    - Supervising will include, but is not limited to, selecting models/talent, location(s), and props in cooperation with the AGENCY, and directly overseeing production to ensure that timelines and quality standards are met.
    - Costs for talent, props, photography, locations, and other incidentals needed for production are considered production costs and are inclusive of the contracted amount.
  - All creative products, files, photos, videos, and related collateral will be the property of the AGENCY. The AGENCY will retain all rights in perpetuity for all aspects of the creative produced.
  - At project conclusion, and by no later than June 30, 2023, CONTRACTOR will provide the following in PC-compatible formats on a portable hard disk drive or via a mutually agreed upon cloud-based file transfer service:
    - All final print and digital ads and graphics in high-resolution image file format.
    - All final video ads and television and radio spots in high-resolution, industry-standard video and audio file formats (if applicable).
    - All native project files. Native project files include, but are not limited to, all raw video and audio files (including stock video and audio files purchased specifically for the purpose of the project, if applicable), video and audio project files (if applicable), and any stock or custom graphic or image files developed or purchased for the project.
  - At project conclusion, and by no later than June 30, 2023, CONTRACTOR will provide all relevant releases from models/talent featured in photos, videos, or ad spots and rights to stock images and video clips (if applicable).

### **Media Buying**

- CONTRACTOR is responsible for purchasing and placing all paid advertising and SEM/SEO, as outlined in the marketing plan.
  - Specific media mix is subject to CONTRACTOR’s recommendations, but may include: digital media, such as targeted mobile, paid search, display ads,

streaming, and Over The Top (OTT); out-of-home advertisements, such as billboard and transit ads; and social media, such as Facebook, Instagram, YouTube, and SnapChat. For Spanish-language ads, additional channels may include Spanish-language broadcast television, radio, or newspapers.

- CONTRACTOR will purchase and place out-of-home and in-community advertisements in target geographic areas identified in consultation with AGENCY.
- CONTRACTOR will place and actively manage digital and social media advertisements.
- CONTRACTOR will complete negotiations with responsive media outlets as necessary.
- CONTRACTOR will build final buys and provide copies of media schedule to AGENCY.
- CONTRACTOR will submit orders to advertising outlets.
- For broadcast TV or radio ads, if any are purchased, CONTRACTOR will provide the AGENCY with a complete buy recap within two weeks of placement, including added value, projected audience rating delivery, reach and frequency, and Cost per Thousand.

### **Reporting**

- CONTRACTOR will identify key metrics and use tracking codes and other analytical tools to measure engagement and success.
- CONTRACTOR will create a monthly campaign status report, with an initial report due by March 10, 2023, reporting on work through February 28, 2023. Subsequent monthly reports will be due by the tenth (10th) of each month, reporting on the prior month.
  - Monthly reports will provide the following information by marketing channel: advertisements purchased or placed; budget committed or expended; vendors paid; and, for digital ads, web traffic, reach, impressions, CTR social, CTR web, and cost per click. AGENCY may request additional data or analytics based on the marketing plan and execution.
  - Monthly reports will include a brief written analysis of traffic, audience behavior, changes over time, and other marketing metrics.
- At project conclusion, and by no later than June 30, 2023, CONTRACTOR will create a final, formal report on all marketing activity conducted throughout the campaign, including a summary of the work carried out, sample advertisements, performance metrics, lessons learned, and recommendations for future WCG marketing. The purpose of the report is to share campaign outcomes with external parties, potentially including state legislators or members of the AGENCY's governing Council.

### **B. Project Considerations**

1. Proposals must address the goals of the WCG statewide awareness campaign, which include:
  - Build overall brand recognition.
  - Promote financial aid application completion.
  - Raise awareness of WCG's generous financial eligibility requirements.
  - Emphasize the program's flexibility, in that WCG can be used:
    - By recent high school graduates or working-age adults, regardless of age.
    - By eligible Washington residents, including undocumented students.

- For college or career training.
  - For part-time or full-time enrollment.
  - At public colleges or universities, including community or technical colleges; at approved private colleges and universities; for approved career training and apprenticeship programs.
2. Proposals will be scored on thoughtful and thorough attention and response to equity considerations:
- How will Bidder approach marketing to the campaign’s target populations in order to authentically connect with diverse audiences, mitigate bias, and center equity?
  - How will equity, diversity, and inclusion considerations inform the campaign’s messaging, materials, and media mix?

Bidders who do not adequately address the project considerations in Section 1.2.B. above will be rejected as non-responsive and will not receive further consideration. Any proposal that is rejected as non-responsive will not be evaluated or scored.

