
REQUEST FOR PROPOSALS

Issued by:

The Federalism Commission



**CONSULTING SERVICES FOR THE DEVELOPMENT OF
LAND MANAGEMENT PLANS
FOR FEDERALLY CONTROLLED PUBLIC LAND IN UTAH**

RFP No. FC-2019-02

December 18, 2019

I. DEFINITIONS

As used in this RFP:

1. “COMMISSION” means the Federalism Commission, created in Utah Code Section 63C-4a-302.
2. “CONSULTANT” means the person whose proposal submitted in response to this RFP is selected for an award of a contract to provide CONSULTING SERVICES and who enters into a contract with the COMMISSION to provide CONSULTING SERVICES.
3. “CONSULTING SERVICES” means professional services to assist the COMMISSION in the development of LAND MANAGEMENT PLANS, including:
 - a. compiling and analyzing data applicable to the development of LAND MANAGEMENT PLANS and applying those data to the drafting and development of the LAND MANAGEMENT PLANS; and
 - b. providing expertise in drafting and developing LAND MANAGEMENT PLANS that accurately reflect and incorporate the state’s laws and the Utah Legislature’s policy objectives and also provide the greatest likelihood of acceptance by the FEDERAL LAND AUTHORITY.
4. “FEDERAL LAND AUTHORITY” means:
 - a. for federally controlled public lands within the Bears Ears National Monument, the Grand Staircase-Escalante National Monument, and Emery County, the Secretary of the U.S. Department of the Interior; or
 - b. for federally controlled public lands within the Central Wasatch Range, the U.S. Forest Service.
5. “FEDERAL LANDS” means federally controlled public lands within the Bears Ears National Monument and the Grand Staircase-Escalante National Monument and certain areas of federally controlled public lands within Emery County and the Central Wasatch Range.
6. “LAND MANAGEMENT PLANS” means plans:
 - a. for the management of FEDERAL LANDS;
 - b. that reflect and are consistent with the state’s laws and the Utah Legislature’s policy objectives relating to the management of FEDERAL LANDS.
7. “LEGISLATURE” means:
 - a. the Utah Legislature, including the Utah House of Representatives and the Utah Senate;
 - b. the members, staff, and employees of the Utah Legislature, the Utah House of Representatives, or the Utah Senate; and

- c. staff offices of the Utah Legislature, the Utah House of Representatives, or the Utah Senate, and employees of those staff offices.
8. "MST" means Mountain Standard Time.
9. "RESPONDER" means a person who submits a proposal in response to this RFP and, in the case of the person whose proposal is selected for an award of a contract pursuant to this RFP, includes the CONSULTANT.
10. "RESPONSIBLE" means being capable, in all respects, of:
 - a. meeting all the requirements of this RFP; and
 - b. fully performing all the requirements of the contract resulting from the RFP, including being financially solvent with sufficient financial resources to perform the contract.
11. "RESPONSIVE" means conforming in all material respects to the requirements of this RFP.
12. "RFP" means this request for proposals, issued by the COMMISSION, for CONSULTING SERVICES, No. FC-2019-02.

II. RFP GENERAL INFORMATION

1. In 2017, the Utah Legislature, with the concurrence of the governor, passed H.C.R. 1, Concurrent Resolution to Secure the Perpetual Health and Vitality of Utah's Public Lands and its Status as a Premier Public Lands State." H.C.R. 1 recognizes the state's commitment to remaining a public lands state and encourages the pursuit of action supporting the retention and optimal management of public lands within the state. H.C.R. 1 also recognizes the federal government's failure to obtain meaningful state and local input into the management of federally managed public lands within the state.
2. In 2019, the Utah Legislature passed H.J.R. 17, Joint Resolution on the Formation of Public Land Management Plans, which recognizes the importance of the state forming legislatively approved land management plans for federally managed public lands in the state and expresses support for the issuance of a request for proposals to hire a consultant to assist in the formation of land management plans for federally managed public lands.
3. Under the Federal Land Policy and Management Act, the Secretary of the Interior is required to develop land management plans for federally controlled public lands. Those plans are required to be consistent with state and local plans to the maximum extent the Secretary finds consistent with federal law and the purposes of the Federal Land Policy and Management Act.

