

STATE OF NORTH DAKOTA
NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES
TOBACCO PREVENTION AND CONTROL PROGRAM
600 E. BOULEVARD AVE. DEPT 325
BISMARCK, ND 58505-0250

REQUEST FOR PROPOSAL (RFP)

RFP Title: Evaluation of North Dakota Department of Health and Human Services
Tobacco Prevention and Control Programs

RFP Number: 301HPCDPRFP03

Issued: March 13, 2023

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SECTION ONE – INSTRUCTIONS

1.1 PURPOSE OF RFP

The state of North Dakota, acting through its North Dakota Department of Health and Human Services (NDDHHS), Health Promotion & Chronic Disease Prevention Unit, Tobacco Prevention and Control Program (TPCP) is soliciting proposals for an evaluation contractor capable of conducting a comprehensive evaluation of the Department's statewide TPCP.

The TPCP evaluation will focus on the *CDC Best Practices for Comprehensive Tobacco Control Programs* components which includes State and Community Interventions; Mass-Reach Health Communication Interventions; Cessation Interventions; Surveillance and Evaluation; and Infrastructure, Administration, and Management.

Comprehensive evaluation includes TPCP activities, case studies and the projects and grants associated with the NDDHHS TPCP. This includes community grant programs, community engagement-based policy efforts, NDQuits, tobacco and nicotine dependence treatment programs, and TPCP-related media efforts supported through the NDDHHS.

The offeror should be skilled in and have experience in conducting 7-month follow-up surveys following the North American Quitline Consortium (NAQC) guidelines, using the 7-month minimal data set (MDS) follow-up questions for both phone and online programs.

The offeror should be skilled in evaluation principles and techniques with the ability to develop reports and share results.

In addition, the successful offeror will develop, implement, and monitor the evaluation plan for the statewide tobacco prevention plan. Evaluation of the NDDHHS TPCP must include a summary of the program and activities that addresses the effectiveness of the program and any recommendations for improvement of the plan.

NDDHHS TPCP references to tobacco do not apply to traditional tobacco used as part of a traditional American Indian spiritual or cultural ceremony.

1.2 PROCUREMENT OFFICER CONTACT INFORMATION

The Procurement Officer is the point of contact for this RFP. Offerors shall direct all communications regarding this RFP to the Procurement Officer. Please do not add the Procurement Officer to any marketing distribution lists.

PROCUREMENT OFFICER: Lonny Mertz
EMAIL: lwmertz@nd.gov
PHONE: 701.328.3134
TTY Users call: 7-1-1

A person or firm interested in submitting a proposal should ensure all communications related to the procurement are only with the designated point of contact. This section does not restrict communication with state officials or any member of the legislative assembly unless the state official or member of the legislative assembly is involved directly with the procurement for which the person is interested or has submitted a bid or proposal (N.D.C.C. § 54-44.4-01.1).

Engaging in unauthorized communication or seeking to obtain information about an open solicitation with any state employee or official other than the responsible Procurement Officer or designee is sufficient grounds for suspension or debarment. [[N.D.A.C. § 4-12-05-04\(7\)](#)]

1.3 DEFINITIONS

For the purposes of this RFP, the acronyms and defined terms are as follows:

Acronym or Term	Name or Definitions
5 A's	Ask/Advise/Assess/Assist/Arrange
AAR	Ask/Advise/Refer
CDC	Centers for Disease Control and Prevention
Contractor	Entity that has an approved contract with the State of North Dakota
CT	Central Time Zone
EHR	Electronic Health Record
ENDS	Electronic Nicotine Delivery Systems
FDA	Food and Drug Administration
LCU	Local Public Health
HIPPA	Health Insurance Portability and Accountability Act
MDS	Minimum Data Set
NAQC	North American Quitline Consortium
NDDHHS	North Dakota Department of Health and Human Services
NRT	Nicotine Replacement Therapy
RFP	Request for Proposal
Solicitation Closing	Deadline for receipt of proposals listed in the RFP Schedule
SPO	Office of Management and Budget, State Procurement Office
TPCP	Tobacco Prevention and Control Program
TTPP	Tribal Tobacco Prevention Program
TTS	Tobacco Treatment Specialist

1.4 RFP SCHEDULE

EVENT	DATE and TIME
RFP issued	March 13, 2023
Deadline for submission of Questions and Objections	March 20, 2023 by 5:00 PM, C.T.
Solicitation Amendment with responses to Questions issued approximately (if required)	March 22, 2023
Deadline for receipt of proposals (Solicitation Closing)	March 31, 2023 by 5:00 PM, C.T.
Proposal evaluation completed by approximately	April 28, 2023
Notice of intent to award issued approximately	May 5, 2023
Contract start approximately	July 1, 2023

1.5 ASSISTANCE TO INDIVIDUALS WITH A DISABILITY

Contact the Procurement Officer, as soon as possible, if an individual with a disability needs assistance with the RFP, including any events in the RFP schedule, so reasonable accommodations can be made.

1.6 BIDDERS LIST AND SECRETARY OF STATE REGISTRATION REQUIREMENTS

Offerors must comply with requirements related for OMB Bidders List application and Secretary of State registration [[N.D.C.C. § 54-44.4-09](#)]. Bidders Lists are used to notify vendors when solicitations are issued on SPO Online.

Proposals will be accepted from Offerors that are not on the Bidders List. The successful Offeror must complete the Bidders List application process and comply with Secretary of State registration requirements within 60 calendar days from the date a notice of intent to award is issued. If the successful Offeror does not register within this time, its proposal may be rejected.

Bidders List and Secretary of State Information

1. Secretary of State Registration and Online Bidder Registration instructions are available online at [How to Bid | Office of Management and Budget, North Dakota](#).
2. Offeror should check the [Bidders List](#) to determine if Offeror is already registered.
3. An Offeror that needs to complete the registration process shall:
 - a. Register with the Secretary of State (fees apply) and obtain a “System ID” number.
 - b. Complete the [On-line Bidder Registration](#) including selecting [commodity codes](#). Notices related to this RFP will be sent to the Bidders List for the needed commodity or service and other known potential Offerors. The commodity codes used for this solicitation are: 952.77, 956.70 and 956.75.
4. The successful Offeror may be required to register as a new supplier to receive payment from the STATE. New vendors (suppliers and individuals) looking to receive payment from the STATE should use the online [Supplier Registration](#).

1.7 STATE PROCUREMENT WEBSITE (SPO ONLINE)

This RFP and any related amendments and notices will be posted on the North Dakota OMB website using SPO Online. Offerors are responsible for checking this website to obtain all information and documents related to this RFP: <https://apps.nd.gov/csd/spo/services/bidder/main.htm>

Select “Recent Solicitations”. Recent Solicitations are listed by close date.

Notices related to this RFP will be sent to the Bidders List for the needed commodity or service and other known potential Offerors.

Offerors not having completed the Bidders List registration may request to receive notices related to this RFP by contacting the Procurement Officer in writing with the following information: RFP title, business name, contact person, mailing address, telephone number, and email address.

1.8 AMENDMENTS TO THE RFP

If an amendment to this RFP is issued, it will be provided to all Offerors on the Bidders List for the solicitation and to those prospective Offerors who have contacted the Procurement Officer to receive notices related to the RFP. An Offeror shall include in its proposal any required acknowledgements of amendments to the RFP.

1.9 DEADLINE FOR QUESTIONS AND OBJECTIONS

Offerors should carefully review the RFP including all Attachments. Offerors may ask questions to obtain clarification and request additional information, or object to material in the RFP. Questions and objections must be submitted to the Procurement Officer in writing by the deadline identified in the RFP Schedule. If no deadline is specified, questions or objections must be received at least seven days prior to the Solicitation Closing deadline. The Procurement Officer may elect to respond to questions received after the deadline.

Questions and objections should include a reference to the applicable RFP section or subsection. Email is the preferred method of submission with the RFP number and title cited in the email subject line.

Responses to questions will be distributed as a solicitation amendment unless the question can be answered by referring the Offeror to a specific section of the RFP.

1.10 PREPROPOSAL CONFERENCE OR SITE INSPECTION

The STATE will not hold a preproposal conference or site inspection for this RFP.

1.11 OFFER HELD FIRM

Offerors must hold proposals firm for at least 120 days from the deadline for receipt of proposals (Solicitation Closing). The STATE may send a written request to all Offerors to hold their offer firm for a longer period of time.

1.12 OFFEROR RESPONSIBLE FOR COSTS

Offeror is responsible for all costs associated with the preparation, submittal, and evaluation of any proposal including any travel and per diem associated with demonstrations and presentations.

1.13 TAXES

The STATE is not responsible for and will not pay itemized local, state, or federal taxes. Purchases of tangible personal property made by a state government agency is exempt from sales tax. The state sales tax exemption number is E-2001, and certificates will be furnished upon requested by the purchasing agency. The contractor must provide a valid Vendor Tax Identification Number as a provision of the contract.

The purchasing agency will determine if services provided under this contract are 1099 reportable. The purchasing agency may require the contractor to submit an IRS Form W-9.

The state tax exemption number should not be used by contractors in the performance of a contract.

A contractor or service provider performing any contract, including service contracts, for the United States Government, State of North Dakota, counties, cities, school districts, park board or any other political subdivisions within North Dakota is not exempt from payment of sales or use tax on materials, tangible personal property, and supplies used or consumed in carrying out contracts. In these cases, the contractor is required to file returns and pay sales and use tax just as required for contracts with private parties. Contact the North Dakota Tax Department at 701.328.1246 or visit its website at <https://www.nd.gov/tax/tax-resources/> for more information.

A contractor performing any contract, including a service contract, within North Dakota is also subject to the corporation income tax, individual income tax, and withholding tax reporting requirements, whether the contract is performed by a corporation, partnership, or other business entity, or as an employee of the contractor. In the case of employees performing the services in the state, the contractor is required to withhold state income tax from the employees' compensation and remit to the state as required by law. Contact the North Dakota Tax Department at 701.328.1248 or visit its website for more information.

