

**STATE OF WASHINGTON DEPARTMENT OF HEALTH  
OLYMPIA, WASHINGTON  
REQUEST FOR APPLICATION  
DOH-RFA-QL2301**

**PROJECT TITLE: Washington State Commercial Tobacco Quitline Project**

**APPLICATION DUE DATE: January 13, 2023, by 2:00 PM PST**

**ESTIMATED INITIAL PERIOD OF PERFORMANCE FOR CONTRACT:**

**April 29, 2023 through April 28, 2025** – The DOH reserves the option, at its sole discretion, to extend the contract for up to five (5) additional one-year periods for up to a total of seven (7) years. – See **Section 1.5 PERIOD OF PERFORMANCE** for additional information.

**APPLICANT ELIGIBILITY:** This application is open to organizations, applicants/teams who are licensed or capable of becoming licensed to do business in Washington State prior to the execution of a Contract; who are available for work, and who satisfy the minimum qualifications stated in **Section 1.3**.

**APPLICATION SCHEDULE:**

RFA Release Date	December 5, 2022
<b>Letter of Intent Due Date*:</b> *Applications will not be reviewed if LOI not submitted	<b>No later than 5:00 PM</b> December 12, 2022
<b>Questions Due from Applicants:</b>	No later than <b>5:00 PM</b> <b>December 22, 2022</b>
DOH Response to Questions	<b>December 29, 2022</b>
Complaint/Suggestion Deadline	January 5, 2022
<b>Funding Application Due Date &amp; Time</b>	No later than <b>2:00 PM</b> <b>January 13, 2023</b>
Evaluation and Scoring Period	January 17, 2023 <i>through</i> January 27, 2023
Announcement of the Selected Applicant	January 31, 2023
Request for Debriefing Deadline	No later than 2:00 PM February 3, 2023
Projected Contract Start Date	April 29, 2023

\*All times shown above are Local Time in Tumwater, WA.

**RFA Coordinator:** Olivia Pineda  
Department of Health, Office of Healthy and Safe Communities  
[olivia.pineda@doh.wa.gov](mailto:olivia.pineda@doh.wa.gov)

All communication about this RFA must be via email and directed only to the RFA coordinator listed above. All email correspondence must include **“Response to Commercial Tobacco Quitline- RFA”** in the subject line.

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## **1. INTRODUCTION**

### **1.1 PURPOSE, OBJECTIVE, AND BACKGROUND**

The Washington State Tobacco Quitline (QL) is a public health service paid for by the Washington State Department of Health (DOH). The QL was foundational to the original DOH Tobacco Prevention & Control Program (TPCP) created in 2000 and remains a core component of the current Commercial Tobacco Prevention Program (CTPP) within the Youth Cannabis & Commercial Tobacco Prevention Program (YCCTPP).

Since November 2000, the QL has served tens of thousands of Washingtonians in their efforts to quit using commercial tobacco, the leading preventable cause of disease and death in the state. In its first year of operations, the QL provided cessation counseling and resources to over 13,000 callers seeking help quitting commercial tobacco. After nearly a decade of the TPCP successfully reducing tobacco use in Washington State, the State Legislature started making funding cuts to the TPCP that ultimately led to a complete shutdown of QL services for 6 months in 2011. For the past twelve years, the QL has been sustained by Centers for Disease Control (CDC) cooperative agreements, State Public Health Approaches for Ensuring Quitline Capacity (CDC-RFA-DP14-1410PPHF14), and now State Commercial Tobacco Use and Dependence Treatment Support System, component two of the National and State Tobacco Control Program (CDC-RFA-DP20-2001). In the 2022 Legislative session, a renewed interest in commercial tobacco cessation was brought forward, which led to one-time funding which totaled to 5.121 million dollars to be spent in SFY 2023. This funding is hoped to be continued to increase support for individuals who are looking to quit commercial tobacco.

In Federal fiscal year (FFY) 2023, the QL is expected to serve a minimum of 2,500 callers, but an expectation of growth, due to the increase in funds that will be utilized for more promotional efforts of the QL, as well as an increase in funds to the QL vendor to serve more Washingtonians ready to become commercial tobacco-free. The QL is intended to serve uninsured and underinsured Washingtonians, with the latter currently defined as a population comprising of individuals who do not have a commercial tobacco cessation benefit built into their insurance plan. As a Medicaid expansion state, Washington provides tobacco cessation treatment as a preventive service to Medicaid (Apple Health) enrollees; as of January 2022, all five Medicaid managed care organizations and the fee-for-service program pay for tobacco cessation telephone counseling for Medicaid enrollees. Although Medicare does not provide this benefit to enrollees, dozens of commercial payers and employers pay for their enrollees' access to tobacco cessation telephone counseling, effectively reducing the size of the underinsured population.

The QL provides a registration and “triage” service for all callers to 1-800-QUIT-NOW; the QL collects the information necessary to ascertain the maximum possible counseling and medication benefit for each caller, assigning them to the appropriate payer contract or otherwise transferring or referring callers to an appropriate resource, including other Quitlines (e.g., Asian Smokers' Quitline, American Indian Commercial Tobacco Program, and Quit Vet). DOH pays for the services provided to people who are uninsured, Medicare enrollees, and enrollees in commercial plans that do not provide tobacco cessation telephone counseling. Before providing services, the QL must determine that the caller is either ‘ready to quit’ using tobacco or has quit within the past six months. To these callers, the QL offers the choice to enroll in either a one-call or five-call counseling program and, if medically appropriate, a 2-week nicotine replacement therapy (NRT) patch starter kit. Additionally, individuals with behavioral health conditions can receive enhanced benefits, including a seven-call counseling program and up to 12-weeks of NRT.

The DOH YCCTPP is requesting applications for a QL contract that will advance the below objectives toward achieving the shared commercial tobacco cessation goals of DOH and CDC. The purpose of the QL application is to provide evidence-based, cost-effective tobacco services to Washingtonians most in need of assistance quitting commercial tobacco use. Although nicotine is a highly addictive substance, and the Patient Protection and Affordable Care Act (ACA) implementation recommendations imply that all non-grandfathered insurance plans should provide commercial tobacco cessation telephone counseling services, not all insurance plans include this as a benefit for enrollees. Therefore, many Washingtonians are left “underinsured” in this regard. Further, thousands of people who use commercial tobacco remain uninsured, and after the recent effective repeal of the ACA individual health insurance mandate, many more will forego insurance. This problem is exacerbated by the ACA provision allowing insurance companies to charge people who use commercial tobacco premiums up to 50% higher than people who do not use commercial tobacco. Meanwhile, disparities in commercial tobacco use and cessation success persist; people who continue to use other commercial tobacco increasingly represents low-income, low-educated, and marginalized communities, including people of color, sexual and gender minorities, and people struggling with mental illness and/or substance use disorders. The state has the unique responsibility to work with public and private partners toward more equitable commercial tobacco cessation outcomes, ensuring that all Washingtonians have access to a minimum level of culturally appropriate commercial tobacco

cessation support. The QL project is core to this objective.

One of the four goals of the [WA State Commercial Tobacco Prevention and Control Five-Year Strategic Plan for SFY 2021 – 2025](#) is to “leverage resources for promoting and supporting commercial tobacco dependence treatment,” of which “streamline access to existing tobacco dependence treatment resources”, and “continue to offer and improve the service quality of Washington State Quitline” are key tactics for helping people quit using commercial tobacco. DOH is implementing these tactics to ensure health and wellness for all Washingtonians, one of six goals outlined in the agency’s 2022 Transformational Plan.

The [CDC’s National Tobacco Quitline Logic Model](#) delineates the ongoing purpose and objectives of the QL. In the long term, CDC and DOH aim to reduce commercial tobacco prevalence, consumption, related health disparities, medical expenditures, and – ultimately – morbidity and mortality. Toward these ends, and within the duration of the FFY 2023 QL project, CDC and DOH aim to:

- Decrease disparities in use of quit support services/treatments among populations experiencing commercial tobacco-related disparities
- Increase awareness of the QL (i.e., via promotion, earned media) by commercial tobacco users
- Increase referrals to the QL from healthcare providers
- Increase QL use volume (i.e., by commercial tobacco users who utilize the QL for help quitting via calls, online registrations, text enrollments, or activations)
- Increase intention to quit among current commercial tobacco users
- Increase quit attempts among current commercial tobacco users
- Increase the number of commercial tobacco users receiving counseling and/or cessation medication via the QL

DOH is seeking innovative solutions for leveraging its available funding to achieve each of the above objectives in ways that address commercial tobacco-related health disparities, including leverage digital technologies, as well as other modes of communications like texting or online chats, to increase accessibility for cessation support.