4. Under the National Forest Management Act (NFMA), the U.S. Forest Service is required to develop management plans for all national forests. The NFMA also directs the U.S. Secretary of Agriculture to develop regulations that set out the process for the development and revision of land management plans, guidelines, and standards. Under federal regulation 36 CFR §219.4, the U.S. Forest Service is required to engage and coordinate with state and local governments in the land management planning process.
5. The state of Utah has not developed legislatively approved land management plans for the federally controlled public lands within the state. Developing land management plans would give the state greater and more appropriate input into the management of federal land management plans used to manage federally managed public lands within the state.
6. The COMMISSION intends to develop LAND MANAGEMENT PLANS to present to the Utah Legislature for its approval and, if approved, for submission to the FEDERAL LAND AUTHORITY for consideration in the development of plans for the management of the FEDERAL LANDS, as provided in the Federal Land Policy and Management Act and the National Forest Management Act. To enhance the likelihood that the FEDERAL LAND AUTHORITY will use the LAND MANAGEMENT PLANS in the development of federal land management plans for federally controlled public lands in the state, the LAND MANAGEMENT PLANS developed by the COMMISSION should be as consistent with federal law and the purposes of the Federal Land Policy and Management Act and the National Forest Management Act and related federal regulations as possible, without sacrificing the state's policy objectives. The COMMISSION will look to the CONSULTANT to provide expertise in drafting and developing LAND MANAGEMENT PLANS that accurately reflect and incorporate the state's policy objectives and also provide the greatest likelihood of acceptance by the FEDERAL LAND AUTHORITY. The CONSULTANT will be expected to provide CONSULTING SERVICES through the time of the COMMISSION's presentation of the LAND MANAGEMENT PLANS to the Utah Legislature for its consideration and approval and throughout the process of the Utah Legislature's consideration of the LAND MANAGEMENT PLANS, including for any modifications of draft LAND MANAGEMENT PLANS that may be needed throughout the process of their being considered and approved by the Utah Legislature.
7. As provided in H.J.R. 17, the land management plans to be developed with the assistance of the CONSULTANT will draw upon and integrate work already completed in the area of public land management, including the efforts of local jurisdictions, the statewide resource management plan, and existing state law. The CONSULTANT will also be expected to coordinate and collaborate, as appropriate, with other relevant state and local jurisdictions.
8. The purpose of this RFP is to solicit proposals from qualified individuals or firms or groups of individuals or firms to enter into a contract to provide CONSULTING

SERVICES to the COMMISSION relating to the COMMISSION's development of LAND MANAGEMENT PLANS and to assist the COMMISSION to develop LAND MANAGEMENT PLANS.

9. This RFP is designed to provide basic information sufficient to solicit proposals from qualified individuals or firms or groups of individuals or firms, but (except to the extent expressly provided otherwise) is not intended to limit a proposal's content or exclude any relevant, important, or essential information.
10. The COMMISSION reserves the right, in its sole discretion, to award the contract to more than one RESPONDER and to receive CONSULTING SERVICES under more than one contract.
11. At the COMMISSION's sole discretion and dependent on the CONSULTANT'S performance under the contract, the COMMISSION may expand the scope of the federally controlled public lands for which the CONSULTANT provides CONSULTING SERVICES to include other federally controlled public lands beyond those contained within the definition of FEDERAL LANDS and to increase compensation to the CONSULTANT beyond the initial contract amount if additional funds become available and a new compensation amount is successfully negotiated between the COMMISSION and the CONSULTANT. The COMMISSION cannot and does not make any representation, assurance, or guaranty whatsoever that any additional funds will be made available for this purpose or that the CONSULTANT will be asked to provide any services with respect to any other federally controlled public lands beyond the FEDERAL LANDS.

III. CONSULTING SERVICES

1. The COMMISSION reserves the right, in its sole discretion, to modify the nature and extent of services within the scope of work of CONSULTING SERVICES, as the COMMISSION considers advisable or necessary. The COMMISSION anticipates that the agreement with CONSULTANT will define the nature and extent of services within the scope of work of CONSULTING SERVICES so that the COMMISSION receives the services that the COMMISSION considers to be the most needed to help it fulfill its duties and meet its goals with respect to the development of LAND MANAGEMENT PLANS. The CONSULTANT who enters into a contract with the COMMISSION will be expected to work and coordinate regularly with the COMMISSION, whether directly with the COMMISSION or through its chairs or staff, as the COMMISSION defines the breadth and depth of CONSULTING SERVICES, so that the CONSULTANT provides CONSULTING SERVICES that best meet the needs of the COMMISSION as the COMMISSION works to develop LAND MANAGEMENT PLANS.
2. The CONSULTANT shall work diligently and in a professional manner toward helping the COMMISSION fulfill its responsibilities related to the development of LAND MANAGEMENT PLANS and their approval by the Utah Legislature. Because of the complexity and extent of the

COMMISSION's work, it is not feasible to establish a timetable in this RFP for the work to be completed under an agreement resulting from the RFP. That timetable will be more fully defined by agreement between the COMMISSION and the CONSULTANT. However, the COMMISSION expects the LAND MANAGEMENT PLANS to be developed as soon as practicable.