1.14 PROPOSAL RECEIPT DEADLINE – LATE PROPOSALS REJECTED

An Offeror is solely responsible for ensuring its proposal is received by the STATE prior to the Solicitation Closing deadline identified in the RFP schedule regardless of the method of submission. A solicitation amendment will be issued if this deadline is changed. An Offeror may contact the Procurement Officer to inquire whether its proposal has been received. Proposals delivered late will be rejected pursuant to [N.D.A.C. § 4-12-08-13](#).

1.15 PROPOSAL OPENING

A public opening will not be held.

This is a formal sealed Request for Proposal (RFP) process. Proposals will be secured and held unopened until the Solicitation Closing deadline. Per [N.D.A.C § 4-12-08-04](#), the openings may be made public at the discretion of the purchasing agency. If a public opening is held, only the names of Offerors that submitted proposals can be revealed at the opening, and each proposal will be opened in a manner to avoid disclosure of the contents to the competing Offerors.

1.16 AMENDMENT AND WITHDRAWAL OF PROPOSALS

Offeror may amend, supplement, or withdraw proposal prior to the Solicitation closing deadline. No changes will be accepted after the Solicitation closing deadline. After the Solicitation closing deadline, Offeror may make a written request to withdraw proposal and provide evidence that a substantial mistake has been made, and the STATE may permit withdrawal.

1.17 NEWS RELEASES

Offerors shall not make any news releases related to this RFP without prior approval of the STATE.

1.18 CONFLICT OF INTEREST

Under state laws and rules, a state employee or official shall not participate directly or indirectly in a procurement when the state employee or officials knows of a conflict of interest. Potential conflicts of interest include state employees or their immediate family members employed by the firm, seeking employment with the firm, or with a financial interest in the firm. Potential conflicts of interest will be addressed in accordance with [N.D.A.C. § 4-12-04-04](#). [[N.D.C.C. § 12.1-13-03](#)]

Persons employed by the State of North Dakota, or within one year thereafter, may be prohibited from acquiring a pecuniary interest in a public contract or transaction. Offerors should review [N.D.C.C. § 12.1-13-02](#) to ensure compliance and avoid such conflict(s) of interest.

1.19 ATTEMPT TO INFLUENCE PROHIBITED

Offerors must not give or offer to give anything to a state employee or official anything that might influence or appear to influence procurement decisions. Suspected attempt to influence will be handled in accordance with [N.D.A.C. § 4-12-04-05](#).

1.20 COLLUSION PROHIBITED

Offerors must prepare proposals independently, without collusion. Suspected collusion will be handled in accordance with [N.D.A.C § 4-12-04-06](#).

1.21 PROTEST AND APPEAL

An interested party may protest a solicitation pursuant to [N.D.C.C. § 54-44.4-12](#) and [N.D.A.C. § 4-12-14-01](#). When a solicitation contains a deadline for submission of questions and objections, protests of the solicitation will not be allowed if these faults have not been brought to the attention of the Procurement Officer before the specified deadline. If no deadline for questions is specified, protest based upon defects in the solicitation must be made at least seven calendar days before the deadline for receipt of proposals.

An Offeror that has submitted a response to a solicitation and is aggrieved may protest an award or notice of intent to award pursuant to [N.D.C.C. § 54-44.4-12](#) and [N.D.A.C. § 4-12-14-02](#). The protest must be submitted in writing to the Procurement Officer during the protest period, which is seven calendar days beginning the day after the notice of intent to award is issued.

The protestor may appeal the decision of the Procurement Officer to the Director of OMB or designee in writing within seven calendar days after receiving notice of the decision pursuant to [N.D.C.C. § 54-44.4-12](#) and [N.D.A.C. § 4-12-14-03](#).

SECTION TWO – BACKGROUND

2.1 BACKGROUND INFORMATION

The mission of the North Dakota Department of Health and Human Services (NDDHHS), Tobacco Prevention and Control Program (TPCP) is to improve and protect the health of North Dakotans by reducing the negative health and economic consequences of the state's number-one cause of preventable disease and death - tobacco use.

Our agency is conducting this solicitation because NDDHHS is the lead agency for statewide tobacco use prevention and control programs in North Dakota. The NDDHHS TPCP supports tobacco prevention and control efforts at the state and local levels. The major goal is to reduce disease, disability and death related to tobacco use by:

- Preventing initiation among youth and young adults
- Promoting quitting among youth and adults
- Eliminating exposure to secondhand smoke
- Identifying and eliminating tobacco-related disparities among population groups

This goal will be achieved by implementing the Centers for Disease Control and Prevention's (CDC) "[*Best Practices for Comprehensive Tobacco Control Programs*](#)" (Best Practices). Best Practices identifies five essential components for an effective, comprehensive tobacco control program including State and Community Interventions; Mass-Reach Health Communication Interventions; Cessation Interventions; Surveillance and Evaluation; and Infrastructure, Administration, and Management.

Brief on Tobacco

Tobacco use is the leading preventable cause of death and disease in the United States today. Tobacco use increases the risk for lung and other cancers and for cardiovascular and respiratory diseases. The Campaign for Tobacco-Free Kids estimates that cigarette smoking is responsible for more than 480,000 deaths per year in the United States, 1,000 of them being North Dakotans. Tobacco use is costly to North Dakota. Each year smoking costs the state an estimated \$559 million in direct medical expenditures and lost productivity.

According to the 2021 Youth Risk Behavior Survey (YRBS), 5.9 percent of North Dakota's youth in grades 9-12 currently smoked cigarettes. Of those, 30.9 percent had tried to quit smoking cigarettes for one day or longer. Also, 21.2 percent of students in grades 9-12 currently use electronic vaping products, and 7.5 percent of males in grades 9-12 currently use chewing tobacco.

According to the 2021 Behavioral Risk Factor Surveillance System (BRFSS), North Dakota's 15 percent adult cigarette smoking rate was higher than the national rate of 12.6 percent. Of those, 53.1 percent have tried to quit for one day or longer. Also, 19.3 percent of North Dakota adults currently use electronic vaping products, and 10.9 percent of adult males currently use chewing tobacco.

Significant health inequities exist in terms of tobacco use among specific populations. In 2021, American Indians smoked cigarettes at more than twice the rate of non-natives in the state (35.8 percent versus 15 percent. Source: BRFSS). Smoking prevalence in the state is also related to income and education. People with lower incomes (less than 200% of the federal poverty level) and educational levels (less than a high school diploma or GED) smoke at higher rates. Pregnant women in North Dakota smoke at a rate higher than the national average (8.5 percent versus 4.6 percent), according to 2021 North Dakota and 2021 National Vital Statistics data, respectively.

State and Community Interventions

As part of Best Practices, research has demonstrated the importance of community support and involvement at the grassroots level in implementing several of the most highly effective policy interventions, including increasing the unit price of tobacco products, implementing tobacco counter-marketing strategies and creating smoke-free public and private environments. The policies, partnerships, and intervention activities that occur at the state and community levels will ultimately lead to social norm and behavior change nationwide. The TPCP works with Local Public Health Units (LPHUs) and Tribal Health on American Indian Reservations in North Dakota to engage their communities in these efforts. Other policy interventions at the local level include smoke-free multi-unit housing, tobacco-free business grounds and public places, and comprehensive tobacco-free schools. Community engagement may also include retail tobacco point-of-sale projects and work on Electronic Nicotine Delivery Systems (ENDS).

Mass-Reach Community Health Communications Interventions

Providing health communications is an essential element of tobacco prevention and control efforts. The NDDHHS have contractors to develop and implement communication interventions. Coordination with these contractors to determine the effectiveness of these interventions is a vital part of program evaluation.

Cessation Interventions

According to CDC, tobacco cessation and nicotine dependence treatment is more cost-effective than other commonly provided clinical preventive services, including mammography, colon cancer screening, and treatment of mild to moderate hypertension and treatment of high cholesterol. The NDDHHS implements several cessation programs in North Dakota. The following describes the programs to be evaluated under this contract.

NDQuits

NDQuits includes a statewide telephone-based tobacco cessation counseling service and an online tobacco cessation service, both of which are available free of charge to its users. Both services provide general information on tobacco dependence and evidence-based treatment options, screening, and assessment of current adult tobacco users' readiness to quit, support materials, behavioral coaching, nicotine replacement therapy (NRT) and referral to community-based treatment services.

Individuals who call will receive one-on-one coaching via telephone from trained coaches through a toll-free number. Coaches will work to help the participant determine the best approach to stop using tobacco products. Quitlines are a convenient method of providing cessation services to a broad population, including those in rural areas. NDQuits has specialized protocols for pregnant women, American Indians, and youth.

Individuals who utilize the NDQuits online program will experience a comprehensive online service designed to help individual tobacco users through the quitting process. It combines evidence-based methods of treating tobacco use disorder with a powerful and effective program which is available 24 hours a day, seven days a week. There are also text message and email support options for participants.

Tobacco and Nicotine Dependence Treatment Programs

The goal of the TPCP tobacco and nicotine dependence treatment programs, such as the NDQuits Cessation Grant (NDQC) Program, is the creation and implementation of cessation interventions in healthcare systems and health partners. This grant program was started in 2012 as the Million Hearts S Grant Program and currently includes twenty North Dakota health care systems and other health partners.

NDQC tobacco and nicotine treatment interventions include implementing patient tobacco use assessments, recording data from these assessments into the grantees' Electronic Health Record (EHR), creating data reports from the EHR to show program effectiveness, providing counseling to some inpatients and outpatients, utilizing the NDQuits program as a cessation resource, developing patient follow-up activities to determine quit rates and provide reports with this data to the NDDHHS.

Partners implementing tobacco and nicotine treatment interventions, like NDQC grantees, can obtain Tobacco Treatment Specialist (TTS) training for staff to provide on-site counseling. This counseling must be based on the *Clinical Practice Guidelines for Treating Tobacco Use and Dependence 5A's* (Ask/Advise/Assess/Assist/Arrange) or AAR (Ask/Advise/Refer) protocols. Grantees will also serve as a resource for providing or coordinating resources for FDA-approved cessation medications for patients.

