

Request for Proposals:**Legislative Committee on Economic Development and International Relations Business Competitiveness and SWOT Analysis of Washington State's Economy****Background:**

The Washington State Legislature has commissioned a comprehensive business competitiveness analysis of the state's economy by the Legislative Committee on Economic Development and International Relations (LCEDIR), administered by the Office of the Lieutenant Governor. It has provided up to \$300,000 for this purpose. The LCEDIR is chaired by the Lieutenant Governor and is a 12-member (excluding the chair) bicameral and bipartisan committee consisting of three members from each of the four legislative caucuses.

This effort is predicated on an underlying but unspoken consensus about the objectives for Washington's economy – strong, quality, and equitable growth. Growth that meets or exceeds national performance. Growth that is not built on either low wage jobs or that which destroys Washington's high quality of life. And growth that includes broadly shared prosperity that lifts up people and communities traditionally left behind and places an emphasis on attracting and acquiring the emerging industries of the future.

Statement of Need:

No comprehensive competitiveness and SWOT (strengths, weaknesses, opportunities, threats) analysis of Washington State's economy has been performed in nearly a decade despite a highly dynamic and volatile environment. The future of the aerospace sector has been called into question with the decision of Boeing to move 787 production to South Carolina and an uncertain future for the location of production for the next generation airplane. Our state's robust trade activity (as the most trade-driven economy of all states) is coming under increasing pressure with other ports and overall global trends. As communities of color have grown as a percent of the population, racial disparities for wealth, income, and educational attainment have become an increasing factor in economic growth. The after effects of the pandemic are also still felt and deeply so by many.

Yet Washington is well equipped to compete into the future in many regards with its high quality of life, natural deep-water ports and our relative proximity to the massive Asian markets, highly regarded statewide higher education institutions, a significant presence of technology companies and the innovative culture that spawned them, and some of the best agricultural production and processing in the world.

But what of the future? What does the data reveal? What do the trends tell us? What are the pitfalls to avoid? What are the opportunities to seize?

By completing a statewide competitiveness and SWOT analysis we will be able to answer these key questions, answers that every elected official, agency, and business could utilize for the future growth of their group.

This effort will be led by the LCEDIR, but through a strong partnership with Department of Commerce, Department of Agriculture, Department of Employment Security, the Economic Revenue Forecast Council, the Office of Minority and Women's Business Enterprises, business and innovation leaders, and others as a way to inform the research.

This RFP is looking for proposals from qualified groups to provide the deliverables, using the above referenced partnerships as well as an advisory group, staff group, and local input. Proposed additions or alternative methodologies that would help better accomplish the goals of the study would be welcomed. The results of this process are intended to develop a more complete economic picture of Washington informing policy makers who want to look ahead and identify pathways for actionable steps to stimulate strong, quality, equitable economic growth.

Tasks to be Completed:

The authorizing language for this study directs a business competitiveness analysis and will include the following:

- State of the State of Washington's Economy, focusing on trends
- Business Competitiveness, and how our state ranks nationally and with comparable regions using key areas of comparison
- SWOT exercise, focusing on Opportunity and Threat gap analysis

Scope of Work:

I. State of the State of Washington's Economy

More up-to-date information is needed to holistically understand Washington's economic competitive strengths, weaknesses, opportunities, and threats to aid development of strategic policies for innovation and growth and provide a snapshot of Washington's overall economic health.

An overview of existing economic development efforts by state and regional actors will be helpful in identifying the current steps being taken to further economic development as well as trends.

Looking at trends, as opposed to specific indicators that can vary year-to-year, will provide a clearer picture of Washington's economy today and for future generations while providing a landscape for potential action plan(s). It will be important to look at both impacts due to COVID-19 effects, as well as trends that existed prior to March 2020.

II. Business Competitiveness Report

This report will help frame the economic competitiveness landscape and, when coupled with the SWOT analysis, will provide insight on how Washington can improve existing programs or potentially look at what other regions are doing to improve Washington's market share.

Economic development factors can vary depending on community, geography, and sector. An approach that recognizes one size does not fit all is important, including:

- Recognition of different communities' access to the economy
- Rural/Suburban/Urban variances
- Small business specific challenges

When looking at overall job growth, quality growth will be a vital metric. We need to look at what kind of job growth (high, medium, or low compensation) is occurring, as well as ensuring the growth is sustainable and accessible.