3. The CONSULTANT will be expected to:
 - prepare and revise drafts of LAND MANAGEMENT PLANS for the COMMISSION's consideration as the COMMISSION works to develop LAND MANAGEMENT PLANS to present to the Utah Legislature; and
 - continue to work with the COMMISSION as the COMMISSION's proposed LAND MANAGEMENT PLANS are considered by the Utah Legislature, including consulting with the COMMISSION on changes to the proposed LAND MANAGEMENT PLANS and assisting with efforts to facilitate the Utah Legislature's consideration and adoption of the LAND MANAGEMENT PLANS.

IV. TIMELINE

The following timeline (subject to change by addendum) will be followed with respect to this RFP and proposals submitted in response to this RFP:

1. Deadline for submitting questions seeking clarification of the RFP: 12:00 noon MST on Monday, December 30, 2019.
2. Date by which the COMMISSION expects to issue an addendum or addenda to the RFP to answer questions submitted before the deadline stated in Section IV. 1 of this RFP: Monday, January 6, 2020.
3. Deadline for submitting proposals in response to this RFP: 12:00 noon MST on Friday January 10, 2020.
4. Anticipated dates the evaluation committee will conduct interviews with RESPONDERS selected under Section VII. 1. b: January 15 through 17, 2020.

V. PROPOSAL REQUIREMENTS

1. SUBMISSION TIME, PLACE, AND MANNER

Proposals submitted in response to this RFP may NOT be submitted via SciQuest. A proposal submitted only via SciQuest will not be accepted.

An electronic copy in PDF format must be received by the RFP contact, Robert H. Rees, on or before 12:00 noon MST on Friday, January 10, 2020. There are two ways to submit an electronic copy: (1) A RESPONDER may submit an electronic copy by email to rrees@le.utah.gov. The email transmission, including attachments, is limited to 25MB per email, so if a RESPONDER sends anything larger, the RESPONDER will need to break the email into parts and send them separately; or

(2) As an alternative to emailing an electronic copy, a RESPONDER may burn an electronic copy to a disk and deliver the disk to the following address:

Attention: Robert H. Rees
Associate General Counsel
Office of Legislative Research and General Counsel
Utah State Capitol Complex, W210 House Building
PO Box 145210
Salt Lake City, Utah 84114-5210

Proposals received after 12:00 noon MST on Friday, January 10, 2020, will not be considered.

2. REQUIREMENTS RELATING TO THE CONTENT OF A PROPOSAL

a. The first page of the proposal shall include the following information, in the following format:

i. Title: "Proposal in Response to RFP for Consulting Services – Land Management Plans, FC-2019-02"

ii. RESPONDER Summary Information:

Name:

RFP Contact Person:

Address:

Telephone:

Fax:

Email:

Federal Tax ID Number:

b. EXECUTIVE SUMMARY: The second portion of the proposal shall contain a one- or two-page executive summary that briefly describes the RESPONDER's proposal. This summary shall serve to highlight the major features of the proposal. The reader should be able to determine the essence of the proposal by reading the executive summary.

The executive summary shall also describe any deviations or exceptions from the requirements, terms, and conditions of this RFP. In the absence of such a written description, the proposal shall be interpreted to express RESPONDER's agreement to the requirements, terms, and conditions of this RFP. Deviations and exceptions claimed by a RESPONDER may result in rejection of a response on the grounds that the response is not responsive to the RFP.