## **1.2. SCOPE OF WORK**

The contractor will perform the work as a result of this Application per the attached **Exhibit A** – **Scope of Work**, which represents the anticipated work to be done. After announcement of the selected applicant, negotiations for a final statement of work may result in minor changes to the activities, tasks, deliverables, or due dates as described in **Exhibit A**.

### 1.3. MINIMUM AND DESIRED QUALIFICATIONS

Applicant must be licensed or capable of becoming licensed to do business in the state of Washington and demonstrate achievement of the following criteria:

The Contractor must hire and retain counselors with:

- A Bachelor’s degree in counseling/addiction studies, community health education, social work, psychology, or a related behavioral health field.
- Skills in culturally competent principles of motivational interviewing for inducing behavior change and a cognitive-behavioral approach to treating substance abuse.
- Knowledge of specific issues related to tobacco dependence, including nicotine replacement therapy and other pharmacotherapy aids.
- English and/or Spanish language proficiency.
- Counselors must have received at least 200 hours in Contractor training and evaluation.
- The ideal counselors will be certified Tobacco Treatment Specialists.

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

### 1.4. FUNDING

The amount of funding currently available for this project is \$275,000 per year with a possible maximum of \$750,000 annually. Bids in excess of the current amount available will be rejected as non-responsive and will not be evaluated or scored.

<b>Year</b>	<b>Total Expected Amount (Annually)</b>	<b>CDC Funding (Annually)</b>	<b>State Funding* (Annually)</b>
April 29, 2023 – April 28, 2025	\$275,000.00	\$250,000	\$25,000

*\*Please note that the Washington state fiscal year is July 1 – June 30, indicating the state funds available for a shorter time within the period of performance.*

Any contract(s) awarded as a result of this application is contingent upon the availability of funding. In the event additional funding becomes available from either state or federal funders, any contract awarded may be renegotiated and amended to provide for additional related services.

### 1.5. PERIOD OF PERFORMANCE

The period of performance of any contract(s) resulting from this Application is tentatively scheduled to begin on or about **April 29, 2023**, and end on **April 28, 2025**. The DOH reserves the option at its sole discretion to extend the contract for *5 additional one-year periods and this includes similar statements of work.*

## 1.6. DEFINITIONS

Definitions for the purposes of this Application include:

**Commercial Tobacco:** Any product that contains tobacco and/or nicotine, such as cigarettes, cigars, electronic cigarettes, hookah, pipes, smokeless tobacco, heated tobacco, and other oral nicotine products. This does not include any FDA-approved nicotine replacement therapies such as nicotine patches or gum.

**Commercial Tobacco Users:** Individuals who self-report having smoked commercial tobacco (e.g., cigarettes), used smokeless tobacco or other commercial tobacco products, and/or vaped using an electronic nicotine delivery system within the past 30 days.

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

**DOH:** The Washington State Department of Health (DOH).

**E-Cigarettes:** Refers to any electronic nicotine delivery device.

**Health disparities:** Differences in the health status of different groups of people. Some groups of people have higher rates of certain diseases, and more deaths and suffering from them, compared to others.

**NRT:** Nicotine Replacement Therapy, is an FDA-approved medication or treatment to support commercial tobacco cessation.

**Quitline:** Quitlines are telephone-based tobacco cessation services that help tobacco users quit. Services offered by Quitlines include coaching and counseling, referrals, mailed materials, training to healthcare providers, Web-based services and, in some instances, free medications such as nicotine replacement therapy (NRT).

**Traditional Tobacco:** Tobacco and/or other plant mixtures grown or harvested and used by American Indians and Alaska Natives for ceremonial or medicinal purposes.

**Underinsured:** For the Commonwealth Fund 2020 analysis, they used a measure of underinsurance that accounts for an insured adult's reported out-of-pocket costs over the course of a year, not including insurance premiums, as well as their plan deductible. These actual expenditures and the potential risk of expenditures, as represented by the deductible, are then compared with household income. Specifically, we consider people who are insured all year to be underinsured if:

- their out-of-pocket costs, excluding premiums, over the prior 12 months are equal to 10 percent or more of household income; or

- their out-of-pocket costs, excluding premiums, over the prior 12 months are equal to 5 percent or more of household income for individuals living under 200 percent of the federal poverty level (\$25,520 for an individual or \$52,400 for a family of four in 2020); or
- their deductible constitutes 5 percent or more of household income.

**YCCTPP:** Youth Cannabis & Commercial Tobacco Prevention Program, who will be managing this contract once executed.

## **2. GENERAL INFORMATION FOR BIDDERS**

### **2.1 LETTER OF INTENT**

The first step in the application process is to submit a Letter of Intent (LOI). **A template is provided in *Appendix C*. The LOI must include all information included on the template.**

The Letter of Interest must be received by **5:00 PM PST on December 12, 2022. Submit via email to [olivia.pineda@doh.wa.gov](mailto:olivia.pineda@doh.wa.gov) and place “WA Commercial Tobacco Quitline LOI” in the subject line.** The LOI should be in PDF file format and attached to the email. A confirmation email will be sent to the designated organization contact upon receipt of the Letter of Intent. Please contact RFA Coordinator Olivia Pineda at (564) 669-0657 if you have submitted a Letter of Intent and do not receive confirmation by December 12, at 5:00 PM.

All organizations who have submitted an LOI indicating that they meet **all** items included in the Letter of Intent can submit an RFA. Organizations **must** submit an LOI in order for the RFA to be considered.

### **2.2 QUESTION AND ANSWER PERIOD**

Questions regarding Application will be allowed consistent with the dates specified in the RFA schedule on the cover page. All questions must be submitted via email to the RFA Coordinator.

The DOH will provide written answers for questions received by the questions and answer period’s deadline. Answers will be sent via email.

Verbal responses to questions will not be provided. Only written answers will be considered official and binding. Bidders will not be identified in answers.

If interpretations or other changes to this RFA are required as a result of inquiries made during the question and answer period, the RFA may be amended. Amendments will be sent via email



## **2.3 COMPLAINT PROCESS**

Issues or concerns not resolved to an Applicant's satisfaction during the question-and-answer period may be addressed through a complaint only on the following grounds:

- The RFA unnecessarily restricts competition;
- The evaluation or scoring process is unfair or flawed; or
- The RFA requirements are inadequate or insufficient to prepare a response.

A complaint must:

1. be received by the DOH by the date specified in the Application Schedule. Otherwise, an untimely complaint may be rejected without further consideration at the discretion of the DOH, and
2. be sent by email to the RFA Coordinator
3. include the RFA number and be clearly labeled as "Complaint."

A complaint should:

1. Clearly articulate the basis of the complaint consistent with the complaint criteria; and
2. Include a proposed remedy.

Upon receipt of a timely complaint, the DOH will consider all the facts available and respond in writing prior to the Response due date and time.

The RFA coordinator shall promptly post the response via email.

The DOH response to the complaint is final and not subject to appeal. Issues raised in a complaint may not be raised again during the protest period.

## **2.4 SUBMISSION OF APPLICATION**

Applicants are required to submit their application electronically in PDF format. The application must be received by the RFA Coordinator by 2:00 PM PST on January 13, 2023. Late applications will not be accepted and will be automatically disqualified from further consideration. All applications and any accompanying documentation become the property of the DOH and will not be returned.

## **2.5 MINORITY & WOMEN-OWNED BUSINESS ENTERPRISES AND VETERAN-OWNED BUSINESS ENTERPRISE PARTICIPATION**

### **Minority and Women Owned Business Enterprises (MWBE)**

In accordance with the legislative findings and policies set forth in RCW 39.19, the state of Washington encourages participation in all of its Contracts by Minority and Woman Owned Business Enterprises (MWBE) firms certified by the Office of Minority and Women's Business Enterprises (OMWBE). While the state does not give preferential treatment, it does seek equitable representation from the minority and women's business community. In addition, the

state welcomes participation by self-identified minority and woman owned firms and strongly encourages such firms to become certified by OMWBE.