Key areas may include:

- Energy
- Exports
- Innovation
- Environment
- Workforce Attributes and Skills
- Infrastructure
- Business Support
- Health and Safety (QoL)
- Education
- Access to Capital
- Economic Health
- Tax System
- Regulatory Structure
- Overall Cost of Doing Business
- Inbound Investment (is WA competitive for out-of-state investment?)

Current studies exist, at least partially, for some of these topics. The consultant is encouraged to utilize existing works, for example the Joint Transportation Committee's *Statewide Transportation Needs Assessment* on WA's infrastructure or ERFC's economic forecasts, to decrease duplication of efforts.

III. SWOT Analysis

Assessing Washington’s strengths, weaknesses, opportunities, and threats will help lay the groundwork for future economic development strategies. The SWOT analysis should include regional input from across the state and the best available data.

The SWOT analysis will touch on the overall factors that reach into multiple aspects of the economy, analysis by sector, and include how foundational items may be improved.

Sectors Include:

- Aerospace
- Agriculture and Agribusiness (including processing)
- Climate/Energy
- Forest Products
- Information and Communications Technology
- Life Sciences/Health
- Maritime
- Military, Defense, and National Security
- Trade/Logistics
- Construction (Housing, Commercial, Infrastructure)
- Hospitality/Tourism, including Outdoor Recreation/Creative Economy
- Manufacturing
- Financial Services

Foundational Items Include:

- Access to Housing
- Workforce and Education Delivery
- Infrastructure, including broadband and utilities access
- Childcare

Foundational items should be evaluated using an equity lens, meaning an examination of systemic barriers that have historically (and currently) prevented Washingtonians from fully participating in the state’s economy.

Timeline and Deliverables

- Update LCEDIR on draft report and progress at November* 2021 meeting
- Final draft report presented at January* 2022 LCEDIR meeting
- Final report of tasks to be completed due by January 15, 2022
- Electronic copy of report, supporting documents, and summary slide deck following final report

*Future LCEDIR Committee meetings have not been set at this date and are subject to change.

Workgroup Coordination

The consultant will work under the supervision of the Lieutenant Governor and with the advisory workgroup and staff workgroup continually through the process by soliciting input and providing draft materials for comment prior to publicizing. Workgroup contacts will be provided by the Office of the Lieutenant Governor.

Advisory Workgroup:

An Advisory Workgroup will be established that includes, among others, the members of the LCEDIR, pertinent state agencies such as the Department of Commerce, local government, private sector representatives, representatives of communities of color and those traditionally economically underprivileged.

Staff Workgroup:

A Staff Workgroup will be established that includes, among others, representatives from the Office of the Lieutenant Governor, the Senate and House, and state agencies.

Project Budget:

The budget for this project shall not exceed \$290,000. Any resulting contract for this project will be subject to the standard state of Washington General Terms and Conditions for personal services contracts.

Instructions to Bidders:

SUBMISSION OF PROPOSAL

1. A Letter of Intent to Bid submitted either electronically or by paper copy by June 25, 2021, and must include company name, address, and email address.
2. Proposals are due no later than July 7, 2021, whether mailed, emailed, or hand delivered. Proposals should be submitted to:

Office of Lieutenant Governor Denny Heck
David Bremer (David.Bremer@ltgov.wa.gov)
220 Legislative Building
416 Sid Snyder Ave SW
Olympia, WA 98504

3. Bidders must submit a copy of the proposal as an electronic PDF if original submission is a physical copy.
4. Bidders must include one sample of previous work similar to this type of effort as electronic copies.

5. Selected bidders will be required to attend oral interviews on July 14, 2021 either at the Lieutenant Governor's office in Olympia or remotely and provide presentations at their expense. Selected bidders will be notified of the time of their scheduled interview and presentation.

6. The Lieutenant Governor's office will not be liable for any costs associated with preparation and presentation of a proposal submitted in response to this RFP. The Bidder assumes responsibility for the travel and associated costs of Bidder personnel as they relate to bidding on this project.

7. Questions regarding this RFP should be directed to David Bremer, Director of Policy and International Relations, as the single point of contact and coordinator for this solicitation, by email only to David.Bremer@ltgov.wa.gov. Questions must be received by June 30.