- c. The third portion of the proposal constitutes the main portion of the proposal and shall include the following:
 - i. A complete narrative of the RESPONDER's assessment of the work to be performed, the RESPONDER's ability and approach, and the resources necessary to fulfill the requirements. This narrative shall demonstrate the RESPONDER's understanding of the overall performance expectations and clearly indicate all options and alternatives proposed.
 - ii. A description of the qualifications, including experience, education, training, and knowledge of each individual that the RESPONDER will designate to provide the CONSULTING SERVICES.
 - iii. A list of no more than three references (including a contact person and that person's contact information and title) of persons or entities for which the RESPONDER has provided services similar to CONSULTING SERVICES who can render an opinion regarding the ability of the RESPONDER to provide the CONSULTING SERVICES.
 - iv. A certification indicating that neither the RESPONDER nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction or contract by any governmental entity. If the RESPONDER cannot certify this statement, the RESPONDER shall attach a written explanation indicating why the RESPONDER cannot certify this statement.
 - d. The RESPONDER's name must appear on each page of the proposal. Erasures, cross-outs, alterations, corrections, or other changes must be initialed by the person who signs the proposal. The proposal must contain evidence that the person who signs the proposal is authorized to bind the RESPONDER in relation to the proposal.
 - e. Each proposal is required to be signed by a person with authority to bind the RESPONDER to the proposal, the proposal cost, and the terms and conditions of the proposal.
3. COST DOCUMENT: A RESPONDER shall submit a separate electronic document entitled "Cost," which shall include all information on the total cost, including professional fees and expenses, associated with the CONSULTANT's providing CONSULTING SERVICES throughout the term of the contract. A RESPONDER shall submit the separate electronic cost document with and at the same time as the RESPONDER'S proposal. A proposal may be rejected as nonresponsive if the separate cost document is not submitted with the remainder of the proposal or if any cost information is included in any portion of the proposal other than in the separate cost

document. All pricing shall be guaranteed for the entire term of the contract, including any extension or amendment.

VI. OTHER PROVISIONS RELATING TO A PROPOSAL

1. A proposal may not be withdrawn for a period of 60 days after the deadline for submitting proposals.
2. By submitting a proposal in response to this RFP, a RESPONDER:
 - a. certifies that all information provided by the RESPONDER is true, complete, and accurate, that the RESPONDER is willing and able to furnish the CONSULTING SERVICES in the manner described in this RFP, and that the costs quoted are correct and include all charges that will be required in relation to the provision of CONSULTING SERVICES;
 - b. acknowledges that the requirements, scope of work, and evaluation process described in this RFP are fair, equitable, not unduly restrictive, understood, and agreed to (any exceptions to the content of the RFP must be protested in writing before the RFP response submission deadline); and
 - c. agrees that, if awarded the contract, the RESPONDER shall provide CONSULTING SERVICES to the COMMISSION in accordance with this RFP and the contract.
3. The COMMISSION reserves the right, by itself or through its evaluation committee, to:
 - a. reject a proposal on the ground that it is not RESPONSIVE;
 - b. reject a proposal on the ground that it is submitted by a RESPONDER that is not RESPONSIBLE;
 - c. request additional financial information, including audited financial statements, from a RESPONDER in case of a doubt or concern about whether a RESPONDER has sufficient financial resources to perform the contract; and
 - d. waive minor, immaterial informalities or minor, immaterial technical errors in a proposal.
4. The RESPONDER awarded a contract pursuant to a proposal submitted in response to this RFP is solely responsible for fulfillment of the responsibilities under the terms and conditions of the contract resulting from the RFP.

VII. EVALUATION OF PROPOSALS

1. EVALUATION PROCESS

- a. All proposals submitted by the deadline stated in Section IV. 3 will undergo a technical review for compliance with RFP requirements and for a determination of whether the RESPONDER appears objectively to be RESPONSIBLE. Proposals that are not RESPONSIVE and proposals from RESPONDERS who have not adequately demonstrated that they are RESPONSIBLE will be eliminated from further consideration.

- b. Stage 1:

An evaluation committee appointed by the COMMISSION will evaluate proposals that are not eliminated in the technical review in accordance with the following criteria:

Points	Criteria
50	The strength of the technical and professional qualifications, expertise, education, and abilities of those individuals who will work with or for RESPONDER in providing CONSULTING SERVICES, and the extent to which those qualifications, expertise, education, and abilities are likely to be effective in helping the COMMISSION fulfill its duties and responsibilities with respect to the development of LAND MANAGEMENT PLANS that, if approved by the Utah Legislature, will be considered by the FEDERAL LAND AUTHORITY in developing federal land management plans for FEDERAL LANDS.
50	The strength and extent of the demonstrated experience of RESPONDER and individuals working with or for RESPONDER in providing CONSULTING SERVICES or services substantially similar to CONSULTING SERVICES.