**C. Timetable**

| <b>Product or Event</b>  | <b>Due Date (on or before)</b>      |
|--|-------------------------------------|
| Launch meeting   | Dec. 9, 2022                        |
| Subsequent monthly meetings  | Dates TBD                           |
| Initial creative concepts  | January 10, 2023                    |
| Tagline and logos  | January 20, 2023                    |
| Initial marketing plan   | January 20, 2023                    |
| Creative content development   | Ongoing and as needed               |
| Media buying   | Ongoing and as needed               |
| Initial monthly report   | March 10, 2023                      |
| Subsequent monthly reports   | April 10, May 10, and June 10, 2023 |
| Final report   | June 30, 2023                       |
| Campaign complete <ul style="list-style-type: none"> <li>• All ads placed and run</li> <li>• All products, files, releases, and collateral in AGENCY possession</li> </ul> | June 30, 2023                       |

**1.3 MINIMUM QUALIFICATIONS**

Proposals may be submitted by organizations that meet the following minimum criteria:

- Bidder must be licensed to perform work in Washington State.
- Bidder must have a minimum of five (5) years of experience developing and executing creative campaigns, including design services.
- Bidder must have a minimum of five (5) years of professional statewide media planning and buying experience for traditional, out-of-home, digital, and social media, including demonstrated experience planning, executing, and managing advertising buys on digital video and audio streaming services, paid search, and OTT media.
- Bidder must have a minimum of two (2) years experience providing marketing services to Washington State and/or local government agencies; education agencies, districts, colleges, or schools; and/or private nonprofit organizations.

- Bidder firm must have at least two employees who will be involved with the project. Bidder proposals must include a list of all employees involved in the project, along with their relevant experience. Bidders should indicate the nature and degree of each employees' anticipated involvement in the project.
- Bidder must provide at least three (3) non-bidder owned client references for whom the Bidder has provided similar services during the past thirty-six (36) months preceding the bid due date.
- Bidder must provide at least three (3) non-bidder owned media vendor references with whom the Bidder has worked to provide similar services during the past thirty-six (36) months preceding the bid due date.
- Bidder must be able to provide their tax identification number (TIN) and contract number on all invoices and be registered with the Statewide Vendor System.

Bidders may submit proposals jointly with one or more business partners or employ subcontractors to carry out designated aspects of the work. Any and all subcontractors utilized by the CONTRACTOR must meet the following minimum criteria:

- Subcontractor(s) must be licensed to perform work in Washington State.
- Subcontractor(s) must be insured to the extent required by state law.
- Subcontractors(s) must meet the minimum qualifications stated above relevant to the specific duties that the CONTRACTOR hires them to perform.

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

#### **1.4 FUNDING**

The AGENCY has budgeted an amount not to exceed one million dollars (\$1,000,000) for this project. Proposals in excess of \$1,000,000 will be considered non-responsive and will not be evaluated. In the event that additional funding becomes available, any contract awarded may be renegotiated to provide for additional related services.

The AGENCY is not imposing a limit on fees for contractor services; however, Bidders should keep in mind that the proportion of the budget allocated to media buying—exclusive of contractor fees, commissions, or staff time—will be considered in scoring. Therefore, it is to the Bidder's benefit to maximize the portion of the budget allocated to media spend. See Section 3.4 Cost Proposal for details.

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 on or about December 5, 2022, and to end on June 30, 2023. The AGENCY reserves the right to extend the contract for up to four one-year periods. Amendments extending the period of performance, if any, shall be at the sole discretion of the AGENCY.

## 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 RFP include:

**Agency** – The Washington Student Achievement Council is the agency of the state of Washington that is issuing this RFP.

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

**Bidder** – Individual or company interested in the RFP and that may or does submit a proposal in order to attain a contract with the AGENCY.

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

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

**Proposer** – Individual or company that submits a proposal in order to attain a contract with the AGENCY.

**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 Bidder community to suggest various approaches to meet the need at a given price.

## 1.8 Americans with Disabilities Act (ADA)

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

## 2. GENERAL INFORMATION FOR BIDDERS

### 2.1. RFP COORDINATOR

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

|                      |                    |
|----------------------|--------------------|
| <b>Name</b>          | Katie Tallman      |
| <b>Email Address</b> | katiet@wsac.wa.gov |
| <b>Phone Number</b>  | (360) 252-9997     |

Any other communication will be considered unofficial and non-binding on the AGENCY. 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 RFP   | Sept. 30, 2022   |
| Question & answer period  | Sept. 30–Oct. 10 |
| Issue last addendum to RFP  | Oct. 12          |
| Bidder complaint period ends (see section 4.5)  | Oct. 26          |
| Proposals due   | Nov. 1           |
| Evaluate proposals  | Nov. 9           |
| Conduct oral interviews with finalists, if required   | Nov. 10          |
| Announce “Apparent Successful Bidder” and send notification via email to unsuccessful proposers | Nov. 14          |
| Negotiate contract  | Nov. 15–30       |
| Hold debriefing conferences (if requested)  | Nov. 18 & 21     |
| Protest period closes   | Nov. 30          |
| Begin contract work   | Dec. 5, 2022     |

The AGENCY reserves the right to revise the above schedule.

## 2.3 PRE-PROPOSAL CONFERENCE

There will be no pre-proposal conference for this RFP. Instead, interested parties may submit written questions and requests for clarifications until the specified deadline. Thereafter, the AGENCY will provide responses by addendum to this RFP; such addendum will become an element of this solicitation and will be binding upon all parties. Questions submitted after the deadline may not be addressed.

## 2.4 SUBMISSION OF PROPOSALS

**Proposals must be submitted via email and the email size must not exceed 20 megabytes.**

The proposal **must be received by the RFP Coordinator** no later than 5:00 p.m., Pacific Daylight Time in Olympia, Washington, on Tuesday, November 1, 2022.