Maternal Tobacco Program

The NDQC Maternal Tobacco Program (MTP) is a free program for pregnant women who want to quit using tobacco during pregnancy and remain abstinent during the postpartum. The program provides education, support, and accountability to participants. Each MTP session provides information and tests for tobacco use via a carbon monoxide breath test or a saliva cotinine test. All participants must prove abstinence at eligible visits to receive incentives.

The goal is to identify an evaluator that can analyze previous and current data provided by the cessation programs and can produce reports that will be effective and useful tools for directing the State's efforts to improve its cessation programs.

Infrastructure, Administration and Management

The offeror will work with the NDDHHS to assess the effectiveness the program infrastructure and capacity and provide feedback and recommendations to assist the NDDHHS in providing effective program planning and interventions.

Evaluation

Evaluation of the NDDHHS TPCP must include a summary of the program and activities that addresses the effectiveness of the program and any recommendations for improvement of the Surveillance and Evaluation State Plan.

North Dakota Surveillance and Evaluation State Plan

The Surveillance and Evaluation State Plan outlines how the statewide tobacco prevention and control program will be evaluated. CDC recommends that states implement evidence-based tobacco control programs that are cost effective, comprehensive, sustainable, and accountable. Surveillance and evaluation are part of a comprehensive program and contribute to a program's effectiveness and accountability. The contractor will work with the NDDHHS to create a Surveillance and Evaluation State Plan and lead the plan's implementation. The current state plan and other recent work products related to the evaluation of the North Dakota's TPCP is located at <https://www.hhs.nd.gov/health/community/tobacco>.

Tobacco Plans and Reports

The NDDHHS TPCP tobacco plans and reports are as follows:

- [North Dakota Tobacco Prevention and Control State Plan 2020-2025](#)
- [North Dakota Tobacco Prevention and Control Evaluation Plan](#)
- [2021 - 2023 HHS Synthesis Report](#)

2.2 BUDGET

The funds for payment of this contract are already appropriated and identified. The estimated budget for completion of this project is between \$130,000 and \$260,000. Proposals priced at more than \$260,000 will be rejected.

SECTION THREE – SCOPE OF WORK

3.1 SCOPE OF WORK

The NDDHHS, Health Promotion & Chronic Disease Prevention Unit, TPCP is soliciting proposals for an evaluation contractor capable of conducting a comprehensive evaluation of the Department's statewide TPCP and providing 7-month follow-up surveys for NDQuits telephone services.

The TPCP evaluation will focus on the *CDC Best Practices for Comprehensive Tobacco Control Programs* components which includes State and Community Interventions; Mass-Reach Health Communication Interventions; Cessation Interventions; Surveillance and Evaluation; and Infrastructure, Administration, and Management.

Comprehensive evaluation efforts specific to TPCP activities include:

- Tobacco and nicotine treatment efforts, including:
 - NDQuits telephone and web-based counseling services
 - NDQuits Cessation (NDQC) grant programs, including efforts specific to:
 - Treating pregnant tobacco users (Maternal Tobacco Program (MTP))
 - Youth and young adult tobacco users
 - Behavioral health populations
- TPCP media efforts
- Youth engagement efforts
- Community engagement/policy efforts
- Work with populations addressing health-equity issues

The offeror should be skilled in and have experience in conducting 7-month follow-up surveys following the North American Quitline Consortium (NAQC) guidelines, using the 7-month minimal data set (MDS) follow-up questions for both telephone, web-based, and possibly texting programs.

The offeror should be skilled in evaluation principles and techniques with the ability to develop reports and share results.

In addition, the successful offeror will develop/modify, implement/maintain and monitor the evaluation plan for the statewide comprehensive tobacco prevention and control plan. Evaluation of the NDDHHS TPCP must include a summary of the program and activities that addresses the effectiveness of the program and any recommendations for improvement of the plan.

NDDHHS TPCP references to tobacco do not apply to traditional tobacco used as part of a traditional American Indian spiritual or cultural ceremony.

3.2 APPLICABLE DIRECTIVES

This project is subject to the following:

Contract is subject to restrictions on the use of federal funds for lobbying of federal or state legislative bodies. Under the provisions of 31 U.S.C. Section 1352, recipients are prohibited from using appropriated federal funds for lobbying Congress or any federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

Public Law No.104-208, Section 503 expressly prohibits the use of appropriated funds for indirect or “grass roots” lobbying efforts that are designed to support or defeat legislation pending before state legislatures. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress or any State legislative body itself.

The contractor is responsible for identifying and complying with all state and federal requirements that apply to the contract.

Five Evaluation Protocols by *CDC Best Practices for Comprehensive Tobacco Control Programs Components*

As part of the evaluation protocols, the contractor must develop or revise specific protocols that can reasonably be expected to show how the five major components of a comprehensive tobacco prevention program are or are not creating synergies that could reasonably be associated with the overall impact of the program. The protocols should be able to identify the level to which the program is or is not effective and synergistic and how the level of effectiveness and synergy is associated with the overall program impact and outcomes. (For example, is there synergy between state and community interventions and mass-reach health communications interventions and if so, can this synergy reasonably be associated with improved program impact and outcomes?). The five major components of a comprehensive tobacco prevention program are:

- I. State and Community Interventions
- II. Mass-Reach Health Communications Interventions
- III. Cessation Interventions
- IV. Surveillance and Evaluation
- V. Infrastructure, Administration and Management

Protocols should describe the plans to accomplish the following steps for each of the five major components of the comprehensive tobacco prevention program and indicate how each contributes to the achievement of outcomes:

- Determine any achieved short-, intermediate, and long-term outcomes of the implementation of each component, including, where possible, the effects on tobacco sales, NDQuits use, exposure to secondhand smoke, air quality related to secondhand smoke, overall tobacco use rates, reductions in adverse health outcomes and related healthcare costs.
- Provide recommendations for improving the component, including the management of the component.
- Include information about the component in reports as requested by the NDDHHS.

The following outline further describes the five major components of the comprehensive program:

I. State and Community Interventions

- Grants and contracts to contractors providing technical assistance, training, and other services to support state and community interventions.
- Local grants providing general policy and environmental change and local infrastructure funding to all tribal tobacco prevention programs and local public health units directly or through multiple-unit cooperative grants.
- Comprehensive tobacco-free and smoke-free policies in communities and in places not covered by the State smoke-free law (such as outdoor areas, multi-unit housing and tribal

casinos and lands) resulting from efforts directly related to grants provided by the NDDHHS for tobacco prevention and control activities.

- Comprehensive tobacco-free policy implementation in K-12 schools and higher education, promoted by information, model policies, training, technical assistance, and funding provided by the grants through the NDDHHS to schools in their service area.
- Other state and community interventions.

II. Mass-Reach Health Communications Interventions

- Input on an annual media and marketing plan that includes statewide marketing, advertising, public relations, social media, digital media and emerging media, research, surveillance, and related evaluation.
- Marketing and promotion of population-based cessation services.
- Local health communications.
- Other health communications interventions.

III. Cessation Interventions

- Statewide population-based phone and web cessation services (NDQuits).
- Promotion of the provision of comprehensive cessation services and medications benefits and removal of barriers to service and medications in public and private insurance programs.
- Integration of treatment on-site in behavioral health care settings.

IV. Surveillance and Evaluation

- Assessment of the completeness and effectiveness of current surveillance systems used to track short-, intermediate, and long-term outcomes.
- Identification of sources of new or previously unknown critical data. NOTE: Current critical data analysis need is actual tobacco-related healthcare cost data and program return-on-investment data.
- Provide a plan for the collection and analysis of additional critical data.
- NDDHHS will provide data from existing statewide and local public polls, surveys, economic impact studies, and air quality monitoring studies conducted and funded with both public and private funding.

V. Infrastructure, Administration and Management

- State human resources infrastructure (NDDHHS TPCP) and statewide partner organizations whose missions include tobacco use prevention.
- Local human resources infrastructure at local public health units and partners.
- State planning processes and documents.

Quality Assurance

The Contractor will have an on-going working relationship with STATE program staff to review the and implement the evaluation. The STATE should be updated regularly on planning and progress. Offerors should describe a plan for maintaining close communication with STATE program staff. A timetable for projects will be laid out with the successful offeror. Successful offeror must keep the STATE informed of any projects that are not on schedule, must indicate the barriers to that progress, and negotiate adjusted timelines with the STATE. Lack of quality or progress on projects can result in termination of the contract. Contractor must provide reports/invoices for the work accomplished.

Contractor will follow the *Implementation Guide – Quit Rate* at the following site:
<https://www.naquitline.org/page/ImpQR>

Contractor is responsible for identifying and complying with all state and federal requirements that apply to the contract.

3.3 REQUIREMENTS

A. DELIVERABLES

The contractor will be required to provide the following to achieve the objective of this project:

1. Assist the state to maintain and monitor a comprehensive Surveillance and Evaluation State Plan for the state tobacco prevention and control program.
2. Include a summary of the tobacco prevention and control program and activities that addresses the effectiveness of the program and any recommendations for improvement of the Surveillance and Evaluation State Plan.
3. Implement and maintain an evaluation model for each tobacco prevention and control program and conduct a comparative/synthesis evaluation.
4. Develop or revise specific protocols that can reasonably be expected to show how the five major components of a comprehensive tobacco prevention program are or are not creating synergies that could reasonably be associated with the overall impact of the program. The protocols should be able to identify the level to which the program is or is not effective and synergistic and how the level of effectiveness and synergy is associated with the overall program impact and outcomes. The protocols should describe the plans to accomplish the steps for each of the five major components of the comprehensive tobacco prevention program and indicate how each contributes to the achievement of outcomes.
5. Provide specific online real-time data collection for the NDQC MTP.
6. Provide summary reports for each program individually and comparatively across programs (i.e. tobacco cessation programs through Local Public Health Units, NDQuits, NDQC).
7. In conjunction with the Department, provide technical assistance as needed to the contracted individual tobacco prevention and control programs regarding evaluation questions.
8. Implement and administer the 7-month follow-up survey for the NDDHHS NDQuits Program
 - a. Provide a clear plan of how to obtain a minimum target of 50 percent response rate of the 7-month follow-up survey conducted using the NAQC MDS questions and potential optional questions.
 - b. The surveys may all be conducted in English.
 - c. Describe the current or proposed design used to achieve the desired response rate and minimize selection bias.
 - d. Share a summary of specifics of how many calls and/or email contacts are attempted per survey, what procedure is in place for individuals calling back if a message was left, and what online survey platform is used to maintain HIPAA compliance (if applicable).
 - e. Provide protocol for maintaining HIPAA compliance with data transfers and storing personal health information (PHI), including the process, and if any subcontractors are used.
 - f. Describe strategies that may be used to maintain/increase survey response rates, including but not limited to sending letters/emails prior to attempting to contact, etc. Incentives may not be used.
 - g. Provide cost per completed survey and overall management cost in the budget.
 - h. A survey disposition file and all survey data will be provided in either CSV, EXCEL or SPSS format.