Proposals achieving a total score of 70 points or more will be designated as finalists and will move on to Stage 2, except that if more than three proposals achieve a total score of 70 points or more, the proposals with the three highest scores will be designated as finalists and will move on to Stage 2. All other proposals will be eliminated from further consideration.

c. Stage 2:

The evaluation committee will conduct an interview with each RESPONDER whose proposal is designated as a finalist in Stage 1. Following the interview, the evaluation committee will evaluate all proposals of RESPONDERS that have participated in Stage 2 in accordance with the following criteria:

Points	Criteria
35	The strength of the technical and professional qualifications, expertise, education, and abilities of those individuals who will work with or for RESPONDER in providing CONSULTING SERVICES, and the extent to which those qualifications, expertise, education, and abilities are likely to be effective in helping the COMMISSION fulfill its duties and responsibilities with respect to the development of LAND MANAGEMENT PLANS that will be considered by the FEDERAL LAND AUTHORITY in developing federal land management plans for FEDERAL LANDS.
35	The strength and extent of the demonstrated experience of RESPONDER and individuals working with or for RESPONDER in providing CONSULTING SERVICES or services substantially similar to the CONSULTING SERVICES.
20	The strength of the RESPONDER's interview presentation, including the degree to which RESPONDER demonstrates in the interview an understanding of the nature of the CONSULTING SERVICES sought by the COMMISSION and demonstrates the capacity to provide CONSULTING SERVICES that meet the needs of the COMMISSION and serve the best interests of the COMMISSION and the state.
10	Cost

A RESPONDER whose proposal is being evaluated in Stage 2 may be awarded a maximum of 10 points for the cost portion of a RESPONDER's proposal. The proposal with the lowest cost will be awarded 10 points. If multiple proposals have the same lowest cost, they will each be awarded 10 points for the cost portion. Each other proposal will be awarded points for the cost portion of the proposal calculated as follows:

- i. the cost amount of the lowest-cost proposal will be subtracted from the cost amount of the proposal under consideration;
- ii. the resulting number under Subsection i will be divided by the cost amount of the lowest-cost proposal;

- iii. the resulting number under Subsection ii will be multiplied by 10, and the resulting number will be rounded to the nearest whole number; and
 - iv. the resulting whole number under Subsection iii will be subtracted from 10, and the resulting number is the number of points awarded to the proposal for cost.
2. Best and final offers may be allowed, as provided in Utah Code Section 63G-6a-707.5, if all proposals being considered in Stage 2 exceed the COMMISSION's available funding for CONSULTING SERVICES or if two or more proposals under consideration in Stage 2 receive an identical evaluation score that is the highest score.
3. All proposals will be evaluated in accordance with the requirements of the Utah Procurement Code, Title 63G, Chapter 6a of the Utah Code.

VIII. AWARD OF CONTRACT AND CONTRACT TERMS

1. A contract will be tentatively awarded (pending successful contract negotiations) to the RESPONDER whose proposal receives the highest score, taking into consideration evaluation factors described in this RFP.
2. The COMMISSION reserves the right to refuse to negotiate on an exception if the COMMISSION determines that the exception is excessive or not in the best interest of the COMMISSION or the state, or that negotiations could result in significant costs to the COMMISSION or the state or, in the COMMISSION's judgment, take an unduly lengthy period of time.
3. The RESPONDER awarded the contract will be required to enter into a contract containing the terms and conditions described in this RFP and Attachment A and is solely responsible for fulfilling the responsibilities under the terms and conditions of the contract resulting from this RFP.
4. The contract shall include the provisions of this RFP, including the standard terms and conditions included in Attachment A.
5. The COMMISSION reserves the right to review the contract on a regular basis in relation to performance and cost and may renegotiate terms relating to cost and service during the term of the contract.
6. The contract will be awarded for a period of not to exceed five years.
7. Under a contract between the COMMISSION and the CONTRACTOR, the CONTRACTOR will be required to allow the COMMISSION full access to the data used or relied on by the CONTRACTOR in providing CONSULTING SERVICES.

8. The contract will require RESPONDER to provide the CONSULTING SERVICES in an expeditious and professional manner.

IX. RFP CONTACT

The COMMISSION is the issuer of this RFP and all subsequent addenda to this RFP. Inquiries regarding this RFP should be directed, in writing, to:

Robert H. Rees
Associate General Counsel
Office of Legislative Research and General Counsel
Email: rrees@le.utah.gov

X. QUESTIONS

Questions about or requests for clarification of the RFP must be submitted by email to the RFP contact, Robert H. Rees, at rrees@le.utah.gov no later than 12:00 noon MST on Monday, December 30, 2019. The COMMISSION will provide responses to substantive questions and responses to requests for clarification in the form of an addendum to this RFP.