Participation may be either on a direct basis in Response to this RFA contract or to a Contractor. However, unless required by federal statutes, regulations, grants, or Contract terms referenced, no preference will be included in the evaluation of Applications, no minimum level of MWBE participation shall be required as condition for receiving an award, and Applications will not be evaluated, rejected or considered non-responsive on that basis.

### **Veteran-Owned Business Enterprise**

The DOH strongly encourages participation of businesses owned by veterans. No minimum level of veteran-owned business participation is required as a condition of received an AWARD and no preference will be included in the evaluation of responses in accordance with chapter 43.60A RCW.

## **2.6 RESPONSIVENESS**

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

The DOH also reserves the right, however, at its sole discretion to waive minor administrative irregularities.

## **2.7 MOST FAVORABLE TERMS/BEST AND FINAL OFFER**

The DOH reserves the right to make an award on the original application submitted or, at its sole discretion, to request a best and final offer from the top contending applicants, as defined by the DOH. The initial application should be submitted on the most favorable terms which the Applicant can propose. The DOH reserves the right to contact an Applicant for clarification of its application.

The Applicant should be prepared to accept this RFA for incorporation into a contract resulting from this Request. Contract negotiations may incorporate some or all of the Applicant's entire application. It is understood that the application will become a part of the official contract file on this matter without obligation to the DOH.

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

The chosen Applicant will be expected to enter into a contract, which is substantially the same as the sample contract and its general terms and conditions attached as **Exhibit C**. In no event is an Applicant to submit its own standard contract terms and conditions in response to this RFA. The Applicant may submit exceptions as allowed in the Certifications and Assurances section, **Exhibit B**. The DOH will review requested exceptions and accept or reject the same at its sole discretion.

## **2.9 COST TO PROPOSE**

The DOH will not be liable for any costs incurred by the Applicant in preparation of an application submitted in response to this Request for Application, in conduct of a presentation, or any other activities related to responding to this RFA.

## **2.10 NO OBLIGATIONS TO CONTRACT**

This Request for Application does not obligate the state of Washington or the DOH to contract for services specified herein. The DOH reserves the right at its sole discretion to reject any and all applications received without penalty and not to issue a contract as a result of this RFA.

## **2.11 ACCESSIBILITY REQUIREMENTS FOR PROJECTS WITH INFORMATION TECHNOLOGY**

The State of Washington is committed to providing access to information technology to the public and Washington State employees, including individuals with disabilities. Information Technology should be procured, developed, maintained, and utilized so that it is accessible to individuals with disabilities, unless it creates an [undue burden](#) on the agency. Information Technology, including Web sites, Web-based applications, software systems, and electronically published documents, should provide the substantially similar functionality to individuals with disabilities as it provides to others. The System must meet Accessibility Requirements of WCAG 2.0 level AA, as prescribed by [Washington State OCIO Policy 188](#).

## **3. APPLICATION CONTENTS**

Applications must be submitted as a PDF via email by **2:00 PM on January 13<sup>th</sup>, 2023**. The four major sections of the bid are to be submitted in the order noted below:

1. YCCTPP Request for Funding Face Sheet
2. Delegation of Signature Authority
3. COVID Vaccination Certification
4. Application Proposal
5. Qualifications Section
6. Quotations Section (Appendix B- Cost Sheet)
7. Letter of Submittal
8. Bid Certifications and Assurances (Exhibit B)
9. Wage Theft Certification (Exhibit B-1)

Applications 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 application, but should assist the Applicant in preparing a thorough response.

Items in this section marked “mandatory” must be included as part of the application for the application 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.

As a reminder, information provided in application documents is subject to public disclosure. Do not include information in your response that you do not want disclosed to the public.

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

The Letter of Submittal and the attached Bid Certifications and Assurances forms (Exhibit B and Exhibit B-1) each must be signed and dated by a person authorized to legally bind the Applicant to a contractual relationship, e.g., the president or executive director of a corporation, the managing partner of a partnership, or the proprietor of a sole proprietorship.

Attach the Bid Certifications and Assurances form to the Letter of Submittal.

The Letter of Submittal must contain the following business information: (Mandatory Responses are required).

- Please explain how you meet the minimal requirements of the RFA.
- State the name of the Applicant or company, address, phone number, email address of the primary contact, and legal status of entity (ownership).
- Provide the firm's Federal Employer Tax Identification number and the Washington Uniform Business Identification (UBI) number issued by the state of Washington Department of Revenue, or affirm that it will be provided prior to contract signing.
- Indicate how many employees are with the firm. Name the firm principles and their roles.
- If applicable, include proof of certification issued by the Washington State Office of Minority and Women's Business Enterprises if certified minority-owned firm and/or women-owned firm(s) will be participating on this project.
- Identify any state employees or former state employees employed by the Applicant or on the Applicant's governing board as of the date of the bid. Include the individual's name, the agency previously or currently employed by, job title or position held, and separation date (if applicable). If, following a review of this information, it is determined by the DOH that a conflict of interest exists, the Applicant may be disqualified from further consideration for the award of a contract.
- If the Applicant has had a contract terminated for default in the last five years, describe such incident including full details of the terms for default, including the other party's name, address, and phone number. Present the Applicant's position on the matter. Termination for default is defined as notice to stop performance due to the Applicant's non-performance or poor performance and the issue of performance was either: (a) not litigated due to inaction on the part of the Applicant, or: (b) litigated and such litigation determined that the Applicant was in default.

The DOH will evaluate the facts and may, at its sole discretion, reject the application on the grounds of the past experience.

### 3.2. APPLICATION PROPOSAL(SCORED) (10 PAGES MAXIMUM)

The Application Proposal must contain a comprehensive description of services including, but not limited to, the following elements:

**A. Project Approach/Methodology** – include a complete description of the Applicant’s proposed approach and methodology for the project. This section should convey Applicant’s understanding of the proposed project. Discuss how the key criteria can be met as outlined in **Appendix A**. The Applicant may also present any creative approaches that might be appropriate and may provide any pertinent supporting documentation.

- Does the Applicant see any potential difficulties implementing services in Washington?
  - Has the Applicant faced any difficulties in the past implementing services? If so, please describe.
- Describe the ability of the Applicant to answer and collect relevant data in a timely manner from those calling.
  - Describe the capability and hours that the Applicant will be able to provide services.
  - Describe how the Applicant will reach out to clients that sought out services during non-hours of operation.
- What innovative approaches does the Applicant see within the contract period to improve commercial tobacco cessation in Washington?
  - Have any of these approaches been utilized in other contracts currently held by the Applicant? If so, please describe their success.
- Does the Applicant have the capacity to field FAX or eReferrals to the Quitline services?

**B. Work Plan** – Describe how the Applicant will include all project requirements and the proposed tasks, services, activities, etc., necessary to accomplish the scope of the project defined in this RFA. This section of the technical proposal must contain sufficient detail to convey to members of the evaluation team the Applicant’s knowledge of the subjects and skills necessary to successfully complete the project. Include any required involvement of DOH staff. In addition, please explain how the Applicant will safeguard “confidential information”.

- Describe how the Applicant will handle and protect confidential information.
- Describe the capability of the Applicant to provide tailored cessation efforts to diverse populations within Washington.
- Is the Applicant capable of shipping the identified NRT supplies to commercial tobacco users who qualify for services?
- Describe the capability of the Applicant to provide the necessary information in the Weekly, Monthly, Quarterly, and Annual Reports.
  - How will the Applicant break down the data so that it is easily understood and can be used to further improve cessation efforts?

- How will the Applicant develop programs tailored to youth commercial tobacco and vapor product use?
  - What services are available to be offered to this population?
  - Does the Applicant have the capability to design media tailored to this population?
  - How will the Applicant implement these services?
- Describe how the Applicant will refer users to community-based cessation resources?

C. **Risks** – The Applicant must identify potential risks that are considered significant to the success of the work. Include how the Applicant would propose to effectively monitor and manage these risks, including reporting of risks to the DOH contract manager.

- Describe a risk the Applicant has faced in the past, and how the Applicant proceeded with remedying the situation.
- Describe two additional potential risks the Applicant sees, and the steps that would be taken to address the situation.
- What measures are currently in place to make sure any issues are caught early? Please describe at least 2, but no more than 3.
- How would the Applicant report any risks that occur to the DOH contract manager?