9. Evaluate State and Community Interventions.
10. Coordinate with Mass-Reach Health Communications contractors to determine the effectiveness of these interventions is a vital part of program evaluation.
11. Evaluate the Cessation Intervention/tobacco and nicotine treatment programs.
12. Work with the NDDHHS to assess the effectiveness of the comprehensive tobacco prevention and control program infrastructure and capacity and provide feedback and recommendations to assist the NDDHHS in providing effective program planning and intervention.
13. A summary of the program and activities that addresses the effectiveness of the program.
14. Analyze data collected.
15. Produce reports on process and outcome evaluation questions (e.g. demographics and clinical characteristics of clients, satisfaction, quit attempts, medication use, point prevalence abstinence, etc.) for each program individually and comparatively across programs.
16. Meet regularly with State staff to assess progress (can be by conference call, web-based meeting platform, etc.).
17. Manage contract budget.
18. Provide additional analysis upon request for publications or presentations.
19. Co-author publications and presentations if necessary and/or interested.
20. Prepare for and present at conferences if requested and/or interested.
21. Obtain prior approval from the NDDHHS for all presentations, articles, white papers, etc. that use NDDHHS prevention and cessation program data/outcomes.
22. Conduct additional evaluation activities as requested. Work with the Department to provide Ad Hoc reports, as needed. These reports will be completed considering the contractor schedule availability and with reasonable understanding of the Department related to the priority of completion of these reports.
23. Monthly reports/invoices outlining work accomplished.
24. Work with the NDDHHS to utilize resources to provide emerging tobacco control and prevention trends, surveillance and evaluation projects to address shifting program demands.
25. Work with Department to compile evaluation summaries to incorporate into NDDHHS TPCP Synthesis Report prior to the start of the biennial North Dakota Legislative Assembly, currently scheduled to start in January of odd-numbered years. The Synthesis will include data from the current biennium of the report.

B. LOCATION OF WORK/TRAVEL

The contractor should include travel to Bismarck, ND to attend up to two TPCP partner or project-focused meetings per contract year. This travel should include at least two contractor staff with working knowledge of the TPCP evaluation activities.

The contractor should include travel to attend the National Conference on Tobacco or Health, which is usually held every other year.

The work is to be performed, completed, and managed at the contractor's place of business.

C. STATE-FURNISHED PROPERTY/SERVICES

The STATE will not provide workspace, equipment, network, and telephone access, etc. to support the project.

The STATE will provide access to tobacco prevention program data and information. This includes progress reports, de-identified data, prior evaluation reports, quit rates, North American Quitline Consortium minimal dataset intake information, data dictionary, and survey instruments used. Data will be available in broadly compatible format (e.g. Excel,

SPSS, etc.). We do not anticipate much, if any, data cleaning and efforts will be made to provide clean data.

D. RISK MANAGEMENT

The contractor will take appropriate measures to ensure the safety of its employees, state employees, the public, and property. The contractor must identify any potential risks, issues and problems associated with the project and identify ways to mitigate those potential risks.

E. PROJECT MANAGEMENT PLAN

1. The contractor will be expected to use appropriate project management to ensure the work is accomplished on time, within budget, and meets quantity and quality standards.
2. The contractor will be required to collaborate with the STATE to agree upon the contract schedule, including a work breakdown, schedule of tasks and activities, and progress milestones.
3. The contractor will be required to coordinate with the STATE to develop a communication plan. Any problems or unforeseen events must be communicated timely to the STATE project manager, and any changes must be agreed upon between the parties and set forth in a written amendment to the contract. If the STATE requires corrective action, the contractor will be notified in writing.
4. Contract Closeout Plan

When the contract is completed, the STATE and contractor will communicate regarding the contract closeout, including transition of any records. A contract closeout debrief may be performed at the discretion of the Procurement Officer or project manager designated by the STATE. The debriefing time and location will be negotiated between the STATE and contractor. The contractor must collaborate in development a Project Closeout Report to include feedback regarding the project implementation and any lessons learned.

F. CONTRACT TERM, SCHEDULE AND DELIVERABLES

1. Contract Term

This contract will be for the period of July 1, 2023 – June 30, 2024.

2. Schedule and Deliverables

The STATE has identified the following deliverables which are significant work products or milestones in the project. The STATE requires these deliverables to be addressed in the Contract Schedule, as a minimum. The contractor shall develop a schedule for accomplishing the Scope of Work, including these specific deliverables. The final schedule shall be agreed upon between the STATE and the successful Offeror and incorporated into the contract. The approximate schedule for this contract is as follows:

- a. Contract start: July 1, 2023
- b. "Kick off" meeting/conference call: To be determined by STATE and Contractor
- c. Contractor submits detailed invoices with a progress report to the STATE: At least quarterly. May submit monthly.
- d. Contract Closeout Plan: As mutually agreed upon

3.4 EXPERIENCE AND QUALIFICATIONS

A. Minimum Qualifications

- A minimum of five years of experience in evaluating state-based tobacco prevention and control programs.
- A minimum of five years evaluating tobacco and nicotine dependence treatment

- programs.
- A minimum of three years performing 7-month follow-up surveys for telephonic and/or online tobacco cessation programs. Ability to consistently achieve a fifty percent response rate of survey participants is preferred.
 - Be HIPAA-compliant or provide a statement that it will be by the time a contract is executed, if selected.
 - No relationship with any tobacco company or its subsidiaries.
 - Individuals working on the project have experience in evaluating tobacco cessation programs and performing 7-month follow-up surveys.

B. Experience

- Offeror must have a minimum of five years of experience in evaluating state-based tobacco prevention and control programs and tobacco and nicotine dependence treatment programs.
- Offeror must have three years of experience performing 7-month follow-up surveys for telephonic and web-based tobacco cessation programs.

An offeror shall provide a brief history and describe the organization of their firm, including the number of years the offeror has provided the type of work requested in this RFP.

An offeror shall describe the type of work each of the offeror's staff will perform in carrying out this project, describe relevant credentials and experience of each staff member, and provide a resume for each.

SECTION FOUR – PROPOSAL INSTRUCTIONS

4.1 PROPOSAL PREPARATION

The STATE discourages overly lengthy and costly proposals. An Offeror must prepare its proposal using the prescribed proposal format and provide all the requested information; this will enable the proposal to be evaluated fairly and completely. If an Offeror submits more than one proposal, each proposal must be prepared in accordance with these instructions.

Each proposal will include a Technical Proposal and a Cost Proposal prepared in accordance with these instructions. The Technical Proposal and a Cost Proposal must be submitted as separate documents, clearly labeled with the name of the Offeror, and marked “Technical Proposal” and “Cost Proposal.” Costs must not be revealed in the Technical Proposal. Options may be discussed in the technical proposal, but all cost information must be in the Cost Proposal only. DO NOT submit documents that are embedded into proposal documents or that contain links to documents on an external website.

4.2 PROPOSAL SUBMISSION INSTRUCTIONS

Sealed proposals are required; therefore, proposals cannot be submitted by email to the Procurement Officer.

UPLOAD RESPONSE THROUGH THE STATE PROCUREMENT ONLINE SYSTEM (SPO ONLINE):

Offeror **Insert may or must** electronically submit proposals through the State Procurement Office Online system (SPO Online) by the Solicitation Closing deadline.

DO NOT WAIT UNTIL THE “LAST MINUTE” TO SUBMIT A RESPONSE. Recommend uploading response 24 hours prior to the Solicitation Closing deadline.

Offeror must begin the electronic submission process well in advance of the Solicitation Closing deadline to allow for transmission and resolution of any technical difficulties. Be advised that the STATE is not responsible for an Offeror’s failure to timely submit a proposal due to any technical difficulties. If you experience any technical difficulties contact the Procurement Officer or the State Procurement Office at infospo@nd.gov or 701.328.2740.

If documents are in the process of being uploaded when the Solicitation Closing deadline occurs, the upload process will stop. The attempted submission will not be uploaded successfully and is ineligible for consideration. The STATE takes no responsibility for electronic submissions that are captured, blocked, filtered, quarantined, or otherwise prevented from uploading by any anti-virus or other security software.

1. This solicitation is posted on SPO Online at: <https://apps.nd.gov/csd/spo/services/bidder/main.htm>
2. Select “Recent Solicitations” and find this solicitation. Solicitations are listed by close date.
3. Use “Upload Response” to upload a maximum of five (5), clearly labeled documents before the Solicitation Closing deadline provided in the RFP Schedule.
4. Offeror must upload their Technical Proposal and Cost Proposal in separate files.
5. The maximum file size allowed is 50mb per file.
6. There is a 50 character file name limitation for the document being uploaded.
7. There is 75 character limit in the TITLE field within SPO Online.
8. All SPO Online field entries must be alphanumeric. Dashes and underscores are allowed; however, the system DOES NOT accept other special characters such as apostrophe, & symbol, quotation marks, etc..
9. DO NOT submit documents that are embedded (zip files), movies, wmp, encrypted, or mp3 files.