XI. ADDENDA

1. All addenda to this RFP (including answers to questions provided by addendum) will be posted on the Utah Legislature's website at:

<http://le.utah.gov>

Click on the triple horizontal bar in the upper right-hand corner of the page, then on “Publications” and then on “Requests for Proposals and Legal Notices.”

2. Addenda and notifications of addenda are not required to be provided in any other manner. All RESPONDERS, potential RESPONDERS, and other interested persons are required to check the website on a regular basis in order to receive notice of, or a copy of, any addendum.
3. The COMMISSION may attempt, but is not required, to provide email notification of an addendum to any person who sends a request to receive notification to:

rrees@le.utah.gov

XII. PROTECTED INFORMATION

Protection or disclosure of information in a proposal submitted in a response to this RFP is governed by Title 63G, Chapter 2, Government Records Access and Management Act. A

RESPONDER who desires to request protected status of any information submitted in the response must specifically identify the information that the RESPONDER desires to protect and the reasons that the information should be afforded protected status under the law. In making this request, the RESPONDER shall comply with the requirements of Utah Code Section 63G-2-305, Utah Code Section 63G-2-309, and all other applicable requirements of law. The COMMISSION's decision regarding the protected status of information shall be final and binding on the RESPONDER. Each RESPONDER shall indemnify, defend, and hold forever harmless the COMMISSION and the LEGISLATURE from any and all liability relating to the disclosure of information included in the RESPONDER's proposal, even if the RESPONDER requested protected or other confidential status for the information. Attempts to designate an entire proposal, or large portions of a proposal, as protected will not be honored. Attempts to protect information relating to cost will also not be honored.

XIII. MODIFICATIONS TO, OR WITHDRAWAL OF, RESPONSE

A RESPONDER may modify or withdraw the RESPONDER's proposal, at any time before the closing date and time for submitting a proposal, by providing a written modification or a written statement withdrawing the proposal to the RFP contact. Modifications or letters of withdrawal received by the RFP contact after the closing date and time for submitting a proposal will be rejected as invalid. The version of a proposal submitted in response to this RFP, as it exists at the closing date and time for submitting a proposal, will be binding on the RESPONDER.

XIV. COST OF RESPONDING TO RFP AND CONTRACT NEGOTIATIONS

1. All expenses relating to responding to this RFP, including preparing, submitting, and presenting a proposal, attending meetings or interviews in relation to this RFP, discussions, and all travel, dining, lodging, and communication expenses will be borne by the RESPONDER. The COMMISSION assumes no liability for any costs incurred by a RESPONDER in responding to this RFP.
2. All expenses of the successful RESPONDER relating to conducting contract negotiations, including drafting, research, legal review, preparation, attending meetings, site visits, travel, dining, lodging, and communication expenses will be borne by the RESPONDER. The COMMISSION assumes no liability for any costs incurred by a RESPONDER relating to contract negotiations.
3. RESPONDER is not entitled to recover from the COMMISSION and will not bill the COMMISSION for any effort that was expended, labor that was performed, or expense that was incurred prior to the time that the contract is signed by all parties.

XV. MISCELLANEOUS RESERVATION OF RIGHTS

The COMMISSION reserves the right not to award a contract to any of the RESPONDERS who respond to this RFP, to cancel this RFP at any time, or to issue a new RFP for the same or similar services.

XVI. RESTRICTIONS ON PUBLICITY

A successful RESPONDER may not, without the prior written approval of the COMMISSION, do any of the following:

1. Make any announcement regarding the award of the contract relating to this RFP.
2. Refer to the COMMISSION or the LEGISLATURE, or use any data, pictures, or other representation of the COMMISSION or the LEGISLATURE, in its advertising, marketing, or other promotional efforts.

XVII. GOVERNING LAW

This RFP and all acts or proceedings pursuant to this RFP are subject to the laws of the state of Utah, including Utah Code Title 63G, Chapter 6a, Utah Procurement Code.

ATTACHMENT A

STANDARD TERMS AND CONDITIONS

In addition to the terms and conditions included in the RFP, the following terms and conditions will be included in the contract between the CONTRACTOR and the Legislative Procurement Unit:

1. TERMINATION

1.1 This CONTRACT may be terminated for cause by CONTRACTOR in advance of the specified termination date, upon the CONTRACTOR giving written notice of the Legislative Procurement Unit's default. The Legislative Procurement Unit will be given (30) thirty working days after notification to correct and cease the violations, after which, if the violations are not corrected or ceased, the contract may be terminated for cause.