Proposals must be submitted electronically as an attachment to an email to Katie Tallman, the RFP Coordinator, at the email address listed in Section 2.1. Attachments to email shall be in Microsoft Word or Adobe PDF format and **the email size must not exceed 20 megabytes (MB)**. To keep file sizes to a minimum, Bidders are cautioned not to use unnecessary graphics in their responses. If your proposal approaches or exceeds 20 MB, you must break it up and send it by more than one email so that no single email exceeds 20 MB. Only emails received by the proposal deadline will be considered to be part of the Bidder’s proposal. **Email submission of proposals must include “Proposal for RFP #23RQ328” in the subject line of all emails.** Zipped files cannot be received by the AGENCY 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 Bidder to the offer. The AGENCY does not

assume responsibility for problems with Bidder's email. If the AGENCY'S email is not working, appropriate allowances will be made. Zipped files cannot be received by the AGENCY 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 Bidder to the offer. The AGENCY does not assume responsibility for problems with Bidder's email. If the AGENCY'S email is not working, appropriate allowances will be made.

Bidders should allow sufficient time to ensure timely receipt of the proposal by the RFP Coordinator. Late proposals will not be accepted and will be automatically disqualified from further consideration, unless the AGENCY'S email is found to be at fault. All proposals and any accompanying documentation become the property of the AGENCY and will not be returned.

## **2.5 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE**

Proposals submitted in response to this RFP will become the property of the AGENCY. The AGENCY will deem all proposals as "public records" under RCW 42.56 but as "confidential" until the Apparent Successful Bidder is announced; thereafter, the proposals will be deemed subject to release as "public records" under RCW 42.56.

The Bidder must clearly designate any information in the proposal that the Bidder desires to claim as confidential or proprietary and exempt from disclosure under RCW 42.56, or other state or federal law that provides for the nondisclosure of a document. The information must be clearly identified, and the particular exemption from disclosure upon which the Bidder 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. Financial terms may not be asserted to be Proprietary Information.**

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

The AGENCY will impose a charge for copying and shipping, as outlined in RCW 42.56. No fee will be charged for inspection of contract files, but 24 hours' notice to the RFP Coordinator is required. All requests for information must be directed to the RFP Coordinator.

The submission of any public records request to the AGENCY pertaining in any way to this RFP will not affect the procurement schedule unless the AGENCY, in its sole discretion, determines that altering the schedule would be in the AGENCY'S best interests.

## **2.6 REVISIONS TO THE RFP**

In the event it becomes necessary to revise any part of this RFP, addenda will be published on <http://www.des.wa.gov/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.

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

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

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

The established annual procurement participation goals for MBE is 10%, and for WBE 4%, for this type of project. These goals are voluntary. For information on certified firms, Bidders may contact OMWBE at 360-753-9693 or <http://www.omwbe.wa.gov>.

## **2.8 ACCEPTANCE PERIOD**

Proposals must provide sixty (60) days for acceptance by AGENCY 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 and instructions specified in this RFP. The Bidder is specifically notified that failure to comply with any part of the RFP may result in rejection of the proposal as non-responsive.

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

## **2.10 MOST FAVORABLE TERMS**

The AGENCY 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 Bidder can propose. There will be no best and final offer procedure. The AGENCY does reserve the right to contact a Bidder for clarification of its proposal.

The Apparent Successful Bidder should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may incorporate some or all of

the Bidder's proposal. It is understood that the proposal will become a part of the official procurement file on this matter without obligation to the AGENCY.

## **2.11 CONTRACT AND GENERAL TERMS & CONDITIONS**

The Apparent Successful Bidder will be expected to enter into a contract that is substantially the same as the sample contract and its 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 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 AGENCY will review requested exceptions and accept or reject the same at its sole discretion.

## **2.12 COSTS TO PROPOSE**

The AGENCY 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 RFP does not obligate the state of Washington or the AGENCY to contract for services specified herein.

## **2.14 REJECTION OF PROPOSALS**

The AGENCY 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 the AGENCY or the Director's delegate is the only individual who may legally commit the AGENCY 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 Bidder will be provided a form to complete with the contract to authorize such payment method.

## **3. PROPOSAL CONTENTS**

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. Technical Proposal;
3. Management Proposal; and,
4. Cost Proposal.

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

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

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

The Letter of Submittal and the attached Certifications and Assurances form (Exhibit A to this 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:

1. Name, address, principal place of business, telephone number, and email address of legal entity or individual with whom contract would be written.
2. Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.)
3. Legal status of the Bidder (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
4. The Washington Uniform Business Identification (UBI) number issued by the state of Washington Department of Revenue. If the Bidder does not have a UBI number, the Bidder must state that it will become licensed in Washington within thirty (30) calendar days of being selected as the Apparent Successful Bidder.
5. Location of the facility from which the Bidder would operate if selected as the Apparent Successful Bidder.
6. Identification of any state employees or former state employees employed by the firm 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 the AGENCY that a conflict of interest exists, the Bidder may be disqualified from further consideration for the award of a contract.
7. **Provide sufficient information to address the minimum qualifications in Sec. 1.3 of this RFP.**