### **3.3. QUALIFICATIONS SECTION (SCORED) (5 PAGES MAXIMUM)**

The qualifications section of the application must contain information that will demonstrate to the evaluation committee the Applicant’s understanding of the types of services proposed, the firm’s ability to accomplish them, and the ability to meet desired outcomes.

The qualifications response is to be submitted in two sections: Experience and Staffing. Both sections combined must be no more than 5 pages in length.

#### **3.3.1. QUALIFICATION**

Do not show any cost, hourly rate, or number of hours for team members in the Qualifications section or your application will be considered non-responsive and will not be evaluated.

##### **1. EXPERIENCE (SCORED)**

Describe services provided by the Applicant that indicate the firm’s ability to provide the services described as follows:

- List how many years of experience Applicant has in this work.
- Describe Applicant’s professional experience as it relates to this work.
- Include three (3) letters of support from partners, including contact information and email addresses.

## 2. STAFFING (SCORED)

- Describe the experience of Applicant's counselors.
- Do counselors described have bachelor's degrees in counseling/addiction as it relates to community health education, social work, psychology, or a related behavioral health field?
- Do counselors have skills in culturally competent principles of motivational interviewing for inducing behavior change and a cognitive-behavioral approach to treating substance use disorder? Please explain.
- Are counselors knowledgeable of specific issues related to tobacco dependence, including nicotine replacement therapy and other pharmacotherapy aids?
- Do counselors have English and/or Spanish language proficiency?
- Do counselors receive at least 200 hours in contractor training and evaluation?
- Are counselors certified Tobacco Treatment Specialists?

List any other staff and/or sub-contractors you want to include to complete your roster of services. Describe what services each would provide. Provide the information in Section 3.3.1 above about each.

## 3.4. QUOTATIONS SECTION (SCORED)

### 3.4.1 IDENTIFICATION OF COSTS (SCORED)

Please submit **Appendix B: Quitline Cost Sheet** and submit it with your proposal. Show the total cost associated with this application and show the tax as a separate line item.

Applicants are required to collect and pay Washington State taxes as applicable.

The evaluation process is designed to award not necessarily to the Applicant of least cost, but rather to the Applicant whose application best meets the requirements of this Request for Application. Applicants are encouraged, however, to submit applications which are consistent with state government efforts to conserve state resources.

## 4. EVALUATION AND CONTRACT AWARD

### 4.1. EVALUATION PERIOD

Responsive applications will be evaluated strictly in accordance with the requirements stated in this Request for Application and any amendments issued. The evaluation of applications shall be accomplished by an evaluation team to be designated by the DOH, which will determine the ranking of all the applications. DOH Reserves the option to award to the Applicant that best meets the Agency's business need.

#### 4.2. APPLICATION CLARIFICATIONS

The RFA Coordinator may contact the Applicant for clarification of any portion of the Applicant's application.

#### 4.3. EVALUATION WEIGHTING AND SCORING

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

<b>SECTION</b>	<b>POINTS</b>
APPLICATION PROPOSAL: <ul style="list-style-type: none"><li>• Project Approach/Methodology</li><li>• Work Plan</li><li>• Risks</li></ul>	110 points total: <ul style="list-style-type: none"><li>• 75</li><li>• 50</li><li>• 10</li></ul>
QUALIFICATION: <ul style="list-style-type: none"><li>• Experience of applicant</li><li>• Staffing (counselor qualifications)</li><li>• 3 letters of support</li></ul>	50 points total: <ul style="list-style-type: none"><li>• 20</li><li>• 20</li><li>• 10</li></ul>
QUOTATIONS (see Appendix B) <ul style="list-style-type: none"><li>• Minimum service requirements</li><li>• Desired/optional services</li></ul>	15 points total: <ul style="list-style-type: none"><li>• 10</li><li>• 5</li></ul>
<b>Overall total points possible</b>	<b>200</b>

#### 4.4. NOTIFICATION TO APPLICANTS

4. The Applicant with the highest total score will be declared chosen Applicant. This does not guarantee that the State will enter into a contract with the Applicant. Designation as chosen Applicant allows the State to enter into contract negotiations with the chosen Applicant. Applicants that act or fail to act in reliance on this notification do so at their own risk and expense.

Applicants that were not selected for further negotiation or award will be notified by email.

### **5. DEBRIEFING OF UNSUCCESSFUL APPLICANTS**

The request for a debriefing conference must be received by the RFA Coordinator within three (3) business days after the announcement of the chosen Applicant. The request should include a list of applicant attendees including their titles. Debriefing may be conducted either in person, by telephone, or by electronic means, as determined by the RFA Coordinator. The failure of a Applicant to make a timely request and/or attend a debriefing shall constitute a waiver of the right to submit a protest.

Discussion will be limited to a critique of the requesting Applicant's application. Comparisons between applications or evaluations of the other applications will not be allowed. Debriefing conferences will be scheduled for a maximum of one hour.



## **6. PROTEST PROCEDURE**

Applicants protesting this Request for Application shall follow the procedures described below. Protests that do not follow these procedures shall not be considered.

This procedure is available to Applicants who submitted a response to this RFA document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Applicant is allowed five (5) business days to file a protest with the RFA Coordinator. The protest must be via email, include the RFA number, be clearly labeled as “Protest”, include a specific and complete statement of facts forming the basis of the protest, and include a description of the relief or corrective action requested.

A protest may be based only on one or more of the following:

- Bias, discrimination or conflict of interest on the part of the evaluator
- Errors in computing the scores; or
- Non-compliance with procedures described the RFA document

Upon receipt of a protest, a protest review will be held by a DOH agency representative. This representative will be a neutral party who was not involved in the Request for Application evaluation and award process. The agency representative will review the protest and all available facts and issue a response within ten (10) business days of receipt of the protest. If additional time is required, the protesting party will be notified of the estimated additional time needed to respond.

The final determination of the protest shall:

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

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

The protest decision is final and not subject to administrative appeal. If the protesting applicant does not accept the DOH protest decision, the bidder may seek relief from the Superior Court in Washington State.

## **7. APPLICATION CHECKLIST**

All items must be checked and included for the application to be accepted.

Items I – VII.

- I. YCCTPP Request for Funding Face Sheet
- II. Delegation of Signature Authority
- III. COVID Vaccination Certification
- IV. Application Proposal
- V. Qualifications Section
- VI. Quotations Section (Appendix B- Cost Sheet)
- VII. Letter of Submittal
  - Bid Certifications and Assurances (Exhibit B)
  - Wage Theft Certification (Exhibit B-1)

## **8. APPENDICES: (Separate Document)**

- I. Appendix A- Key Criteria of Technical Proposal
- II. Appendix B- Outline Cost Sheet
- III. Appendix C- LOI Template
- IV. Appendix D- YCCTPP Request for Funding Application Face Sheet
- V. Appendix E- Delegation of Signature Authority- Example and original sheet
- VI. Appendix F- Bidder Vaccine Certification Sheet

## **9. EXHIBITS (Order and content of Exhibits may vary)**

- Exhibit A – \*Example\* Statement of Work
- Exhibit B – Bid Certifications and Assurances
- Exhibit B-1 – Wage Theft Certification
- Exhibit C – Contract General Terms and Conditions (GT&Cs)

## EXHIBIT A- \*EXAMPLE\* STATEMENT OF WORK

### Statement of Work and Tasks

Contractor shall provide services and staff, and otherwise do all things necessary for, or incidental to, the statement of work, as set forth below:

#### **Task 1: Intake**

- Answer calls to 1-800-QUIT-NOW and register first-time users by collecting necessary personal contact and health information.
  - The national Spanish numbers, 1-855-DEJELO-YA (335-3569) and 1-877-2NO-FUME, as well as the text telephone (TTY) number, 1-877-777-6534, must also connect callers to the QL.
  - Contractor will provide live response 24 hours per day, seven days per week, excluding Independence Day, Thanksgiving Day, and Christmas Day. Service delivery will close at 12pm PST on Christmas Eve and 3pm PST on New Year's Eve. Missed calls during holidays shall be routed to voicemail, with a voicemail greeting indicating that services are closed, and messages will be returned the next day. Callers shall have the option to leave a voicemail, listen to tailored messages, or both.
  - At least 80% of all calls during business hours will be answered live within 30 seconds, and at least 95% of voicemails will be initiated for return within 24 hours of receipt.
- Contractor should demonstrate the capacity to allow registration for users with additional modes of communication including, but not limited to, texting, online chat, or online registration forms.
- Provide general information to family and friends of tobacco users, health care providers, and the general public at no cost to the individual.
- Proactively call or message individuals referred to QL via FAX, online submission, and/or electronic health record (EHR).
  - The fax referral number, 1-800-483-3078, must be used to receive FAX referrals.
  - The online referral form for healthcare providers wishing to refer patients via the Internet, hosted on the URL, [quitline.com](http://quitline.com)
  - The Contractor should demonstrate capacity for EHR referral (eReferral) intake by presenting a plan and requirements for doing so to DOH.
- For tobacco users, collect relevant information about user's medical history and health insurance.
  - Meet North American Quitline Consortium (NAQC) Minimal Data Set (MDS) Intake standards, including standard electronic nicotine delivery system (ENDS) questions.
  - For insured tobacco users, collect health insurance payer, plan, membership number, and group number.
- For tobacco users, assess individual's readiness to quit tobacco use, based on transtheoretical model (TTM) of behavior change.