1.2 The Legislative Procurement Unit may terminate this CONTRACT at any time and for any reason or for no reason, including when:

1.2.1 the services that are the subject of this CONTRACT are no longer needed; or

1.2.2 the Legislative Procurement Unit is not satisfied with the RESPONDER or the services provided.

1.3 The following terms will survive termination of the CONTRACT: (to be specified before the CONTRACT is signed).

2. DEFAULT AND REMEDIES

If CONTRACTOR breaches this CONTRACT, the Legislative Procurement Unit may do one or more of the following:

2.1 Exercise any remedy provided by law; or

2.2 Suspend CONTRACTOR from receiving future bid/proposal solicitations.

3. INDEPENDENT CONTRACTOR RELATIONSHIP

3.1 CONTRACTOR is an independent contractor and, except as expressly authorized by this CONTRACT or by the Legislative Procurement Unit, is not authorized, expressly or by implication, to bind the LEGISLATURE, the State of Utah, the Legislative Procurement Unit, or any member, office, officer, department, agent, official, or employee of the LEGISLATURE, the State of Utah, or the Legislative

Procurement Unit to any contract, settlement, liability, or understanding or to perform any act as agent for the LEGISLATURE, the State of Utah, the Legislative Procurement Unit, or any member, office, officer, department, agent, official, or employee of the LEGISLATURE, the State of Utah, or the Legislative Procurement Unit.

3.2 Except as otherwise expressly provided in this CONTRACT, CONTRACTOR is solely responsible to pay for all of CONTRACTOR's expenses and to pay each employee or subcontractor of CONTRACTOR all salary, wages, payments, expenses, fees, taxes, costs, insurance, and benefits of any kind relating to an employee or subcontractor of CONTRACTOR.

4. ASSIGNMENT PROHIBITED

CONTRACTOR may not assign this CONTRACT or any duty or benefit relating to this CONTRACT without the prior written permission of the Legislative Procurement Unit.

5. GOVERNING LAW

This CONTRACT shall be construed in accordance with, and governed by, the laws of the State of Utah, without reference to principles governing choice or conflict of laws. The parties will submit to the jurisdiction of the courts of the State of Utah any dispute arising out of this CONTRACT or the breach of this CONTRACT. Venue shall be in Salt Lake City, Utah, in the Third Judicial District Court for Salt Lake County.

6. EQUAL OPPORTUNITY

CONTRACTOR agrees to abide by the provisions of:

6.1 Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. Sec. 2000e), which prohibit discrimination against any employee or applicant for employment or any applicant or recipient of services on the basis of race, religion, color, or national origin;

6.2 Utah Code Section 34A-5-106;

6.3 Executive Order 11246, as amended, which prohibits discrimination on the basis of sex;

6.4 45 C.F.R. 90, which prohibits discrimination on the basis of age;

6.5 Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, as applicable, which prohibit discrimination on the basis of disabilities; and

6.6 Utah Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace, and the Workplace Discrimination and Harassment Policy adopted by the Utah Senate and Utah House of Representatives.

7. INCORPORATION OF PROVISIONS OF RFP AND PROPOSAL

The provisions of the RFP, including all addenda to the RFP, and CONTRACTOR's proposal submitted in response to the RFP, are hereby incorporated into this CONTRACT by reference. If any conflict exists between the RFP, CONTRACTOR's proposal, and this CONTRACT, the terms and conditions of the following shall prevail in the following order of preference:

- 7.1 this CONTRACT;
- 7.2 the RFP;
- 7.3 CONTRACTOR's proposal.

8. LAWS AND REGULATIONS

CONTRACTOR and any and all hardware, software, supplies, services, equipment, and construction proposed or furnished under this CONTRACT shall comply fully with all applicable federal and state laws and regulations.

9. PATENTS, COPYRIGHTS, ETC.

CONTRACTOR releases and shall protect, indemnify, and hold harmless the Legislative Procurement Unit and the LEGISLATURE from liability of any kind or nature relating to CONTRACTOR's use or provision of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article, or appliance furnished or used in the performance of this CONTRACT.