### **3.2. TECHNICAL PROPOSAL (SCORED) – 45%**

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

- A. Project Approach/Methodology (15 pts)** – Include a complete description of the Bidder’s proposed approach and methodology for the project. This section should convey Bidder’s understanding of the proposed project and must address Project Considerations set forth in Section 1.2.B. Project Considerations. Bidders who do not adequately address the Project Considerations in Section 1.2.B. will be rejected as non-responsive and will not receive further consideration. Any proposal that is rejected as non-responsive will not be evaluated or scored.
- B. Work Plan (16 pts)** – Include all project requirements and the proposed tasks, services, activities, etc., necessary to accomplish the scope of the project defined in this RFP. This section of the technical proposal must contain sufficient detail to convey to members of the evaluation team the Bidder’s knowledge of the subjects and skills necessary to successfully complete the project and must address Action Items set forth in Section 1.2.A. Action Items. Include any required involvement of AGENCY staff. The Bidder may also present any creative approaches that might be appropriate and may provide any pertinent supporting documentation.
- C. Project Schedule (5 pts)** – Include a project schedule indicating when the elements of the work will be completed. Project schedule must ensure that any deliverables requested are met. Describe the firm’s ability to meet deadlines, especially on a short timeframe, and give examples of how past tight deadlines have been successfully met.
- D. Deliverables (5 pts)** – Fully describe deliverables to be submitted under the proposed contract. Deliverables must support the requirements set forth in Section 1.2, Objectives and Scope of Work.
- E. Outcomes and Performance Measures (2 pts)** – Describe the impacts/outcomes the Bidders propose to achieve as a result of the delivery of these services, including how these outcomes would be monitored, measured, and reported to the AGENCY.
- F. Risks (2 pts)** – The Bidder must identify potential risks that are considered significant to the success of the project. Include how the Bidder would propose to effectively monitor and manage these risks, including reporting of risks to the AGENCY’S contract manager.

### **3.3. MANAGEMENT PROPOSAL – 40%**

#### **A. Project Management (SCORED) – 15 pts**

- 1. Project Team Structure/Internal Controls (5 pts)** – Provide a description of the proposed project team structure and internal controls to be used during the course of the project, including any subcontractors. Provide an organizational chart of your firm indicating lines of authority for personnel involved in performance of this potential contract and relationships of this staff to other

programs or functions of the firm. This chart must also show lines of authority to the next senior level of management. Include who within the firm will have prime responsibility and final authority for the work.

2. **Staff Qualifications/Experience (10 pts)** – Identify staff, including subcontractors, who will be assigned to the potential contract, indicating the responsibilities and qualifications of such personnel, and include the amount of time each will be assigned to the project. Provide 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. The Bidder must commit that staff identified in its proposal will actually perform the assigned work. Any staff substitution must have the prior approval of the AGENCY.

#### **B. Experience of the Bidder (SCORED) – 25 pts**

1. Indicate the experience the Bidder and any subcontractors have in the following areas associated with the services described in this RFP:
  - a. Describe Bidder's experience developing campaigns from concept to execution as described in the Scope of Work.
  - b. Describe Bidder's experience planning and purchasing statewide media and advertising as described in the Scope of Work. Include any experience planning and purchasing Spanish-language media.
  - c. Describe Bidder's experience producing marketing materials as described in the Scope of Work. Include any experience producing marketing materials in Spanish. Provide at least five (5) different sample work products similar to those described in the Scope of Work.
  - d. Give specific examples of any marketing work done for Washington State and/or local government agencies; education agencies, districts, colleges, or schools; and/or private nonprofit organizations or other related entities on a similar project.
2. Include other relevant experience that indicates the qualifications of the Bidder, and any subcontractors, for the performance of the potential contract.
3. Include a list of contracts the Bidder has had during the last five years that relate to the Bidder's ability to perform the services needed under this RFP. List contract reference numbers, contract period of performance, contact persons, telephone numbers, and email addresses.

#### **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(s) and project description, and/or other information available to identify the contract(s).
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(s) 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. 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. The AGENCY 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.

#### **D. References (MANDATORY)**

List names, addresses, telephone numbers, and email addresses of three (3) business references for the Bidder 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 AGENCY staff as references. The Bidder and the lead staff person must grant permission to the AGENCY to contact the references and others who may have pertinent information regarding the Bidder's and the lead staff person's qualifications and experience to perform the services required by this RFP. The AGENCY may evaluate references at the AGENCY'S discretion.

#### **E. OMWBE Certification (OPTIONAL AND NOT SCORED)**

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

#### **F. Executive Order 18-03 Certification (SCORED) – 5 pts**

Pursuant to RCW 39.26.160(3) (best value criteria) and consistent with [Executive Order 18-03 – Supporting Workers' Rights to Effectively Address Workplace Violations](#) (dated June 12, 2018), AGENCY will evaluate bids for best value and provide a bid preference in the amount of five points to any Bidder who certifies, pursuant to the certification attached as **Exhibit C – Contractor Certification for Executive Order 18-03 – Workers' Rights**, that their 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 waiver.