LETTER OF SUBMITTAL

The Letter of Submittal and the attached Certifications and Assurances form (Item A) must each be signed and dated by a person authorized to legally bind the Bidder to a contractual relationship, e.g., the President or Executive Director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Along with introductory remarks, the Letter of Submittal is to include by attachment the following information about the Bidder and any proposed subcontractors:

1. Name, address, principal place of business, telephone number, and fax number/email address of legal entity or individual with whom contract would be written.
2. Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chair of the Board of Directors, etc.).
3. Legal status of the Bidder (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
4. Federal Employer Tax Identification number or Social Security number and the Washington Uniform Business Identification (UBI) number issued by the state of Washington Department of Revenue.
5. Location of the facility from which the Bidder would operate.
6. The names of any Washington State employees or former Washington State employees employed or on the firm's governing board as of the date of the proposal. Include their position and responsibilities within the Consultant's organization.

PROPOSAL FORMAT

The major sections of the proposal are to be submitted in the order noted below:

1. Letter of Submittal, including signed Certifications and Assurances (Item A).

2. Technical Approach

The Technical Approach should respond to “Tasks to be Completed,” not to exceed ten pages. This page limitation does not include resumes, qualifications, work samples, the Letter of Submittal or signed Certifications and Assurances form.

The Technical Approach should describe the approaches, data sources, methodologies, and techniques that will be used to undertake each of these tasks and produce the deliverables. It should describe in as much detail as possible the anticipated tasks, levels of effort, schedules, and coordination work required to undertake the tasks.

3. Management Approach

The Management Approach shall describe how the firm proposes to organize, manage, control, and report on the status of the study. Identify all critical milestones.

- Bidders must include one sample of previous work similar to this type of project as electronic copies.

4. References

- Include two references with whom your firm and the proposed Consultant Project Manager has done similar work. For each reference, include name, title, organization, address, phone number and email address.

EVALUATION CRITERIA

Proposals will be reviewed and evaluated by a panel selected by the Office of the Lieutenant Governor. Based on the initial evaluations, the Lieutenant Governor will select a small group of Bidders as finalists for oral presentations to the evaluation panel. Commitments made by the Bidder at the oral interview, if any, will be considered binding. The score from the oral presentation will be considered independently and will determine the apparently successful bidder.

Written proposals submitted in response to this RFP will be evaluated on the following three categories and used solely for selecting Bidders to be invited to make an oral presentation.

- Technical Approach (Proposed project approach and methodology; Quality of work plan; Feasibility of proposed schedule; and Description of proposed deliverables)
- Management Approach (Project team structure internal controls; Staff qualifications & resumes; Relevant experience with projects of similar complexity & type; and Other applicable experience)
- Cost Approach (Quality and reasonableness of detailed budget; Total project cost)

Item A

CERTIFICATIONS AND ASSURANCES

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

1. I/we declare that all answers and statements made in the proposal are true and correct.
2. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
3. The attached proposal is a firm offer for a period of 60 days following receipt, and it may be accepted by the Lieutenant Governor without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
4. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than their official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
5. I/we understand that the Office of the Lieutenant Governor will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of the Office of the Lieutenant Governor, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by them prior to opening, directly or indirectly to any other Bidder or to any competitor.
7. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
8. No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
9. The bidder certifies that no condition exists with respect to the bidder, or any of its employees, regarding any current or past relationships that violate Chapter 42.52 RCW, the "Ethics in Public Service" Law.

Name of Bidder

Title of Bidder

Signature of Bidder

Date

GENERAL TERMS AND CONDITIONS

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

- A. The "Office of Lieutenant Governor," or "OLG," shall mean the Washington State Lieutenant Governor, any division, section, office, unit, or other entity of OLG or any of the officers or other officials lawfully representing the OLG.
- B. The "Legislative Committee on Economic Development and International Relations," or "LCEDIR," shall mean the Washington State Legislative Committee on Economic Development and International Relations established in RCW 43.15.060.
- C. "Contractor" shall mean that firm, provider, organization, individual, or other entity performing services under this contract, and shall include all employees of the Contractor.
- D. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this contract under a separate contract with the Contractor. The terms "Subcontractor" and "Subcontractors" means Subcontractor(s) in any tier.

ADVANCE PAYMENTS PROHIBITED -- No payment in advance or in anticipation of services or supplies to be provided under this contract shall be made by OLG, the administrator of this project.