10. RECORDS ADMINISTRATION

CONTRACTOR shall maintain, or supervise the maintenance of, all records necessary to properly account for the payments made to CONTRACTOR for costs authorized by this CONTRACT. CONTRACTOR shall retain these records for at least four years after the CONTRACT terminates. CONTRACTOR agrees to allow state and federal auditors and legislative staff access to all the records relating to this CONTRACT, for audit, for inspection, and for the monitoring of services. Such access will be during normal business hours, or by appointment.

11. CONFLICT OF INTEREST

CONTRACTOR certifies that it has not offered or given any gift or compensation prohibited by the laws of the State of Utah to any officer or employee of the Legislative Procurement Unit or the LEGISLATURE to secure favorable treatment with respect to being awarded this contract.

12. DEBARMENT

CONTRACTOR certifies that neither CONTRACTOR nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this CONTRACT by any governmental department or agency. CONTRACTOR will notify the Legislative Procurement Unit within 30 days if debarred by any governmental entity during the term of this CONTRACT.

13. INDEMNITY CLAUSE

CONTRACTOR releases, protects, defends, indemnifies, and holds harmless the Legislative Procurement Unit and the LEGISLATURE from and against any damage, cost, or liability, including reasonable attorney fees, for any and all injuries to persons or property, or claims for money damages, arising from acts or omissions of the CONTRACTOR and the CONTRACTOR's employees, subcontractors, and volunteers.

14. NON-APPROPRIATION OF FUNDS

Notwithstanding any other provision of this CONTRACT, CONTRACTOR acknowledges that the Legislative Procurement Unit cannot contract for the payment of funds not yet appropriated. The Legislative Procurement Unit may, without penalty or liability of any kind, terminate this CONTRACT by providing 30 days' written notice to CONTRACTOR that this CONTRACT is terminated due to the non-appropriation of funds. If this CONTRACT is terminated under this provision, the Legislative Procurement Unit will pay all amounts due to CONTRACTOR through the date of termination and will not be liable for any future commitments, penalties, or damages of any kind.

15. FORCE MAJEURE

Neither party to this contract will be held responsible for a delay or default caused by fire, riot, act of God, or war that is beyond that party's reasonable control. The Legislative Procurement Unit may terminate this CONTRACT after determining that such delay or default will prevent successful performance of the contract.

16. MERGER

This CONTRACT constitutes the entire contract between the parties with respect to the subject matter contained in this CONTRACT. There are no covenants, terms, or conditions, express or implied, written or unwritten, that govern the subject matter of this CONTRACT, except as expressly described in this CONTRACT. This CONTRACT supersedes all prior agreements between the parties relating to all or part of the subject matter contained in this CONTRACT.

17. MODIFICATION OF CONTRACT

This CONTRACT may be modified only in a written document signed by the director/chair of the Legislative Procurement Unit (or such other person certified as having the authority to bind the Legislative Procurement Unit), on behalf of the Legislative Procurement Unit, and CONTRACTOR's agent (or such other person certified as having the authority to bind CONTRACTOR), on behalf of CONTRACTOR.

18. AUTHORITY TO BIND

CONTRACTOR and the person who signs this CONTRACT on behalf of CONTRACTOR represent that the person who signs this CONTRACT has the authority to bind CONTRACTOR, and does, by signing this CONTRACT, bind CONTRACTOR to the terms and conditions of this CONTRACT.

19. PUBLIC INFORMATION

This CONTRACT and documents relating to this CONTRACT are subject to release in accordance with Utah Code, Title 63G, Chapter 2, Government Records Access and Management Act.

20. SEVERABILITY

A declaration by any court, or any other binding legal source, that any provision of this CONTRACT is illegal and void does not affect the legality and enforceability of any other provision of this CONTRACT, unless the provisions are mutually dependent.

21. EXPENSE REIMBURSEMENT

A CONTRACTOR may not receive reimbursement for an expense the CONTRACTOR incurs in the performance of this CONTRACT that is inconsistent with the provisions of Rule R25-7 of the Utah Administrative Code.

22. WORK PRODUCT

All work product of the CONSULTANT under this CONTRACT is the exclusive property of the legislative procurement unit, whether or not the work for which the work product is created is executed. After termination of the CONTRACT, CONSULTANT may use any final, publicly available work product for educational, outreach, promotional, or similar purposes, but otherwise may not use any work product for any purpose without the prior written consent of the legislative procurement unit. For purposes of this Section 22, work product includes all documents supplied to or produced by the CONSULTANT under this CONTRACT, whether in paper, electronic, or other format, including reports, summaries, charts, maps, analyses, comments, or other materials, and the information contained in them.