### **3.4. COST PROPOSAL**

The maximum fee for this contract must be one million dollars (\$1,000,000) or less in order to be considered responsive to this RFP.

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

The AGENCY is not imposing a limit on fees for contractor services; however, Bidders should keep in mind that the proportion of the budget allocated to media buying—exclusive of contractor fees, commissions, or staff time—will be considered in scoring. Therefore, it is to the Bidder’s benefit to maximize the portion of the budget allocated to media spend.

#### **A. Identification of Costs (SCORED) – 10 pts**

Please provide a detailed project budget, including a breakdown of costs as follows:

- **Budget allocated to media spend**, exclusive of any contractor fees, commissions, or staff time. Include estimated/proposed cost by media channel.
- **Budget allocated to creative services and content development.**
- **Budget allocated to Bidder’s professional services and administrative costs**, including account management, internal operations, commissions, fees, staff time for media buying, expenses, and any other administrative or professional costs outside of creative services and content development.

Identify all costs in U.S. dollars. Bidders 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.

#### **B. Computation**

The score for the cost proposal will be computed by dividing the Bidder’s proposed budget for media spend by the highest budget for media spend received from all responsive Bidders. The resultant number will be multiplied by the maximum possible points for the cost section. Media spend is the amount spent on media buying exclusive of contractor fees, commissions, or staff time.

### **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 the AGENCY, which will determine the ranking of the proposals.

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

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

## 4.2. EVALUATION WEIGHTING AND SCORING

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

|  |                     |                   |
|--|---------------------|-------------------|
| Technical Proposal – 45%                     |                     | 45 points         |
| Project Approach/Methodology                 | 15 points (maximum) |                   |
| Work Plan                                    | 16 points (maximum) |                   |
| Project Schedule                             | 5 points (maximum)  |                   |
| Project Deliverables                         | 5 points (maximum)  |                   |
| Outcomes/Performance Measures                | 2 points (maximum)  |                   |
| Risks  | 2 points (maximum)  |                   |
| Management Proposal – 40%                    |                     | 40 points         |
| Project Team Structure and Internal Controls | 5 points (maximum)  |                   |
| Staff Qualifications/Experience              | 10 points (maximum) |                   |
| Experience of the Bidder                     | 25 points (maximum) |                   |
| Executive Order 18-03 – 5%                   |                     | 5 points          |
| Cost Proposal – 10%                          |                     | 10 points         |
| <b>TOTAL</b>                                 |                     | <b>100 POINTS</b> |

AGENCY reserves the right to award the contract to the Bidder whose proposal is deemed to be in the best interest of the AGENCY and the state of Washington.

## 4.3. ORAL PRESENTATIONS MAY BE REQUIRED

The AGENCY may, after evaluating the written proposals, elect to schedule oral presentations of the finalists. Should oral presentations become necessary, the AGENCY will contact the top-scoring firm(s) from the written evaluation to schedule the presentations. The AGENCY expects to hold any oral presentations, if necessary, on Thursday, Nov. 10, 2022. Bidders are advised to be available on that day. Commitments made by the Bidder at the oral interview, if any, will be considered binding.

Scores from the written evaluations can be adjusted during, and based on, the project proposal presentations. The scores from the written evaluation and the oral presentation will be combined and evaluated to determine the apparent successful Bidder.

## 4.4. NOTIFICATION TO BIDDERS

Announcement of the Apparent Successful Bidder will be made via WEBS upon the completion of the evaluation process. All bidders who responded to this solicitation will receive an email from WEBS notifying them of the Apparent Successful Bidder.

#### **4.5. COMPLAINT PROCEDURE**

Complaints may be made by any vendor who is a prospective Bidder. The complaint process occurs early in the solicitation to catch mistakes and errors before vendors must submit a bid. A vendor may file a complaint based on one or more of the following reasons:

- The solicitation unnecessarily restricts competition.
- The evaluation/scoring process is unfair or flawed.
- The requirements are inadequate or insufficient so that a response is difficult to prepare.

Complaints must be in writing, describe the reason(s) for the complaint, and provide sufficient basis for the complaint. The complaint must state the RFP number, the reason(s) for the complaint with specific facts and complete statements of the basis for the complaint. A description of the corrective action or remedy being requested must also be included. Complaints must be signed by the vendor or an authorized Agent.

Complaints may be submitted by mail, email, or hand delivered and must be addressed to the RFP coordinator.

Complaints must be received by the RFP coordinator no later than 5:00 PM, local time, in Olympia, Washington on the fifth (5th) business days prior to when the bids are due. Complaints received less than five (5) business days prior to when the bids are due will be reviewed and considered only as time permits.

The RFP coordinator will respond in writing to all complaints within three (3) business days of receipt of the complaint, and a copy of the response will be posted on WEBS. The response will include the decision, how the review was conducted, and the basis upon which a decision was made. The AGENCY decision regarding the complaint is not appealable or repeatable.