When multiple calls or coaching sessions are offered (see task 2), at least 70% of tobacco users in the preparation, action, or maintenance stage of TTM will be transferred directly to a counselor after the registration call.

- Assist tobacco user with navigating health plan tobacco cessation benefits.
- Efficiently transfer or otherwise refer tobacco user to telephone counseling service specified in health plan (if applicable).
- For uninsured tobacco users and tobacco users without a telephone counseling benefit (“underinsured” tobacco users), provide counseling and nicotine replacement therapy services (see Tasks 2 & 3).
- For all users, ship informational materials and/or refer individual to community-based tobacco cessation resources (see Task 4).

## **Task 2: Counseling**

- For tobacco users in pre-contemplation or contemplation stage of TTM, provide one professional tobacco cessation telephone counseling call at no charge to the callers.
- For tobacco users in preparation, action, or maintenance stage of TTM:
  - Provide up to five professional tobacco cessation counseling sessions via multiple modes of communication, including telephone counseling calls, virtual counseling sessions, and texting or chat counseling sessions, annually, exclusive of previous one-call service (see above), at no charge to the callers.
    - Counseling Sessions must assist individual in developing and executing a personalized quit plan, which should include five counseling sessions, lasting at least 10 minutes each, all occurring within a 90-day timeframe.
    - Services must be available in English and Spanish, with third-party translation in 200+ languages.
    - Protocols for initial and follow-up sessions must be culturally competent and research-based on principles of motivational interviewing for inducing behavior change and a cognitive-behavioral approach to treating substance abuse.
    - Tailored counseling should be provided to tobacco users who, during their registration interaction, report:
      - Having mental illness
      - Being of American Indian/Alaska Native origin
      - Being pregnant, planning to become pregnant, or breast/chest feeding
      - Being under the age of 18 (Youth Support Program)
    - Counselors should proactively reach out tobacco users to ensure progress toward cessation.
    - For tobacco users with cellular phones, Contractor should utilize text messaging support to ensure progress toward cessation.
    - Follow-up calls (calls 2-5) must meet the North American Quitline Consortium (NAQC) Minimal Data Set (MDS) follow-up standards.
  - Dose and provide guidance for usage of over-the-counter nicotine replacement therapy (see Task 3), based on tobacco user’s medical history (see Task 1).

- Individuals' ineligible for counseling include:
  - Non-users of tobacco
  - Tobacco users who have a tobacco cessation telephone counseling benefit through their health plan
  - Individuals under the age of 13
- In consultation with Contractor, DOH will determine and authorize changes to counseling service eligibility, as appropriate.

### **Task 3: Nicotine replacement therapy (NRT)**

- Ship NRT supplies to tobacco users, as appropriate (see Task 2).
  - The default service offering is a 2-week NRT transdermal patch starter kit.
  - Depending on funding and budget availability, DOH may authorize augmented offerings in the form of additional 2-week increments (up to 12 weeks) and/or alternative NRT products (i.e., gum, lozenge).
- Individuals' ineligible for NRT include:
  - Non-users of tobacco
  - Tobacco users in pre-contemplation or contemplation stages of TTM
  - Tobacco users who report having health insurance, but do not provide plan details (see Task 1)
  - Minors (under 18 years of age)
  - People who are pregnant or breast/chest feeding
- In consultation with Contractor, DOH will determine and authorize changes to NRT service eligibility, as appropriate.

### **Task 4: Informational materials & referrals**

- Ship DOH-maintained materials to QL users upon request.
  - Contractor should ship self-help materials to users upon request, at no charge to the callers.
- Refer callers to DOH- maintained list of community-based tobacco cessation resources, as appropriate.
- In consultation with Contractor, DOH will determine and authorize changes to informational materials and community resource list, as appropriate.

### **Task 5: Reporting & evaluation**

The Contractor must provide and implement a quality assurance, reporting, and basic evaluation plan. The following reports will be submitted in an agreed-upon format by the specified due dates:

- Weekly reports are due on the following Tuesday and include, but are not limited to:
  - Registration counts, by date and user type
  - Services billed to DOH, by date

- Monthly reports are due on the 10<sup>th</sup> of the following month and include, but are not limited to:
  - Registrations, by date and how individuals heard about QL / Youth cessation program
  - Service transfers, by date and health insurance payer
  - Counseling session billed to DOH, by date and individual TTM stage
  - NRT shipments billed to DOH, by date
  - Referrals to community resources, by date and community resource
  - Demographic summary of tobacco users receiving services billed to DOH
  - Quitline experience data extract
  - A data extract with an individual record for each billed service (for reconciliation with monthly invoices)
- Quarterly reports (with the first quarter commencing August 1) will be due on the last business day of the month following the end of the quarter and include, but not be limited to:
  - All data required by National Quitline Data Warehouse (NQDW)
  - Referral outcome summaries (to be sent to referring providers; see Task 1)
  - Contractor performance management reports, detailing operational/clinical performance and staff education and training
  - Standard services report for DOH contractors, segmented by contractors' service population (e.g., counties served, ethnicity/race)
  - Engagement of users for the youth texting cessation program
  - Qualitative feedback (e.g., satisfaction, comments) received from QL/Youth cessation program users
- Annual reports will be due on the last business day of the second month following the end of the fourth quarter (end of September).
  - The Contractor must provide all relevant data for the North American Quitline Consortium (NAQC) Annual Survey of Quitlines.
  - The Contractor should also provide a basic evaluation of outcomes related to objectives delineated in the 'Purpose' section of this document and include 6-month abstinence rates and satisfaction scores.
  - The Contractor should also explore possibilities for real-time reporting (e.g., a reporting dashboard) with DOH.

### **Task 6: Youth cessation program**

To address youth (ages 13-17) commercial tobacco use, contractor will host a texting program for youth to receive free cessation support and resources. Youth will be able to access the program by texting a keyword to the assigned texting line. Contractor will work with DOH contract manager to develop features of the program that would best support Washingtonians ages 13-17. Examples include but are not limited to: supportive messaging, sessions with quit coaches, interactive lessons, quizzes, and other media. Contractor will provide monthly reports as listed above regarding the programs use that will focus on enrollment and engagement.

## **Task 7: Program development**

Contractor will have the capabilities to establish programs that address current issues related to commercial tobacco, including (but not limited to) youth vapor product use, tobacco and substance co-use, and menthol tobacco use. Contractor will work with DOH contract manager to establish any appropriate programs, courses materials or supports needed to address the designated issue.

Examples include courses for providers and or influential adults regarding vapor product usage to support youth to become nicotine-free, enhanced programs for commercial tobacco users who also have a substance use or opioid use disorder, and enhanced programs to address menthol commercial tobacco users.

## **Contractor Staff, Roles and Responsibilities**

The Contractor will designate a primary point of contact with whom DOH can work with as often as a daily basis (e.g., an account manager), as well as a secondary point of contact in the event primary point of contact is unavailable. The Contractor will also designate an individual as having financial oversight for this contract.

The Contractor's staffing plan must include a training schedule and staff appraisal plan. Prior to fulfilling service requirements, counselors must have received at least 200 hours in Contractor training and evaluation. The Contractor will ensure specific ongoing training of counselors to maintain expertise and keep up with research in the behavioral health/tobacco cessation field.