CHANGE OF CONTROL OR PERSONNEL -- Contractor shall promptly and in any case within twenty-four (24) hours notify the OLG Project Manager in writing:

- 1. If any of the representations and warranties of the Contractor set forth in this contract shall cease to be true at any time during the term of this contract;
- 2. Of any material change in the Contractor's management staff;
- 3. Of any change in control of the Contractor or in the business structure of the Contractor;
- 4. Of any other material change in the Contractor's business, partnership, or corporate organization relating to this engagement. All written notices regarding changes in management staff shall contain the same information about newly assigned management staff as was requested by the OLG in the RFP and such additional information as may be requested by the OLG. For purposes hereof, the term "management staff" shall mean those persons identified as senior management in any response to a RFP or who otherwise will exercise a major administrative role or major policy or Consultant role to the provision of the Contractor's services hereunder. All written notices regarding changes in control of the Contractor shall contain the same information about any new controlling entity as was requested by the OLG in the RFP regarding the Contractor and such additional information as may be requested by the OLG.

Approval of these changes rests solely with the OLG and will not be unreasonably withheld.

CHANGES AND MODIFICATIONS -- The OLG may, at any time, by written notification to the Contractor, make changes in the general scope of the services to be performed under the contract. If any such changes cause an increase or decrease in the cost of, or the time required for the performance of this contract, an equitable adjustment may be made in the contract price or period of performance, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of Contractor's receipt of the notice of such change; provided, however, that the OLG may, upon determining that the facts justify such action, receive and act upon such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

CONFLICT OF INTEREST -- The OLG may, by written notice to the Contractor, terminate this contract if it is found after due notice and examination by the OLG that there is a violation of the State Ethics Law Chapter 42.52 RCW;

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

CONTRACTOR NOT EMPLOYEE OF THE AGENCY -- The Contractor and their employees or agents performing under this contract are not employees or agents of the OLG. The Contractor will not hold themselves out as or claim to be an officer or employee of the OLG or of the state of Washington by reason hereof, nor will the Contractor make any claim or right, privilege or benefit which would accrue to an employee under Chapter 41.06 RCW.

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 agent maintained by the Contractor for the purpose of securing business. The OLG shall have the right, in the event of breach of this clause by the Contractor, to annul this contract without liability or, at 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.

DISPUTES -- If a dispute should arise between the Contractor and OLG regarding the performance or expected outcomes of the contract, such dispute shall be referred to the OLG Project Coordinator for review and decision. If the decision by the OLG Project Coordinator is not satisfactory to the Contractor, the Contractor may request in writing that the dispute be reviewed by the Lieutenant Governor. Such written request shall be provided to the OLG Project Coordinator within five (5) days following the Project Coordinator's decision. The Project Coordinator shall present the written request to the Lieutenant Governor at their earliest convenience for review and decision. The decision of the Lieutenant Governor shall become final and binding. Unless mutually agreed to by the OLG and the Contractor, the work to be performed under this agreement shall not be delayed or stopped during the review of a dispute either by the OLG Project Coordinator or the Lieutenant Governor.

FORCE MAJEURE -- Neither party shall be liable to the other or deemed in default under this contract for any delay or failure to perform its obligations under this contract if such delay or failure arises from any cause or causes beyond the reasonable control of the parties and without fault or negligence of the parties, including and not limited to acts of God, war, riots, strikes, fire, floods, earthquakes, epidemics, or other similar circumstances.

GOVERNING LAW -- This contract shall be governed by the laws of the state of Washington. In the event of a lawsuit involving this contract, venue shall be proper only in Thurston County. The Contractor, by execution of this contract, acknowledges the jurisdiction of the courts of the state of Washington in this matter.

INDEMNIFICATION -- The contractor shall defend, protect, and hold harmless the state of Washington, OLG, or any employees thereof, from and against all claims, suits or actions arising from the Contractor's acts which are libelous or slanderous, which result in injury to persons or property, which violate a right of confidentiality, or which constitute an infringement of any copyright, patent, trademark, or trade name through use of reproduction of material of any kind.

INDUSTRIAL INSURANCE COVERAGE -- The Contractor shall provide or purchase industrial insurance coverage prior to performing work under this contract as required under Title 51 RCW. The OLG will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for this Contractor, or any

Subcontractor or employee of the Contractor, which might arise under the industrial insurance laws during performance of duties and services under this contract.