10. Offeror will receive an email confirmation from infospo@nd.gov that the upload response was received including the “File Description” for the uploaded files. Review this email to ensure all files were successfully uploaded. If Offeror DOES NOT receive an email confirmation, the upload was NOT successful, and the files will need to be uploaded again. If Offeror does not receive an email confirmation after the reattempt, contact the Procurement Officer or the State Procurement Office at infospo@nd.gov or 701.328.2740.

Visit <https://www.omb.nd.gov/sites/www/files/documents/doing-business-with-the-state/procurement/spo-electronic-response-external-job-aid.pdf> for the SPO Electronic Response Job Aid which describes how to submit an electronic response.

4.3 PROPOSAL FORMAT

Prepare the Technical Proposal and Cost Proposal in accordance with these instructions.

Technical Proposal – Format the proposal with the following labeled sections:

- Section 1 – Cover Letter
- Section 2 – RFP Amendments
- Section 3 – Scope of Work Strategy
- Section 4 – Experience and Qualifications
- Section 5 – Contract Provisions
- Section 6 – Open Records and Confidentiality

Cost Proposal – The Cost Proposal must be a separate document. Format the Cost Proposal following the RFP instructions.

4.4 TECHNICAL PROPOSAL

SECTION 1 – COVER LETTER

Proposals shall include a cover letter that includes the following:

1. The name of the Offeror, name of the person to contact regarding the proposal, email address, telephone number, and mailing address.
2. Offerors are instructed to review the “Conflict of Interest” provisions in RFP Section 1 “Instructions.” If the firm, its employees or subcontractors working on the contract have an apparent or actual conflict of interest, provide a statement disclosing the circumstances of the apparent or actual conflict of interest. Otherwise, provide a statement that your firm, employees and subcontractors do not have a conflict of interest.
3. The cover letter must be signed by an individual with authority to bind the Offeror. By signing the cover letter, an Offeror certifies that it complies with:
 - a. All the requirements, terms and conditions as set forth in this RFP.
 - b. The requirement that the Offeror’s proposal accurately describes the goods and services being offered to the STATE, and the proposal will be held firm for the period specified.
 - c. All local, state, and federal laws, rules, code laws, rules, code, regulation, and policies, including those relating to nondiscrimination, accessibility, civil rights, and equal employment.
 - d. The requirement that this proposal was prepared independently without collusion.

SECTION 2 – RFP AMENDMENTS

Provide signed copies of all Solicitation Amendments issued by the STATE that were required to be acknowledged by Offerors.

SECTION 3 –SCOPE OF WORK STRATEGY

Offeror must review the requirements and deliverables provided in RFP Section 3, Scope of Work.

1. **Applicable Directives.** The Offeror must identify any state and federal requirements that apply to the contract.
2. **Strategy for Scope of Work Requirements.** The Offeror must provide narrative statements to demonstrate their understanding of the scope of work requirements. Explain the proposed strategy to accomplish the scope of work, meet all requirements, and provide the deliverables described in the scope of work within the STATE's project schedule.
3. **Value-Added Options.** Offerors may include any optional services or goods that are not required by the STATE but are within the scope of work (e.g., an option for a higher level of service, equipment accessories, extended warranty options, etc.). Describe any value-added options being offered.
4. **Location of Work.** The proposal must respond to the STATE's Location of Work instructions within the RFP Scope of Work. Describe where the work will be performed and any proposed travel.
5. **State Furnished Property and Services.** Provide a detailed breakdown of the Offeror's expectations for STATE resources that will be needed for the project, including number of staff, qualifications, roles and responsibilities, and time requirements for the various phases of the project.
6. **Risk Management.** Offerors must describe measures to be taken to ensure the safety of its employees, state employees, the public and property. Offerors must also identify any pertinent issues and potential problems related to the project and describe how those potential issues and problems could be mitigated.
7. **Project Management Plan.** The proposal must describe how the contractor intends to manage the project to ensure the work is accomplished on time, within budget, and meet quantity and quality standards. Offerors may provide a narrative or organizational chart to illustrate the lines of authority and accountability.
8. **Proposed Schedule and Deliverables.** The proposal must provide a timeline for accomplishing the work, in consideration of the STATE's Contract Schedule within the RFP Scope of Work.

SECTION 4 –EXPERIENCE AND QUALIFICATIONS

Mandatory Requirements. An Offeror must provide information to demonstrate meeting the Offeror Experience and Qualifications Requirement in RFP Section 3, Scope of Work, [Experience and Qualifications](#).

Experience and Qualifications of the Firm

Provide a brief history and describe the organization of the firm. Describe the number of years the Offeror has provided the type of work requested in this RFP. Describe specific experience of their firm in completing similar projects. Provide a description of the project, approximate time frame of the project, and contact information for the customer. Offerors may provide letters of reference from customers.

Experience and Qualifications of the Project Team

Provide a narrative or organizational chart that describes the organization of the proposed project team. Provide information for key project team members, including:

1. Description of anticipated work they will perform and approximate estimated hours;
2. Resume or description of the relevant education, training, experience, skills and qualifications;
3. If the Offeror has vacant positions, identify the job description and minimum qualifications for staff members to be recruited;
4. Subcontractors. If an Offeror intends to use subcontractors, the Offeror must identify in the proposal the names of the subcontractors and the portions of the work the subcontractors will perform. Provide a statement that the Offeror will ensure that the subcontractor has or will obtain any required licenses and registrations, including registration with the North Dakota Secretary of State; and
5. Joint Venture. If submitting a proposal as a joint venture, provide narrative statements that describe the roles and responsibilities of each party to the joint vendor. If available, submit a copy of the joint venture agreement that identifies the parties involved and its rights and responsibilities.

References

Provide two (2) reference letters from clients for whom similar work was completed. The reference letter must include the name of a contact person, address, email, and telephone number. The STATE may contact references provided for verification and to obtain additional information. Evaluation may be impacted if the STATE is unable to contact the reference or the reference does not timely provide the requested information.

SECTION 5 – CONTRACT PROVISIONS

Offeror shall review the RFP Section 6 and the STATE's Contract – Attachment 2.

The proposal must include indicate whether the Offeror accepts the terms and conditions in the STATE's Contract.

An Offeror may state that they accept the STATE's Contract as written.

An Offeror may state any objections or propose changes or additions to the STATE's Contract. Describe the changes to the Contract being proposed or provide a red-line of the STATE's Contract. Offerors are not to submit their own contract or standard terms and conditions with their proposals. Offeror should address the specific language in the attached contract and submit any proposed changes.

North Dakota procurement statutes, rules, and policies allow some negotiation of the terms and conditions. No changes to the terms and conditions will be permitted without prior written approval from the STATE.

SECTION 6 – OPEN RECORDS AND CONFIDENTIALITY

All proposals and other material submitted become the property of the State and may be returned only at the State's option. The State of North Dakota has broad open records laws. Proposals received are exempt from open record requirements until an award is made, in accordance with [N.D.C.C. § 54-44.4-10\(2\)](#). After award, proposals are subject to the North Dakota open records laws. Proposals or portions of proposals may be confidential only if specifically stated in law.

Offerors are instructed not to mark their entire proposal as "confidential."

Offeror must provide one of the following in their proposal:

- Provide a statement indicating that their proposal does not contain any confidential information, OR

- Make a written request to hold confidential any trade secrets and other proprietary data contained in its proposal. Offeror must clearly identify the material considered confidential and explain why the material is confidential. See the North Dakota Office of the Attorney General website for additional information. <https://www.legis.nd.gov/cencode/t44c04.pdf> and <https://attorneygeneral.nd.gov/open-records-meetings>

If the STATE receives a request for public information, the Procurement Officer, in consultation with the Office of the Attorney General, shall determine whether the information is an exception to the North Dakota open records laws, and the information shall be processed accordingly.

4.5 COST PROPOSAL

Total Cost. Cost proposals must provide the total proposed cost for completing the RFP requirements.

Itemized Costs. Include a detailed itemization of the Cost Proposal, including all direct and indirect costs:

- Pricing Structure
- Labor Rates
- Supplies
- Total labor, including a breakdown of the number of hours at the various hourly rates.
- Subcontractor costs
- Travel expenses
- Overhead
- Etc.

All costs must be stated in U.S. currency. Any commodities being imported must be identified, and the price must include any applicable shipping and handling, customs, brokerage agency fees, and duties.

Offeror should describe any discount terms for prompt payment. Discounts for prompt payment will not be considered in evaluating costs.

NOTE: The cost proposal must include a detailed worksheet to indicate how costs were determined along with a justification of these costs.

Value-Added Options. Offeror may include pricing for any value-added options that are described in the Offeror's proposal as options, but not included in the total cost. Any options must be within the scope of work. (e.g. an option for a higher level of service, equipment accessories, extended warranty options, etc.). Provide details related to initial cost, reoccurring costs, and options. The STATE shall not consider these costs as part of cost evaluation scoring.

SECTION FIVE – AWARD AND PROPOSAL EVALUATION

5.1 AWARD

The STATE intends to award a contract to the responsible Offeror whose proposal is determined to be responsive to the requirements of the solicitation and is determined to be most advantageous in consideration the RFP evaluation criteria.

5.2 RESPONSIVENESS

All proposals will be evaluated to determine if they are responsive to the requirements of the solicitation. The STATE reserves the right to waive minor informalities in accordance with [N.D.A.C. chapter 4-12-10](#). Minor informalities are insignificant omissions or nonjudgmental mistakes that are matters of form rather than substance, evident from RFP document, with a negligible effect on price, quantity, quality, delivery, or contractual conditions that can be waived or corrected without prejudice to other Offerors. Responsive proposals will be evaluated by the Procurement Officer or evaluation committee using the evaluation criteria stated in the RFP.

5.3 RESPONSIBILITY – SUPPLEMENTARY INVESTIGATION

The STATE reserves the right to contact references, other customers, including state and local government agencies, regarding past experience with the Offeror. Prior experience of the state agency or institution with any prospective Offeror may also be taken into consideration during evaluation.