The DOH YCCTPP Commercial Tobacco Use and Dependence Treatment Consultant will serve as the main point of contact for this work.

The contractor will maintain personnel, facilities, and equipment necessary to provide a toll-free telephone tobacco quit line service specific to Washington State. The system must have capacity to handle multiple, simultaneous incoming and outgoing calls. Office space must accommodate administrative, counseling and support staff and confidential records as well as sufficient telephone lines, telephones and computer systems, hardware, and software.

## EXHIBIT B – BID CERTIFICATIONS AND ASSURANCES

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

1. I/we declare that all answers and statements made in the bid are true and correct.
2. I/we are licensed, or we are capable of becoming licensed to do business in the state of Washington.
3. 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 bid.
4. The attached bid is a firm offer for a period of 60 days following receipt, and it may be accepted by the DOH without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
5. In preparing this bid, 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 bid or prospective contract, and who was assisting in other than his or her official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
6. I/we understand that the DOH will not reimburse me/us for any costs incurred in the preparation of this bid. All bids become the property of the DOH, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
7. Unless otherwise required by law, the prices and/or cost data that have been submitted have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Bidder or to any competitor.
8. I/we agree that submission of the attached proposal constitutes acceptance of the request for application 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.
9. No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
10. Information that has been determined to be proprietary or confidential has been clearly marked and included in this bid as a separate document.
11. If any staff member(s) who will perform work on this contract has retired from the State of Washington under the provisions of the 2008 Early Retirement Factors legislation, his/her name(s) is noted on a separately attached page.
12. I/we declare that we are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded in any Federal department or agency from participating in transactions.
13. I/we declare that all answers and statements made in the application and the Letter of Submittal are true and correct.

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Signature of Bidder

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Title

Date





## EXHIBIT C- CONTRACT GENERAL TERMS AND CONDITIONS

### I. DEFINITIONS

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

1. "Allowable Cost" shall mean an expenditure which meets the test of the Uniform Guidance (2CFR 200) (see "I. Federal Compliance"). The most significant factors affecting allowability of cost are; 1) they must be necessary and reasonable, 2) they must be allocable, 3) they must be authorized or not prohibited under state or local laws and regulations, and 4) they must be adequately documented. For more specifics see Selected Items of Cost 2 CFR 200.420).
2. "Client" shall mean an agency, firm, organization, individual or other entity applying for or receiving services under this contract.
3. "Cognizant State Agency" shall mean the state agency from whom the sub-recipient receives federal financial assistance. If funds are received from more than one state agency, the cognizant state agency shall be the agency who contributes the largest portion of federal financial assistance to the sub-recipient, unless a cognizant state agency has been designated by OFM.
4. "Confidential Information " shall mean information that is exempt from disclosure under chapter 42.56 RCW, and other state or federal statutes and regulations.
5. "Contractor" shall mean that agency, firm, provider, organization, individual or other entity performing services under this contract. It shall include any subcontractor retained by the prime contractor as permitted under the terms of this contract.

A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the Contractor. See §200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a Contractor are when the non-Federal entity receiving the Federal funds:

- A. Provides the goods and services within normal business operations;
  - B. Provides similar goods or services to many different purchasers;
  - C. Normally operates in a competitive environment;
  - D. Provides goods or services that are ancillary to the operation of the Federal program; and
  - E. Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.
6. "Contracting Officer" shall mean that individual(s) of the Contracts and Procurement Office of DOH and his/her delegates within that office authorized to execute this contract on behalf of DOH.
  7. "Department" shall mean the Department of Health (DOH) of the State of Washington, any division, section, office, unit or other entity of the department, or any of the officers or other officials lawfully representing DOH.
  8. "Equipment" shall mean an article of non-expendable, tangible property having a useful life of more than one year and an acquisition cost of \$5,000 or more.
  9. "Noncompliance" shall mean if a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in §200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances

- A. Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
  - B. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
  - C. Wholly or partly suspend or terminate the Federal award.
  - D. Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
  - E. Withhold further Federal awards for the project or program.
  - F. Take other remedies that may be legally available.
10. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers. Personal information includes "protected health information" as set forth in 45 CFR § 164.50 as currently drafted and subsequently amended or revised and any other information that may be exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other state and federal statutes.
11. "Reimbursement" shall mean that DOH will repay the Contractor for allowable costs incurred under the terms of this contract.
12. "Sensitive Data" shall mean data that is held confidentially, and if compromised may cause harm to individual citizens or create a liability for the State.
13. "Specific Conditions"
- A. The Federal awarding agency or pass-through entity may impose additional specific award conditions as needed, in accordance with paragraphs (b) and (c) of this section, under the following circumstances:
    - 1) Based on the criteria set forth in §200.205 Federal awarding agency review of risk posed by applicants;
    - 2) When an applicant or recipient has a history of failure to comply with the general or specific terms and conditions of a Federal award;
    - 3) When an applicant or recipient fails to meet expected performance goals as described in §200.210 Information contained in a Federal award; or
    - 4) When an applicant or recipient is not otherwise responsible.
  - B. These additional Federal award conditions may include items such as the following:
    - 1) Requiring payments as reimbursements rather than advance payments;
    - 2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
    - 3) Requiring additional, more detailed financial reports;
    - 4) Requiring additional project monitoring;
    - 5) Requiring the non-Federal entity to obtain technical or management assistance; or
    - 6) Establishing additional prior approvals.

- C. The Federal awarding agency or pass-through entity must notify the applicant or non-Federal entity as to:
  - 1) The nature of the additional requirements;
  - 2) The reason why the additional requirements are being imposed;
  - 3) The nature of the action needed to remove the additional requirement, if applicable;
  - 4) The time allowed for completing the actions if applicable, and
  - 5) The method for requesting reconsideration of the additional requirements imposed.
- D. Any specific conditions must be promptly removed once the conditions that prompted them have been corrected.

- 14. "Subcontractor" shall mean a person, partnership, or company, not in the employ of or owned by the Contractor, who is performing all or part of those services under a separate contract with or on behalf of the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.
- 15. "Subrecipient" shall mean a non-Federal entity that received a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. (2 CFR 200.93)

Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- A. Determines who is eligible to receive what Federal assistance;
  - B. Has its performance measured in relation to whether objectives of a Federal program were met;
  - C. Has responsibility for programmatic decision making;
  - D. Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
  - E. In accordance with its contract, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of a pass-through entity.
- 16. "Successor" shall mean any entity which, through amalgamation, consolidation, or other legal succession becomes invested with rights and assumes burdens of the first contractor/ vendor.

## II. GENERAL CONDITIONS

- 1. **ACCESS TO DATA** – In compliance with chapter 39.26 RCW, the Contractor shall provide access to data generated under this contract to DOH, 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. The Contractor agrees to make personal information covered under this contract available to DOH for inspection or to amend the personal information, as directed by DOH. Contractor shall, as directed by DOH, incorporate any amendments to the personal information into all copies of such personal information maintained by the Contractor or its subcontractors.

2. **ADVANCE PAYMENTS PROHIBITED** – No payment in advance or in anticipation of services or supplies to be provided under this contract shall be made by DOH.
3. **AMENDMENTS** – This contract may be amended by mutual written contract 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.
4. **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.
5. **ASSIGNABILITY** – Neither this contract nor any claim arising under this contract shall be transferred or assigned by the Contractor without prior written consent of DOH.
6. **ATTORNEYS' FEES** – In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney's fees and costs.
7. **CHANGE IN STATUS** - In the event of substantive change in the legal status, organizational structure, or fiscal reporting responsibility of the Contractor, Contractor agrees to notify DOH of the change. Contractor shall provide notice as soon as practicable, but no later than thirty days after such a change takes effect.
8. **CONFIDENTIALITY/SAFEGUARDING OF INFORMATION** – The use or disclosure by any party, either verbally or in writing, of any Confidential Information shall be subject to Chapter 42.56 RCW and Chapter 70.02 RCW, as well as other applicable federal and state laws and administrative rules governing confidentiality. Specifically, the Contractor agrees to limit access to Confidential Information to the minimum amount of information necessary, to the fewest number of people, for the least amount of time required to do the work. The obligations set forth in this clause shall survive completion, cancellation, expiration, or termination of this contract.
  - A. Notification of Confidentiality Breach

Upon a breach or suspected breach of confidentiality, the Contractor shall immediately notify the DOH Privacy Officer at [dohprivacyofficer@doh.wa.gov](mailto:dohprivacyofficer@doh.wa.gov). For the purposes of this contract, “immediately” shall mean within two calendar days.