#### **4.6. DEBRIEFING OF UNSUCCESSFUL BIDDERS AND PROTEST PROCEDURE**

Any Bidder who has submitted a proposal and been notified that they were not selected for contract award may request a debriefing. The request for a debriefing conference must be received by the RFP Coordinator within three (3) business days after either the Unsuccessful Bidder Notification is emailed to the Bidder or the Notice of Successful Bidder is posted on WEBS, whichever is sooner. Debriefing requests must be received by the RFP Coordinator no later than 5:00 PM, local time, in Olympia, Washington on the third business day following the transmittal of the Unsuccessful Bidder Notification or posting of the Notice of Successful Bidder on WEBS, whichever is sooner. The debriefing must be held within three (3) business days of the request.

Requests for a debriefing conference must be in writing describe the reason(s) the debriefing conference is being requested, and provide sufficient basis for the request. The request for a debriefing conference must state the RFP number, the reason(s) for the request with specific facts and complete statements of the basis for the request. A description of the corrective or remedial action being requested must also be included. Requests for a debriefing conference must be signed by the vendor or an authorized Agent.

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

- The AGENCY's failure to follow the process articulated in the RFP.
- Evaluation and scoring of the Bidder's proposal.
- Critique of the Bidder's proposal based on the evaluation.
- Review of Bidder's final score in comparison with other final scores without identifying the other firms.

The RFP coordinator will schedule the debriefing conference for a maximum of one hour which must be held within three (3) business days of the request, and will promptly notify the Bidder of the debriefing conference date and time. Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a maximum of one hour.

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

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 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.
- Errors or flaws in the scoring process.
- Non-compliance with procedures described in the procurement document or AGENCY policy.

Protests not based on one or more of the three issues immediately above 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) AGENCY'S assessment of its own or other agencies' needs or requirements.

Upon receipt of a protest, a protest review will be held by the AGENCY. The AGENCY 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 ten (10) 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 also 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 the AGENCY's action; or
- Find only technical or harmless errors in the AGENCY's acquisition process and determine the AGENCY to be in substantial compliance and reject the protest; or
- Find merit in the protest and provide the AGENCY options which may include:
  - Correct the errors and re-evaluate all proposals; and/or
  - Reissue the solicitation document and begin a new process; or
  - Make other findings and determine other courses of action as appropriate.

If the AGENCY determines that the protest is without merit, the AGENCY will enter into a contract with the Apparent Successful Bidder. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken. The RFP coordinator will post a copy of the protest and determination on WEBS.

## **5. RFP EXHIBITS**

Exhibit A Certifications and Assurances

Exhibit B Sample Contract including General Terms and Conditions (GT&Cs)

Exhibit C Contractor Certification for Executive Order 18-03 – Workers' Rights

**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 the AGENCY without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
4. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. 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 the AGENCY will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of the AGENCY, 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 knowingly be 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 the AGENCY the right to contact references and others who may have pertinent information regarding the ability of the Bidder 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 is noted on a separate attached page.

We (circle one) **are** / **are not** submitting proposed Contract exceptions. (See Section 2.11, Contract and General Terms and Conditions.) If Contract exceptions are being submitted, I/we have attached them to this form.

**On behalf of the Bidder submitting this proposal, my name below attests to the accuracy of the above statement. We are submitting a scanned signature of this form with our proposal.**

\_\_\_\_\_  
Signature of Proposer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Contract No. (Number)

**Contract for Professional Services  
between the  
State of Washington  
Washington Student Achievement Council  
and  
(Contractor)**

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

(Contractor Name)

(address)

(city, state, zip)

Phone: (Phone Number)

Email: (Email)

**PURPOSE**

The purpose of this contract is to develop and carry out a statewide marketing campaign to increase awareness of the Washington College Grant (WCG) statewide, and particularly among eligible populations. The campaign's target demographics include but are not limited to: low-income families, undocumented students, rural communities, and underrepresented students of color, including Black students, Indigenous students, Latino students, and Native Hawaiian and Pacific Islander students.

Washington College Grant (WCG) is the state's largest financial aid program and one of the most generous financial aid programs in the country. Recent high school graduates and working-age adults from many low- and middle-income families can qualify to receive money for college or career training. WCG was expanded in recent years to increase income eligibility limits, guarantee funding to eligible recipients, and support individuals participating in approved apprenticeship programs in addition to those enrolled in traditional college degree programs. The AGENCY administers the Washington College Grant in coordination with financial aid administrators on college campuses and with participating apprenticeship program providers.

WCG's impact as an incentive to enroll in more education beyond high school is curtailed by a lack of awareness about the program and insufficient applications for financial aid. Washington typically ranks in the bottom 5 among the 50 states in financial aid application completion rates.

As a result, many eligible students and families who could substantially benefit from WCG instead miss out on the chance to have college or career training paid for by the State of Washington.

This contract is undertaken pursuant to the requirements of [2SHB 1835 \(2022\)](#), which directs the AGENCY to hire a marketing firm to produce high quality advertisements marketed toward potential postsecondary students and their parents with the goal of increasing awareness of the WCG program to further the state's educational attainment goals. The AGENCY has established a goal that 70% of adults between the ages of 25 and 44 complete a postsecondary degree or credential. The goal was adopted by the state Legislature and signed into law by Governor Jay Inslee. At the end of 2019, the educational attainment rate was 61.7%.