The STATE may, at any time, may make a supplementary investigation as to the responsibility of any Offeror in accordance with [N.D.A.C. § 4-12-11-04](#). This investigation may include, but is not limited to, financial responsibility, capacity to produce, sources of supply, performance record, or other matters related to the Offeror's probable ability to deliver if a contract is awarded to the Offeror. If it is determined that an Offeror appears not to be sufficiently responsible, the proposal will be rejected.

5.4 EVALUATION CRITERIA

Proposals will be evaluated using a 100 point scale. The evaluation committee will award points based on the questions in the Technical Proposal Evaluation Worksheet – Attachment 1. The Technical Proposal evaluation score and Cost Proposal evaluation score will be added together to determine the total evaluation score. After the initial evaluation, the evaluation committee may determine which proposals are reasonably susceptible for award and continue the evaluation process with only those Offerors. Offerors whose proposals are not selected for further evaluation may request a debrief from the Procurement Officer after an award notice is issued. The final evaluation score will consider information received by the STATE, including but not limited to, discussions with Offerors, demonstrations, presentations, site visits, reference checks, and best and final offers.

The evaluation criteria and relative weight is as follows:

Technical Proposal Evaluation: 80 Points

- A. Scope of Work Strategy – 50 Points
- B. Experience and Qualifications – 30 Points

Cost Proposal Evaluation: 20 Points

5.5 COST PROPOSAL EVALUATION – RECIPROCAL PREFERENCE

The STATE will calculate evaluation points awarded to Cost Proposals. Any prompt payment discount terms proposed by the Offeror will not be considered in evaluating cost.

The cost amount used for evaluation may be affected by the application of North Dakota preference laws in accordance with [N.D.C.C. § 44-08-01](#). The preference given to a resident Offeror will be equal

to the preference given or required by the state of the nonresident Offeror (i.e., reciprocal preference). For more information, refer to [Guidelines to North Dakota Purchasing Preference Laws](#).

The cost amount used for evaluation may also be affected by the application of other costs required to implement the proposed solution to determine the total cost of the solution (i.e. cost for ITD to host a STATE hosted solution).

After applying any reciprocal preference, the lowest Cost Proposal will receive the maximum number of points allocated to cost. Cost proposals will be evaluated using the following formula.

$$\frac{\text{Price of Lowest Cost Proposal}}{\text{Price of Proposal Being Rated}} \times \text{Total Points for Cost Available} = \text{Awarded Points}$$

5.6 CLARIFICATIONS OF PROPOSALS – DISCUSSIONS

To determine if a proposal is reasonably susceptible for award, communications by the Procurement Officer or evaluation committee are permitted with an Offeror to clarify uncertainties or eliminate confusion concerning the contents of a proposal and determine responsiveness to the RFP requirements. Discussions will be limited to the specific section of the RFP or proposal indicated by the STATE. Discussions are generally conducted by telephone or internet-based conference.

In conducting discussions, there may be no disclosure of any information derived from proposals submitted by competing Offerors. Clarifications may not result in material or substantive change to the proposals. Evaluation scores may be adjusted based in consideration of information obtained through discussions.

5.7 RIGHT OF REJECTION

The STATE reserves the right to reject any proposals, in whole or in part. Proposals received from suspended or debarred bidders will be rejected. Proposals determined to be nonresponsive to the requirements of the RFP will be rejected. The STATE reserves the right to reject the proposal of an Offeror determined to be not responsible. The STATE reserves the right to refrain from making an award if determined to be in its best interest.

5.8 BEST AND FINAL OFFERS

The STATE is not obligated to request best and final offers; therefore, Offerors should submit their best terms (technical and cost) in response to this RFP.

If the STATE determines there is a need for any additional information, substantial clarification or changes to the RFP or proposals, the STATE may request for best and final offers from Offerors that have submitted proposals determined to be reasonably susceptible for award. The best and final offer request will describe the additional information, clarification, or change being requested.

A date and time will be established for receipt of revised proposals. If an Offeror does not submit a best and final offer, the STATE shall consider its original proposal as its best and final offer. Best and final offers will be evaluated using the evaluation criteria stated in the RFP. The STATE may request more than one Best and Final Offer.

5.9 NEGOTIATIONS

Contract negotiations will be conducted in accordance with [N.D.A.C. § 4-12-12](#). The STATE may enter negotiations with one or more Offeror whose proposals received the highest scores and are reasonably susceptible for award. During negotiations, the STATE and Offeror may agree to alter or otherwise change the terms and conditions and price of the proposed contract. Negotiation, if held, will be within

the scope of the RFP and limited to those items that would not have an effect on the ranking of proposals.

Each Offeror will be responsible for all costs it incurs as a result of negotiations, including any travel and per diem expenses. Contract negotiations will be conducted primarily by email, conference calls, or internet-based conference. Any on-site negotiation, if needed, will be held in Bismarck, North Dakota.

The STATE may terminate negotiations, reject a proposal as nonresponsive, and continue or commence negotiations with other Offerors reasonably susceptible for award, if the Offeror:

- fails to provide necessary information for negotiation in a timely manner,
- fails to negotiate in good faith,
- is unable to successfully negotiate contract terms that are acceptable to the STATE, or
- indicates that it cannot perform the contract within the budgeted funds.

5.10 NOTICE OF INTENT TO AWARD

After proposals have been evaluated and the successful Offeror selected, notice of intent to award will be promptly issued to all Offerors that submitted proposals. Upon issuance of this notice, the procurement file becomes an open record. The successful Offeror named in the Notice of Intent to Award is advised not to begin work, purchase materials, or enter into subcontracts until the successful Offeror and the STATE sign the contract.

5.11 CONTRACT APPROVAL

This RFP does not, by itself, obligate the STATE. The STATE's obligation shall commence when the STATE signs the contract. Upon written notice to the contractor, the STATE may set a different starting date for the contract. The STATE shall not be responsible for any work done by the contractor, even work done in good faith, if it occurs prior to the contract start date set by the STATE.

5.12 EVALUATION DEBRIEFING

After the notice of intent to award is issued, Offerors may contact the Procurement Officer to schedule an evaluation debrief. The debrief will provide information about the evaluation process and proposal scores.

SECTION SIX – CONTRACT INFORMATION

6.1 NORTH DAKOTA CONTRACTUAL REQUIREMENTS – BACKGROUND

As a public institution and government entity of the State of North Dakota (the STATE), there are a number of statutes, rules, and policies (Requirements) that may restrict or prevent the STATE from entering into certain types of contracts or certain contractual terms and conditions, some of these Requirements are non-negotiable.

While these Requirements occasionally make the process of negotiating a contract with the STATE more challenging than negotiating with a private industry business, these are not unique to any one agency of the State of North Dakota. These Requirements apply to all public institutions and government entities of the State of North Dakota. Although some are unique to North Dakota, the majority of these Requirements are common to public institutions and government entities throughout the United States.

6.2 STATE CONTRACT TERMS AND CONDITIONS – OFFEROR’S PROPOSED CHANGES

The STATE intends to execute a contract substantially similar to the Contract Template – Attachment 2. The Offeror will be required to sign the Contract attached to this RFP and must comply with the terms and conditions. The STATE may deem any failure to object to a contract provision as the Offeror’s acceptance of that provision.

North Dakota procurement statutes, rules, and policies allow some negotiation of the terms and conditions. No changes to the terms and conditions will be permitted without prior written approval from the STATE.

Pursuant to [N.D.A.C. § 4-12-11-06](#), proposals subject to conditions imposed by the Offeror may be rejected as nonresponsive, as determined by the STATE. Proposed terms and conditions that conflict with those contained in the attached contract or that diminish the STATE’s rights under the contract shall be considered null and void. The terms and conditions in the attached contract shall prevail in the event a conflict arises between a term or condition in the proposal and a term or condition in the attached contract.

Part or all of this RFP and Offeror’s proposal may be incorporated into the attached contract. The STATE may deem any failure to object to a contract provision as the Offeror’s acceptance of that provision.

6.3 CONTRACT PROVISIONS

A. Contract Type.

The contract type will be as follows:

Firm Fixed Price. The contractor will be required to hold the price firm for the contract period, except as otherwise provided in the contract.

B. Payment Procedures

Compensation and payment terms will be set forth in the contract based upon the successful Offeror’s proposal. The STATE will not make any advanced payments before performance by the contractor under this contract.

- The STATE will make payments based on a negotiated payment schedule. Each billing must consist of an invoice and progress report. No payment will be made until the progress report and the project director has approved invoice.

C. Inspection & Modification

The contractor is responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and approval by the STATE. The STATE may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract.

Should the STATE determine that corrections or modifications are necessary to accomplish its intent, the STATE may direct the contractor to make changes. The contractor will not unreasonably withhold changes.

Substantial failure of the contractor to perform the contract may cause the STATE to terminate the contract. In this event, the STATE may require the contractor to reimburse monies paid (based on the identified portion of unacceptable work received) and may seek associated damages.

D. Contract Changes – Unanticipated Amendments

During the course of the contract entered as a result of this solicitation, the contractor may be required to perform additional work due to a legitimate unforeseen circumstance. That work will be within the general scope of the initial contract. When additional work is required, the STATE shall provide contractor a written description of the additional work and request contractor to submit proposal for accomplishing the scope of work. CONTRACTOR will not commence additional work until all parties agree in writing.

E. Purchasing Card

STATE may make payments under this contract using a state purchasing card. See the contract related to payments using the STATE purchasing card.

6.4 CONTRACTUAL TERMS AND CONDITIONS – NO MATERIAL CHANGES

A. Indemnification and Insurance

[N.D.C.C. § 32-12.2-17](#) requires that the OMB establish guidelines for indemnification and insurance provisions in state contracts. The indemnification and insurance requirements contained in the attached contract are pursuant to those guidelines. The STATE shall not be deemed to have accepted any alteration of these provisions without prior written approval to Offeror from the STATE acting in consultation with the North Dakota Risk Management Division.