The Contractor will take steps necessary to mitigate any known harmful effects of such unauthorized access including, but not limited to sanctioning employees, notifying subjects, and taking steps necessary to stop further unauthorized access. The Contractor agrees to indemnify and hold harmless DOH for any damages related to unauthorized use or disclosure by the Contractor, its officers, directors, employees, subcontractors, or agents.

Any breach of this clause may result in termination of the contract and the demand for return of all Information.

B. Subsequent Disclosure

The Contractor will not release, divulge, publish, transfer, sell, disclose, or otherwise make the Confidential Information known to any other entity or person without the express prior written consent of the Secretary of Health, or as required by law.

If responding to public record disclosure requests under RCW 42.56, the Contractor agrees to notify and discuss with the DOH Privacy Officer requests for all information that are part of this contract, prior to disclosing the information. The Contractor further agrees to provide DOH

a minimum of two calendar weeks to initiate legal action to secure a protective order under RCW 42.56.540.

9. **CONFLICT OF INTEREST** – Notwithstanding any determination by the Executive Ethics Board or other tribunal, DOH may, in its sole discretion, by written notice to the Contractor, terminate this contract if it is found, after due notice and examination by DOH or its 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 of this contract.

In the event this contract is terminated as provided above, DOH 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 DOH provided for in this section shall not be exclusive are in addition to any other rights and remedies provided by law. The existence of facts upon which DOH makes a determination under this section shall be an issue and may be reviewed as provided in the “disputes” section of this contract.

10. **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 the purpose of securing business. DOH 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.
11. **DEBARMENT** – The Contractor, by signature to this contract, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded in any Federal department or agency from participating in transactions. The Contractor agrees to include the above requirement in all subcontracts into which it enters to complete this contract.
12. **DISPUTES** – The parties shall use their best, good faith efforts to cooperatively resolve disputes and problems that arise in connection with this contract. Both parties will continue without delay to carry out their respective responsibilities under this contract while attempting to resolve the dispute under this section. When a genuine dispute arises between DOH and the Contractor regarding the terms of this contract or the responsibilities imposed herein which cannot be resolved at the project management level, either party may submit a request for a dispute resolution to the DOH Contracts Unit which shall oversee the following dispute resolution process: DOH shall appoint a representative to a dispute panel; the Contractor shall appoint a representative to the dispute panel; DOH’s and Contractor’s representatives shall mutually agree on a third person to chair the dispute panel. The dispute panel shall thereafter decide the dispute with the majority prevailing.

A party's request for a dispute resolution must:

- be in writing,
- state the disputed issues,
- state the relative positions of the parties,
- state the Contractor's name, address, and his/her department contract number,
- be mailed within thirty (30) calendar days after the party could reasonably be expected to have knowledge of the issue which he/she now disputes to:

ATTN: Contracts and Procurement Manager

DOH Contracts Unit

PO Box 47905

Olympia, WA 98504-7905

This dispute resolution process constitutes the sole administrative remedy available under this contract. The parties agree that this resolution process shall precede any action in a judicial and quasi-judicial tribunal.

13. **EFFECTIVE DATE** – Unless otherwise specified under period of performance, the effective date of this contract and subsequent amendments, if any, is the date of execution. The date of execution is the last date of signature of the parties to the contract. Contractor assumes all liability for any expenses incurred prior to the date of execution or in the event the contract/amendment is not executed.
14. **GOVERNING LAW** – This contract shall be governed by the laws of the state of Washington and applicable federal laws and regulations. The venue of any legal action or suit concerning this contract shall be the Thurston County Superior Court and all actions or suits thereon shall be brought therein.
15. **INDEMNIFICATION** – To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless the state of Washington, DOH, agencies of the State and all officials, agents and employees of the State, from and against all claims 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 obligation 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.

16. **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 the contract are not employees or agents of DOH. The contractor shall not hold himself/herself out as nor claim to be an officer or employee of DOH or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Contractor.
17. **INDUSTRIAL INSURANCE COVERAGE** – The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. Prior to performing work under this contract, the Contractor shall provide or purchase industrial insurance coverage for the Contractor’s employees, as may be

required of an “employer” as defined in Title 51 RCW, and shall maintain full compliance with Title 51RCW during the course of this contract. 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, DOH may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. DOH may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by DOH under this contract, and transmit the deducted amount to the Department of Labor and Industries, Division of Insurance Services. This provision does not waive any of the Department of Labor and Industries rights to collect from the Contractor.

Industrial insurance coverage through the Department of Labor & Industries is optional for sole proprietors, partners, corporate officers and others, per RCW 51.12.020.

18. **INSURANCE** – The Contractor shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the Contractor or subcontractor, or agents of either, while performing under the terms of this contract.

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

- A. **Commercial General Liability Insurance Policy** - Provide a commercial general liability insurance policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, the Contractor is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.
- B. **Automobile Liability** - In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or unowned by the Contractor, automobile liability insurance shall be required. The minimum limit for automobile liability is:
  - 1) \$1,000,000 per occurrence, using a combined single limit for bodily injury and property damage
- C. The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insureds under the insurance policy/ies. All policies shall be primary to any other valid and collectable insurance. Contractor shall instruct the insurers to give DOH 30 days advance notice of any insurance cancellation.

Upon request, Contractor shall submit to DOH, a certificate of insurance which outlines the coverage and limits defined in the Insurance section. If a certificate of insurance is requested, Contractor shall submit renewal certificates as appropriate during the term of the contract.

19. **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.
20. **LIMITATION OF AUTHORITY** – Only the Contracting Officer or his/her 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 on behalf of DOH. No alteration, modification, or waiver of any clause or condition of this contract is effective or binding unless made in writing and signed by the Contracting Officer.



21. **NONDISCRIMINATION** – During the performance of this contract, the Contractor shall comply with all federal and state nondiscrimination laws, regulations and policies.
22. **NONDISCRIMINATION LAWS NONCOMPLIANCE** – In the event of the Contractor's noncompliance 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 DOH. 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.
23. **OVERPAYMENTS AND ASSERTION OF LIEN** – In the event that DOH establishes overpayments or erroneous payments made to the Contractor under this contract, DOH may secure repayment, plus interest, if any, through the filing of a lien against the Contractor's real property, or by requiring the posting of a bond, assignment or deposit, or some other form of security acceptable to DOH, or by doing both.
24. **PRIVACY** – Personal information including, but not limited to “protected health information” collected, used or acquired in connection with this contract shall be used solely for the purposes of this contract. 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 DOH or as provided by law. Contractor agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

DOH reserves the right to monitor, audit, or investigate the use of personal information collected, used or acquired by the contractor through this contract. The monitoring, auditing, or investigating may include but is not limited to "salting" by DOH. Contractor shall certify the return or destruction of all personal information upon expiration of this contract. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

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 DOH for any damages related to the contractor's unauthorized use of personal information.

For the purposes of this provision, personal information includes but is not limited to information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, or other activities, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

25. **PUBLICITY** – The Contractor agrees to submit to DOH all advertising and publicity matters relating to this contract wherein DOH's name is mentioned or language used from which the connection of DOH's name may, in DOH'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 DOH.
26. **RECORDS, DOCUMENTS, AND REPORTS** –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 which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. Contractor shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials

generated under the contract, shall be subject at all reasonable times to inspection, review or audit by DOH, personnel duly authorized by DOH, the office of the state auditor, and federal and state officials so authorized by law, regulation or agreement.

If the contract reimburses the Contractor for costs incurred in performance, the Contractor shall in addition maintain books, records, documents and other evidence of procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

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.

27. **REGISTRATION WITH DEPARTMENT OF REVENUE** – The Contractor shall complete registration with the Washington State Department of Revenue, if applicable, and be responsible for payment of all taxes due on payments made under this contract.
28. **RIGHT OF INSPECTION** – The Contractor shall provide right of access to its facilities to DOH, 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. The Contractor shall make available information necessary for DOH to comply with the client's right to access, amend, and receive an accounting of disclosures of their Personal Information according to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or any regulations enacted or revised pursuant to the HIPAA provisions and applicable provisions of Washington State law. The Contractor's internal policies and procedures, books, and records relating to the safeguarding, use, and disclosure of personal information obtained or used as a result of this contract shall be made available to DOH and the U.S. Secretary of the Department of Health & Human Services, upon request.
29. **RIGHTS IN DATA/COPYRIGHT** – Unless otherwise provided, all materials produced exclusively under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by DOH. DOH 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 DOH 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 that derive exclusively from the Contractor's work under this contract. 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 DOH 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 DOH.