LICENSING, ACCREDITATION AND REGISTRATION -- The Contractor shall comply with all applicable local, state and federal licensing, accreditation, and registration requirements and standards, necessary for the performance of this contract.

LIMITATION OF AUTHORITY -- Only the OLG shall have the express, implied, or apparent authority to alter, amend, modify or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this contract is not effective or binding unless made in writing and signed by the OLG.

NONASSIGNABILITY -- Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the Contractor.

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

NONCOMPLIANCE WITH NONDISCRIMINATION LAWS -- 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 the OLG. 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.

PAYMENT OF TAXES -- Contractor shall pay all applicable taxes assessed on the compensation received under this contract and shall identify and pay those taxes under Contractor's federal and state identification number(s).

RECORDS, DOCUMENTS AND REPORTS -- The Contractor shall maintain books, records, documents, data, and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by the OLG, State Auditor or state or federal officials so authorized by law, regulation, or contract. The Contractor will retain all books, records, documents, and other materials relevant to this contract for six (6) years after the date of final payment, and make them available for inspection by persons authorized under this provision.

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

REGISTRATION WITH DEPARTMENT OF REVENUE -- The Contractor shall complete registration with the Department of Revenue, <http://dor.wa.gov/Content/Home/Default.aspx>, and be responsible for payment of all taxes due on payments made under this contract.

RIGHT OF INSPECTION -- The Contractor shall provide right of access to its facilities to the OLG, 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.

RIGHTS IN DATA -- Unless otherwise provided, data which originates from this contract shall be "works for hire" as defined by the U.S. Copyright Act and shall be owned by the OLG. Data shall include, but not be limited to: working

papers, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights.

Data which is delivered under the contract, but which does not originate therefrom shall be transferred to the OLG with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so; provided, that such license shall be limited to the extent which the Contractor has a right to grant such a license. The Contractor shall exert all reasonable effort to advise the OLG, at the time of delivery of data furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this contract. The OLG shall receive prompt written notice of each notice of claim of copyright infringement received by the Contractor with respect to any data delivered under this contract. The OLG shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

SAFEGUARDING OF INFORMATION -- The use or disclosure by any party of any information concerning the OLG for any purpose not directly connected with the administration of the OLG or the Contractor's responsibilities with respect to services provided under this contract is prohibited except by written consent of the OLG.

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

SCOPE OF CONTRACT -- This contract and the attachments incorporate all the contracts, covenants, and understandings between the parties concerning the subject matter, and all such covenants, agreements, and understandings have been merged into this contract. No prior contract or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this contract.

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

SUBCONTRACTING -- Neither the Contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the OLG.

TERMINATION FOR CAUSE -- In the event the OLG determines the Contractor has failed to comply with the conditions of this contract in a timely manner, the OLG has the right to suspend or terminate this contract. In such event 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 mailing, advertising, and staff time.

A termination shall be deemed a "Terminate for Convenience" if it is determined that the Contractor (i) was not in default, or (ii) failure to perform was outside of their control, fault or negligence.

TERMINATION FOR CONVENIENCE -- Except as otherwise provided in this contract, the OLG may, by five (5) 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 the OLG. If this contract is so terminated, the OLG shall be liable only for payment in accordance with the terms of this contract for services rendered prior to the effective date of termination.

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

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

The rights and remedies of the OLG 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 OLG, the Contractor shall:

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

TREATMENT OF ASSETS --

1. Title to all property furnished by the OLG shall remain in the OLG. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the OLG upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in the OLG upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the OLG in whole or in part, whichever first occurs.
2. Any property of the OLG furnished to the Contractor shall, unless otherwise provided herein or approved by the OLG, be used only for the performance of this contract.
3. The Contractor shall be responsible for any loss or damage to property of the OLG which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.

4. If any OLG property is lost, destroyed or damaged, the Contractor shall notify the OLG immediately and shall take all reasonable steps to protect that property from further damage.
5. The Contractor shall surrender to the OLG all property of the OLG prior to settlement upon completion, termination, or cancellation of this contract.
6. All reference to the Contractor under this clause shall also include Contractor's employees, agents, or Subcontractors.

WAIVER OF DEFAULT -- Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of the contract shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the contract unless stated to be such in writing, signed by the OLG and attached to the original contract.