B. Indemnification

Indemnification is a contractual clause by which one party to a contract asks the other party to defend it against any claims of third parties who might be injured as a result of something that occurs while the parties are performing their duties and obligations under the contract. Without specific authority to do so, the STATE agencies cannot enter into agreements indemnifying contractors, or any other entity, against third party claims.

Any clause that has the intent of seeking indemnification from the STATE, whether the clause contains the words “indemnity” or “indemnify,” are not clauses to which the STATE may agree.

The STATE will also not agree to clauses to indemnify a contractor “to the extent permitted by law.” This is because the STATE knows that the extent to which the law permits it to indemnify contractors is no extent whatsoever, and as a result would be disingenuous for the STATE to imply in a contract that there might be some set of circumstances under which the STATE would defend the contractor against a third party claim(s). Simply put, the STATE is not going to agree to something it knows it cannot do. In this circumstance an “extent” clause is merely an invitation to litigate the matter in the event a third party claim(s) arises, and the STATE does not enter into agreements that invite litigation. Do not ask the STATE to indemnify you against third party claims because it is a contractual obligation to which the STATE cannot agree.

While the STATE may limit the liability of a contractor in claims between the STATE and the contractor, the STATE does not have authority to limit a contractor's liability for claims brought by a third party. In the event a contract contains a limitation of liability clause, the contract's Indemnification clause and obligation of the contractor cannot be subject to that limitation of liability clause. See 6.4(D) for *Limitation of Liability*.

C. Insurance

Upon receipt of the Notice of Intent to Award, the successful Offeror must obtain the required insurance coverage and provide the Procurement Officer with proof of coverage prior to contract approval. The coverage must be satisfactory to the STATE, in consultation with the North Dakota Risk Management Division. The successful Offeror's failure to provide evidence of insurance coverage is a material breach and grounds for withdrawal of the award or termination of the contract.

D. Limitation of Liability

The STATE may negotiate Limitation of Liability pursuant to N.D.C.C. § 32-12.2-15 "Contracts limiting liability to the STATE".

Notwithstanding any provision in N.D.C.C. ch. 32-12.2 to the contrary, an agency may agree to limit the liability of a contractor to the STATE if:

1. the agency determines such services or products cannot be effectively obtained without such limitation; and
2. the limitation does not pose any significant risk of loss to the STATE; and
3. the limitation is in the best interests of the STATE.

The agency, in consultation with the OMB and the attorney general's office, shall prepare a written documentation before agreeing to any liability limitation.

An agency's authority to agree to a limitation of liability is limited to contracts for the purchase or lease of, or services related to, software, communication, electronic equipment, and economic forecasting.

1. An agency may limit its ability to recover indirect consequential damages.
2. If the extent of potential direct loss is unknown, an agency may agree to limit direct damages to a reasonably estimated amount commensurate with the foreseeable risk of loss to the STATE. The amount must be equal to twice the total value of the contract, unless all parties to the contract agree to an alternative amount. Any agreed upon amount that is less than twice the value of the contract must be approved by the director of the OMB. The liquidated damages and retainage provisions for delay, missed deadlines, and other breaches are not subject to a general limitation on direct or indirect damages authorized under N.D.C.C. § 32-12.2-15.
3. A contract under N.D.C.C. § 32-12.2-15 may not limit any loss to the STATE resulting from fraud or other intentional or willful misconduct, breach of confidentiality obligations, or loss resulting from tangible property damage or personal injury.

E. Waivers of Jurisdiction and Venue; Alternative Dispute Resolution

The North Dakota Attorney General is the STATE's attorney for all purposes, including management of litigation and claims against the state. The STATE may not usurp the Attorney General's authority by agreeing in advance to control the way litigation may be managed in the event of a dispute. The STATE cannot, without specific authority, agree to the jurisdiction or the

laws of another state or federal courts, nor can it contractually agree to participate in any form of alternative dispute resolution.

Although the STATE cannot contractually agree to such terms, this does not mean that in the event of a dispute, the STATE would not agree to participate in alternative dispute resolution. It simply means that this is a decision that must be made by the Attorney General and is a decision that is made at the time a dispute arises.

F. Confidentiality

All state agencies of North Dakota are subject to North Dakota public records laws. The STATE cannot agree to contractual terms that attempt to prevent it from having to disclose records that are declared public records under applicable statutes. Although some confidentiality and exemptions are allowed under the public records laws, the STATE may not agree to more restrictive obligations concerning its records. Under North Dakota public records laws, contracts are records that are open to the public and may be reviewed at the request of the public.

G. Unliquidated Expenses (i.e., attorney's fees, add-ons, cost increases)

Because the STATE may only obligate those funds that have been appropriated to it by the Legislative Assembly and may only obligate those funds for the purposes for which the funds were appropriated, the STATE may not agree to clauses which may obligate it to pay for claims that might exceed its current funding appropriation. Certainly, this is one of numerous reasons why the STATE cannot indemnify a contractor against third party claims, but it may also be said for clauses that purport to obligate the STATE to pay a contractor's attorneys' fees, unknown cost increases during the life of the contract, add-ons that were not contemplated or priced in the contract.

6.5 SCOPE OF WORK

The Scope of Work agreed upon by the parties will be incorporated into the attached contract.

6.6 CONTRACT TERM

The contract term will be set forth in the contract, including any options for extension, renewal, and renegotiation.

Renewal Option

The contract may be renewed upon satisfactory completion of the initial contract term. The STATE reserves the right to execute up to **THREE** options to renew the contract annually under the same terms and conditions for a period of **12 MONTHS** each. The contract will not automatically renew. The STATE will provide written notice to the contractor of its intent to renew this contract at least **30 days** before the scheduled contract expiration date.

ATTACHMENT 1

TECHNICAL PROPOSAL EVALUATION WORKSHEET

Proposals that are determined to be responsive to the requirements of the RFP will be evaluated by the Evaluation Committee using the evaluation criteria stated in the RFP. For assistance with RFP evaluations, contact the State Procurement Office at infospo@nd.gov or 701-328-2740.

- If a group evaluation is conducted, the Evaluation Committee will produce one worksheet that summarizes the comments and scores. If individual scores are being compiled, each member of the Evaluation Committee will prepare an evaluation worksheet with their comments and scores.
- Evaluation Committee members must read the Request for Proposal and have a clear understanding of the requirements and evaluation criteria before attempting to evaluate proposals.
- Evaluators should read all proposals twice. First, read all proposals for a general understanding without scoring. Next, read proposals with the intent to complete the evaluation worksheet which includes taking notes and documenting any questions/clarification needed.
- Each evaluation criterion is assigned a specific number of points. The questions under each evaluation criterion help Evaluators measure the quality of the Offeror's response. Do not assign points to individual questions, instead, award a total score for each evaluation criterion.
- Evaluators will assign an initial score for each evaluation criterion and provide comments which explain their scores.
- Evaluation documents become an open record upon award.

RATING SCALE FOR TECHNICAL PROPOSAL SCORING

The rating scale provided is intended to help Evaluators perform evaluations. Evaluators are exercising independent judgement so variation in scoring is normal. However, the Procurement Officer may question scoring that appears to be unsupported. Evaluators may assign any value for a given evaluation area from 0 to the maximum number of points allowed per evaluation criterion. A zero value typically constitutes no response or an inability of the Offeror to meet the criteria. In contrast, the maximum value should constitute a high standard of meeting the criteria. For example: "Experience and Qualifications" is an evaluation area weighted at 25% of the total possible points on a 100 Point Scale, so any value between 0 and 25 points can be awarded. An example of the rating scale is below:

Experience and Qualifications Rating Scale (25 Point Maximum)	
Point Value	Explanation
0-5	Poor. Not addressed or response of no value
6-10	Fair. Limited applicability
11-15	Good. Some applicability
16-20	Very Good. Substantial applicability
21-25	Excellent. Total applicability

COST PROPOSAL

Cost proposals are normally scored by the Procurement Officer or selected evaluators, and cost proposals are given to the Evaluation Committee after technical proposals have been evaluated. Remember to check if reciprocal preference applies to out of state offerors. Prompt payment discounts are not considered in evaluating cost.

ADJUSTMENT OF INITIAL EVALUATION SCORES

After the initial scoring, the Evaluation Committee should meet to discuss proposals and identify areas where clarification or more information is needed. Evaluation scores may be adjusted as a result of discussions with offerors, clarifications, demonstrations, presentations, reference check results, Best and Final Offers, and further due diligence within the evaluation process.

TECHNICAL PROPOSAL EVALUATION WORKSHEET

Offeror Name _____

RFP Title/Number: Evaluation of North Dakota Department of Health and Human Services
Tobacco Prevention and Control Programs/301HPCDPRFP03

Evaluator Name _____

Evaluator Certification. I have reviewed the Request for Proposal Evaluators Guide, and I certify that neither I nor my immediate family members have a conflict of interest with regard to this Offeror, in accordance with [N.D.A.C. § 4-12-04-04.](#)

Evaluator Signature _____ Date _____

THE TOTAL NUMBER OF POINTS USED TO SCORE THIS PROPOSAL IS 100

SCOPE OF WORK STRATEGY RATING SCALE (50 Point Maximum)	
Point Value	Explanation
0	None. Not addressed or response of no value
1 – 34	Fair. Limited applicability
35 – 39	Good. Some applicability
40 – 45	Very Good. Substantial applicability
46 – 50	Excellent. Total applicability

IMPORTANT. Proposals will be evaluated against the questions set out below. Do not assign points to individual questions, instead, award a total score for each evaluation criterion. Evaluators must provide comments to support scoring.

How well has the Offeror followed the proposal preparation instructions? Does the proposal contain all the requested information?

EVALUATOR NOTES

Has the Offeror identified any additional directives that apply to the contract?

EVALUATOR NOTES

How well has the Offeror described their strategy for accomplishing the scope of work requirements? What are the strengths of the proposed strategy?