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

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

30. **SECURITY OF INFORMATION** – Unless otherwise specifically authorized by the DOH IT Security Officer, Contractor receiving confidential information under this contract assures that:
- It is compliant with the applicable provisions of the Washington State Office of the Chief Information Officer’s policy, Securing Information Technology Assets, available at <http://ofm.wa.gov/ocio>.
  - It will provide DOH copies of its IT security policies, practices and procedures upon the request of the DOH IT Security Officer.
  - DOH may at any time conduct an audit of the Contractor’s security practices and/or infrastructure to assure compliance with the security requirements of this contract.
  - It has implemented physical, electronic and administrative safeguards that are consistent with ISB IT security standards and guidelines to prevent unauthorized access, use, modification or disclosure of DOH Confidential Information in any form. This includes, but is not limited to, restricting access to specifically authorized individuals and services through the use of:
    - Documented access authorization and change control procedures;
    - Card key systems that restrict, monitor and log access;
    - Locked racks for the storage of servers that contain Confidential Information or AES encryption (128bit or stronger) to protect confidential data at rest;
    - Documented patch management practices that assure all network systems are running critical security updates within 6 days of release when the exploit is in the wild, and within 30 days of release for all others;
    - Documented anti-virus strategies that assure all systems are running the most current anti-virus signatures within 1 day of release;
    - Complex passwords that are systematically enforced and expire at least every 180 days;
    - Strong (Two Factor) authentication mechanisms that assure the identity of individuals who access Confidential Information;
    - Account lock-out after 5 failed authentication attempts for a minimum of 20 minutes, or for Confidential Information, until administrator reset;
    - AES encrypted (128bit or stronger) sessions for all data transmissions.
    - Firewall rules and network address translation that isolate database servers from web servers and public networks;
    - Regular review of firewall rules and configurations to assure compliance with authorization and change control procedures;
    - Log management and intrusion detection/prevention systems;
    - A documented and tested incident response plan

Any breach of this clause may result in termination of the contract and the demand for return of all personal information.

31. **SEVERABILITY** – If any provision of this contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this contract which can be given effect without the invalid provision, and to this end the provisions of this contract are declared to be severable.

32. **SITE SECURITY** – While on DOH premises, Contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations. Failure to comply with these regulations may be grounds for revoking or suspending security access to these facilities. DOH reserves the right and authority to immediately revoke security access to Contractor staff for any real or threatened breach of this provision. Upon reassignment or termination of any Contractor staff, Contractor agrees to promptly notify DOH.
33. **SUBCONTRACTING** – Neither the Contractor, nor any subcontractors, shall enter into subcontracts for any of the work contemplated under this contract without prior written approval of DOH. In no event shall the existence of the subcontract operate to release or reduce the liability of the Contractor to DOH for any breach in the performance of the Contractor’s duties. This clause does not apply to Hospitals and/or Medical Clinics that must contract with specialty physicians (e.g. anesthesiologists, radiologists, physicians groups, independent practitioners, etc.) nor does it 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 contract 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 DOH or as provided by law.

If, at any time during the progress of the work, DOH determines in its sole judgment that any subcontractor is incompetent or undesirable, DOH shall notify the Contractor, and the Contractor shall take immediate steps to terminate the subcontractor's involvement in the work.

The rejection or approval by DOH of any subcontractor or the termination of a subcontractor shall not relieve the Contractor of any of its responsibilities under the contract, nor be the basis for additional charges to DOH.

DOH has no contractual obligations to any subcontractor or vendor under contract to the Contractor. The Contractor is fully responsible for all contractual obligations, financial or otherwise, to their subcontractors.

34. **SURVIVABILITY** – The terms and conditions contained in this contract which by their sense and context, are intended to survive the completion, cancellation, termination, or expiration of the contract shall survive,
35. **SUSPENSION OF PERFORMANCE AND RESUMPTION OF PERFORMANCE** – In the event contract 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, DOH may give notice to Contractor to suspend performance as an alternative to termination. DOH may elect to give written notice to Contractor to suspend performance when DOH determines that there is a reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow performance to be resumed prior to the end date of this contract. Notice may include notice by facsimile or email to Contractor’s representative. Contractor shall suspend performance on the date stated in the written notice to suspend. During the period of suspension of performance each party may inform the other of any conditions that may reasonably affect the potential for resumption of performance.

When DOH determines that the funding insufficiency is resolved, DOH may give Contractor written notice to resume performance and a proposed date to resume performance. Upon receipt

of written notice to resume performance, Contractor will give written notice to DOH as to whether it can resume performance, and, if so, the date upon which it agrees to resume performance. If Contractor gives notice to DOH that it cannot resume performance, the parties agree that the contract will be terminated retroactive to the original date of termination. If the date Contractor gives notice it can resume performance is not acceptable to DOH, the parties agree to discuss an alternative acceptable date. If an alternative date is not acceptable to DOH, the parties agree that the contract will be terminated retroactive to the original date of termination.

36. **TAXES** – All payments accrued on account 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.
37. **TERMINATION FOR CONVENIENCE** – Except as otherwise provided in this contract, the Contracting Officer may, by TEN (10) calendar days written notice, beginning on the second day after the mailing, terminate this contract in whole or in part when it is in the best interests of DOH.

If this contract is so terminated, DOH shall be liable only for payment in accordance with the terms of this contract for services rendered prior to the effective date of termination.

38. **TERMINATION FOR DEFAULT** – In the event DOH determines the contractor has failed to comply with the conditions of this contract in a timely manner, DOH has the right to suspend or terminate this contract. Further, DOH may terminate this contract for default, in whole or in part, if DOH has a reasonable basis to believe that the contractor has:
- A. Failed to meet or maintain any requirement for contracting with DOH;
  - B. Failed to ensure the health or safety of any client for whom services are being provided under this contract;
  - C. Failed to perform under, or otherwise breached, any term or condition of this contract; and/or;
  - D. Violated any applicable law or regulation.

Before suspending or terminating the contract, DOH shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within fourteen (14) 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. DOH 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 DOH to terminate the contract. A termination shall be deemed to be 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 DOH provided in this contract are not exclusive and are in addition to any other rights and remedies provided by law.

39. **TERMINATION PROCEDURE** – Upon termination of this contract DOH may require the Contractor to deliver to DOH 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.

DOH shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by DOH. In addition DOH shall pay the amount agreed upon by the

Contractor and the Contracting Officer for (a) completed work and services for which no separate price is stated, (b) partially completed work and services, (c) other property or services which are accepted by DOH, and (d) the protection and preservation of the property. If the termination is for default, the Contracting Officer shall determine the extent of the liability of DOH. Failure to agree with such determination shall be a dispute within the meaning of the Disputes clause of this contract.

DOH may withhold from any amounts due the Contractor for such completed work or services such sum as the Contracting Officer determines to be necessary to protect DOH against potential loss or liability.

The rights and remedies of DOH 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 Contracting Officer, the Contractor shall:

- Stop work under the contract on the date and to the extent specified in the notice;
  - Place no further orders or subcontracts for materials, services, facilities except as necessary to complete such portion of the work not terminated;
  - Assign to DOH, to the extent directed by the Contracting Officer, all of the rights, titles, and interest of the Contractor under the orders and subcontracts in which case DOH has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
  - Settle all outstanding liabilities and all claims arising out of orders or subcontracts, with the approval or ratification of the Contracting Officer to the extent he/she may require, which approval or ratification shall be final for all the purposes of this clause;
  - Transfer title to DOH and deliver, as directed by the Contracting Officer, any property which, if the contract had been completed, would have been required to be furnished to DOH;
  - Complete performance of such part of the work not terminated by the Contracting Officer; and,
  - Take such action as may be necessary, or as the Contracting Officer 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 DOH has or may acquire an interest.
40. **WAIVER OF DEFAULT** – Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing and signed by authorized representative of DOH.