## SCOPE OF WORK

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

As included in the AGENCY'S Request for Proposals No. 23RQ238, attached as Attachment B, and the CONTRACTOR'S proposal dated (date), attached as Attachment C.

- C. The CONTRACTOR shall produce the following deliverables by the dates indicated below.

| Product or Event   | Due Date (on or before)             |
|--|-------------------------------------|
| Launch meeting   | Dec. 9, 2022                        |
| Subsequent monthly meetings  | Dates TBD                           |
| Initial creative concepts  | January 10, 2023                    |
| Tagline and logos  | January 20, 2023                    |
| Initial marketing plan   | January 20, 2023                    |
| Creative content development   | Ongoing and as needed               |
| Media buying   | Ongoing and as needed               |
| Initial monthly report   | March 10, 2023                      |
| Subsequent monthly reports   | April 10, May 10, and June 10, 2023 |
| Final report   | June 30, 2023                       |
| Campaign complete <ul style="list-style-type: none"> <li>• All ads placed and run</li> <li>• All products, files, releases, and collateral in AGENCY possession</li> </ul> | June 30, 2023                       |

- At project conclusion, and by no later than June 30, 2023, CONTRACTOR will create a final, formal report on all marketing activity conducted throughout the campaign, including a summary of the work carried out, sample advertisements, performance metrics, lessons learned, and recommendations for future WCG marketing. The purpose of the report is to share campaign outcomes with external parties, potentially including state legislators or members of the AGENCY's governing Council.
- At project conclusion, and by no later than June 30, 2023, CONTRACTOR will provide the following in PC-compatible formats on a portable hard disk drive or via a mutually agreed upon cloud-based file transfer service:

- All final print and digital ads and graphics in high-resolution image file format.
- All final video ads and television and radio spots in high-resolution, industry-standard video and audio file formats (if applicable).
- All native project files. Native project files include, but are not limited to, all raw video and audio files (including stock video and audio files purchased specifically for the purpose of the project, if applicable), video and audio project files (if applicable), and any stock or custom graphic or image files developed or purchased for the project.
- At project conclusion, and by no later than June 30, 2023, CONTRACTOR will provide all relevant releases from models/talent featured in photos, videos, or ad spots and rights to stock images and video clips (if applicable).

All project files and written reports required under this contract must be delivered to Katie Tallman, the Contract Manager, in accordance with the schedule above.

## **PERIOD OF PERFORMANCE**

The period of performance under this contract will be from December 5, 2022, or date of execution, whichever is later, through June 30, 2023.

This Contract's term may be extended by up to four (4) additional one-year periods, provided that the extensions shall be at Purchaser's option and shall be effected by AGENCY giving written notice of its intent to extend this Contract to CONTRACTOR not less than thirty (30) calendar days prior to the then-current Contract term's expiration and CONTRACTOR accepting such extension prior to the then-current Contract term's expiration. No change in terms and conditions shall be permitted during these extensions unless specifically agreed to in writing.

## **COMPENSATION**

Total compensation payable to CONTRACTOR for satisfactory performance of the work under this contract shall not exceed one million dollars (\$1,000,000) 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:

As included in the AGENCY'S Request for Proposals No. 23RQ238, attached as Attachment B, and the CONTRACTOR'S proposal dated (date), attached as Attachment C.

### Expenses

CONTRACTOR shall receive reimbursement for travel and other expenses only as authorized in advance by the AGENCY 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**

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

The invoices shall describe and document, to the AGENCY'S satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the contract reference number (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 the AGENCY within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.

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

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

**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.

| <b>CONTRACTOR Contract Manager</b>   | <b>AGENCY Contract Manager</b>   |
|--|--|
| (Enter Contract Manager's Name)<br>(Enter Name of CONTRACTOR)<br>(Enter CONTRACTOR Address)<br>(Enter City, State & Zip Code)<br><br>Phone: ((Phone)) (Number)<br>Email address: (Email) | Katie Tallman<br>Washington Student Achievement Council<br>917 Lakeridge Way SW<br>P.O. Box 43430<br>Olympia, WA 98504-3430<br><br>Phone: (360) 252-9997<br>Email address: katieta@wsac.wa.gov |

**INSURANCE**

CONTRACTOR shall, during the term of this Contract, maintain in full force and effect, the insurance described in this section. CONTRACTOR shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the state of Washington and having a rating of A-, Class VII or better, in the most recently published edition of *Best's Reports*. In the event of cancellation, non-renewal, revocation or other termination of any insurance coverage required by this Contract, CONTRACTOR shall provide written notice of such to AGENCY within one (1) Business Day of CONTRACTOR's receipt of such notice. Failure to buy and maintain the required insurance may, at AGENCY's sole option, result in this Contract's termination.

The minimum acceptable limits shall be as indicated below, with no deductible for each of the following categories:

1. Commercial general liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;
2. Business automobile liability (owned, hired, or non-owned) covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of not less than \$1 million per accident;
3. Employers liability insurance covering the risks of CONTRACTOR's employees' bodily injury by accident or disease with limits of not less than \$1 million per accident for bodily injury by accident and \$1 million per employee for bodily injury by disease;
4. Umbrella policy providing excess limits over the primary policies in an amount not less than \$3 million;
5. Professional liability errors and omissions, with a deductible not to exceed \$25,000, and coverage of not less than \$1 million per occurrence/\$2 million general aggregate; and
6. Crime coverage with a deductible not to exceed \$1 million, and coverage of not less than \$5 million single limit per occurrence and \$10 million in the aggregate, which shall at a minimum cover occurrences falling in the following categories: computer fraud and cyber-attacks; forgery; money and securities; and employee dishonesty.

All insurance provided by CONTRACTOR shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State and shall include a severability of interests (cross-liability) provision.

CONTRACTOR shall include all Subcontractors as insured under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each Subcontractor. Subcontractor(s) shall comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit CONTRACTOR's liability or responsibility. CONTRACTOR shall furnish to AGENCY copies of certificates of all required insurance within thirty (30) calendar days of this Contract's Effective Date, and copies of renewal certificates of all required insurance within thirty (30) days after the renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Failure to provide evidence of coverage may, at AGENCY's sole option, result in this Contract's termination.

By requiring insurance herein, AGENCY does not represent that coverage and limits will be adequate to protect CONTRACTOR. Such coverage and limits shall not limit CONTRACTOR's liability under the indemnities and reimbursements granted to AGENCY in this Contract.

## **ASSURANCES**

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

## **ORDER OF PRECEDENCE**

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

1. Applicable federal and state of Washington statutes and regulations
2. Special terms and conditions as contained in this basic contract instrument
3. Attachment A – General Terms and Conditions
4. Attachment B – Request for Proposals No. 23RQ328
5. Attachment C – Contractor’s Proposal dated (Date)
6. Any other provision, term or material incorporated herein by reference or otherwise incorporated

**ENTIRE AGREEMENT**

This contract, including referenced attachments, 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 the AGENCY’S authorized representative and shall not be binding until so approved. If this is a Sole Source Contract and unless otherwise exempt, it is not binding until approved by the Department of Enterprise Services, and until other posting requirements have been met. This contract was filed with DES on (enter date), posted on the Washington State enterprise vendor registration and bid notification system on (enter date), and posted on the AGENCY’s website on (enter date). The contract may be altered, amended, or waived only by a written amendment executed by both parties.

THIS CONTRACT, consisting of (no. of pgs.) pages and (no. of attach.) attachment(s), is executed by the persons signing below, who warrant they have the authority to execute the contract.

**[CONTRACTOR’S NAME]**

**Washington Student Achievement Council**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant Attorney General

\_\_\_\_\_  
Date

RFP # 23RQ328 - EXHIBIT B (Continued)

**[Contract] ATTACHMENT A -  
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 Washington Student Achievement Council 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 Executive Director of the Washington Student Achievement Council, and/or the delegate authorized in writing to act on the Executive 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 39.26.180, the CONTRACTOR shall provide access to data generated under this contract to AGENCY, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the CONTRACTOR'S reports, including computer models and methodology for those models.

**ADVANCE PAYMENTS PROHIBITED**

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

**AMENDMENTS**

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

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

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

**ASSIGNMENT**

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

## **ATTORNEYS' FEES**

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

## **CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

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

## **CONFLICT OF INTEREST**

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

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

## **COPYRIGHT PROVISIONS**

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

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

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

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

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

### **COVENANT AGAINST CONTINGENT FEES**

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

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

### **DISALLOWED COSTS**

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

### **DISPUTES**

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

1. The request for a dispute hearing must:
  - Be in writing;
  - State the disputed issue(s);
  - State the relative positions of the parties;
  - State the CONTRACTOR'S name, address, and contract number; and
  - Be mailed to the AGENT and the other party's (respondent's) contract manager within 3 working calendar days after the parties agree that they cannot resolve the dispute.
2. The respondent shall send a written answer to the requester's statement to both the agent and the requester within 5 working calendar days.
3. The AGENT shall review the written statements and reply in writing to both parties within 10 working days. The AGENT may extend this period if necessary by notifying the parties.
4. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

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

### **DUPLICATE PAYMENT**

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

## **GOVERNING LAW**

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

## **INDEMNIFICATION**

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

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

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

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

## **INDEPENDENT CAPACITY OF THE CONTRACTOR**

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

## **INDUSTRIAL INSURANCE COVERAGE**

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

## **LICENSING, ACCREDITATION AND REGISTRATION**

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

### **LIMITATION OF AUTHORITY**

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

### **NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

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

### **NONDISCRIMINATION**

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

### **PRIVACY**

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

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

### **PUBLICITY**

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

### **RECORDS MAINTENANCE**

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

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

personnel duly authorized by the AGENCY, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

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

### **REGISTRATION WITH DEPARTMENT OF REVENUE**

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

### **RIGHT OF INSPECTION**

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

### **SAVINGS**

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

### **SEVERABILITY**

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

### **SITE SECURITY**

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

### **SUBCONTRACTING**

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

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

## **TAXES**

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

## **TERMINATION FOR CAUSE**

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

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

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

## **TERMINATION FOR CONVENIENCE**

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

## **TERMINATION PROCEDURES**

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

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

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

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

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

#### **TREATMENT OF ASSETS**

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

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

**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.