EVALUATOR NOTES

Are there aspects of the proposed Scope of Work strategy of concern or that requires clarification or further information?

EVALUATOR NOTES

How well does the proposed timeline demonstrate the Offeror's ability to meet the contract schedule and deliverables?

EVALUATOR NOTES

How well does the proposal address where the work will be performed and any travel?

EVALUATOR NOTES

How well has Offeror described any expectations for STATE resources?

EVALUATOR NOTES

How well has the Offeror addressed risk management? Did they identify any potential risks, issues, or problems?

EVALUATOR NOTES

Has the Offeror described their project management to accomplish the work on time, within budget, and meet quantity and quality standards?

EVALUATOR NOTES

How has the Offeror described procedures for quality assurance including training, monitoring and adherence to protocols?

EVALUATOR NOTES

How has the Offeror described procedures for communication with the STATE and problem resolution?

EVALUATOR NOTES

INITIAL EVALUATION SCORE FOR SCOPE OF WORK STRATEGY: _____

Additional/overall comments related to the Offeror’s proposed strategy for accomplishing the work.

EVALUATOR NOTES

EXPERIENCE AND QUALIFICATIONS RATING SCALE (30 Point Maximum)	
Point Value	Explanation
0	None. Not addressed or response of no value
1 – 15	Fair. Limited applicability
16 – 24	Good. Some applicability
25 - 27	Very Good. Substantial applicability
28 - 30	Excellent. Total applicability

IMPORTANT. Proposals will be evaluated against the questions set out below. Do not assign points to individual questions, instead, award a total score for each evaluation criterion. Comments to support scoring are required and will be helpful when performing Offeror evaluation debriefs after award.

MINIMUM EXPERIENCE OR QUALIFICATIONS

If the RFP required a minimum amount of experience or qualifications, has the Offeror provided information to demonstrate meeting this requirements? Does the Offeror exceed the minimum experience or qualifications?

EVALUATOR NOTES

EXPERIENCE AND QUALIFICATIONS OF THE FIRM

Has the Offeror provided historical information to demonstrate the firm is well established in this field?

EVALUATOR NOTES

How extensive is the firm's experience in this type of work? How well does the information about similar projects demonstrate the firm's experience work related to this RFP?

EVALUATOR NOTES

If the Offeror provided letters of reference or the Evaluation Committee contacted the customer contacts, what information did the Offeror's customers provide related to the Offeror's past performance? What types of problems or concerns did references report? Did any of the problems seriously threaten the data quality, public acceptance, or responsiveness to the STATE?

EVALUATOR NOTES

EXPERIENCE AND QUALIFICATIONS OF THE PROJECT TEAM

Has the offeror provided information about the organization of the project team and proposed work project team members will perform? Does the proposed project team and work breakdown seem appropriate to accomplish the requirements of the RFP?

EVALUATOR NOTES

Are resumes complete and do they demonstrate education and experience that would be desirable for individuals engaged in the work the RFP requires?

EVALUATOR NOTES

How well do the capabilities and responsibilities of personnel assigned to the project meet the needs of the project?

EVALUATOR NOTES

Is the organization of the project team clear, authority well defined and logical?

EVALUATOR NOTES

If a subcontractor will perform work on the project or joint venture is proposed, has the Offeror provided the requested information? How extensive is the experience and qualifications of the subcontractor or other party of the joint venture?

EVALUATOR NOTES

INITIAL EVALUATION SCORE FOR EXPERIENCE AND QUALIFICATIONS: _____

Additional/overall comments related to the Offeror's experience and qualifications.

EVALUATOR NOTES

**REQUEST FOR PROPOSAL
EVALUATION SUMMARY**

Name of RFP: Evaluation of North Dakota Department of Health and Human Services Tobacco Prevention and Control Programs/301HPCDPRFP03						
Name of Offeror:						
Date:						
Technical Proposal Evaluation	80 POINTS Maximum					
1. Scope of Work Strategy	50					
2. Experience and Qualifications:	30					
Evaluator Totals						
Grand Total	Note: Sum of all individual scores.					
Technical Proposal Score	Note: Total of individual points divided by the number of evaluators (80 POINT MAXIMUM).					
Cost Proposal Score	Note: See Cost Proposal Score Calculation section (20 POINT MAXIMUM)					
TOTAL Evaluation Score	(100 POINT MAXIMUM)					

**REQUEST FOR PROPOSAL
EVALUATION SUMMARY BY VENDOR**

Name of RFP: Evaluation of North Dakota Department of Health and Human Services Tobacco Prevention and Control Programs/301HPCDPRFP03						
Date:						
Technical Proposal Evaluation	80 POINTS Maximum					
1. Scope of Work Strategy	50					
2. Experience and Qualifications	30					
Technical Proposal Score (80 POINT MAXIMUM)						
Cost Proposal Score (20 POINT MAXIMUM)						
Total Evaluation Score (Combine Technical and Cost Proposal Scores)						

COST PROPOSAL SCORE CALCULATION

Weight 20 Percent. Maximum Point Value for this Section

100 Points x 20 Percent = 20 Points

Applying Preference Laws

Any prompt payment discounts terms proposed by the Offeror will not be considered in evaluating cost. The cost amount used for evaluation may be affected by the application of North Dakota preference laws (N.D.C.C. § 44-08-01). The preference given to a resident Offeror will be equal to the preference given or required by the state of the nonresident Offeror (i.e. reciprocal preference).

When evaluating cost proposals from nonresident (out-of-state) Offerors, determine whether the Offeror's state of residence has a preference law for vendors resident in that state. The cost proposal of the nonresident Offeror will be increased by the same percentage of preference given to vendors resident in that state.

For example, if the state law of the nonresident Offeror requires a 5% preference for vendors resident in that state, the procurement officer will increase that Offeror's cost proposal by 5% before evaluation.

See <http://cms.oregon.gov/DAS/EGS/PS/Pages/reciprocal.aspx> for a list of States Preference Laws or contact the North Dakota State Procurement Office at 701-328-2683.

Converting Cost to Points

After applying any reciprocal preference, the lowest cost proposal will receive the maximum number of points allocated to cost. The point allocations for cost on the other proposals will be determined as follows:

Price of Lowest Cost Proposal

Price of Proposal Being Rated X Total Points for Cost Available (20) = Awarded Points

ATTACHMENT 1

CONTRACT TEMPLATE



PURCHASE OF SERVICE AGREEMENT

NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES
SFN 53772 (09-2022)

Contract Number		CFDA Name		CFDA Number	
FAIN Number		Contract Type (Check One) <input type="checkbox"/> Acquisition <input type="checkbox"/> Research		Start Date Click here to enter a date.	
End Date Click here to enter a date.		Federal Awarding Agency			
This contract is not effective and expenditures related to this contract should not be incurred until all parties have signed this document.					
Title of Project/Program			North Dakota Department of Health and Human Services (NDDHHS) Project Code		
Contractor Name			Project Director		
Address			Address		
City/State/ZIP Code			City/State/ZIP Code		
Contact Name			Contact Name		
Telephone Number			Telephone Number		
Email Address			Email Address		
		NDDHHS Cost Share		Contractor Cost Share	
Amount Awarded		\$0		\$0	
Previous Funds Awarded		\$0		\$0	
Total Funds Awarded		\$0		\$0	
Scope of Service					
Reporting Requirements					
Special Conditions					
This Purchase of Service Agreement is subject to the terms and conditions incorporated either directly or by reference in the following: (1) Requirements Addendum for Purchase of Service Agreements issued by the NDDHHS as signed by Contractor for the period of July 1, 2023 to June 30, 2025 [Finance Use Only: <input type="checkbox"/> Requirements Received] and (2) applicable State and Federal regulations.					
Evidence of Contractor's Acceptance			Evidence of NDDHHS Acceptance		
Date	Signature		Date	Signature	
Typed Name/Title of Authorized Representative			Typed Name/Title of Authorized Representative Susan M. Mormann, Unit Director Health Promotion & Chronic Disease Prevention		
Date	Signature		Date	Signature	
Typed Name/Title of Authorized Representative			Typed Name/Title of Authorized Representative Dirk D. Wilke, J.D., M.B.A., Executive Director of Public Health		
If attachments are referenced, they must be returned with the signed award. If you did not receive attachments as indicated, contact the Program Director identified above.					

**REQUIREMENTS ADDENDUM FOR ALL PURCHASE OF SERVICE AGREEMENTS
BETWEEN STATE OF NORTH DAKOTA ACTING THROUGH ITS
NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES (State) AND
_____ (Contractor)
(Please complete Agency/Organization Name)
FOR THE PERIOD JULY 1, 2023 THROUGH JUNE 30, 2025**

1. CONTRACTOR'S UNDERSTANDING OF TERM OF FUNDING

Contractor understands that this contract is a one-time contract, and acknowledges that it has received no assurances that this contract may be extended beyond its expiration date.

2. TERMINATION

a. Termination by Mutual Agreement

This Contract may be terminated by mutual consent of both parties executed in writing.

b. Early Termination in the Public Interest

State is entering into this Contract for the purpose of carrying out the public policy of the State of North Dakota, as determined by its Governor, Legislative Assembly and Courts. If this Contract ceases to further the public policy of the State of North Dakota, State, in its sole discretion, by written notice to Contractor, may terminate this Contract in whole or in part.

c. Termination for Lack of Funding or Authority

State by written notice to Contractor, may terminate the whole or any part of this Contract under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.
- 3) If any license, permit, or certificate required by law or rule, or by the terms of this Contract, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Contract under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

d. Termination for Cause.

State may terminate this Contract effective upon delivery of written notice to Contractor, or any later date stated in the notice:

- 1) If Contractor fails to provide services required by this Contract within the time specified or any extension agreed to by State; or

- 2) If Contractor fails to perform any of the other provisions of this Contract, or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms.

The rights and remedies of State provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

3. FORCE MAJEURE

Neither Party shall be held responsible for delay or default caused by fire, riot, terrorism, acts of God or war if the event is beyond the Party's reasonable control and the affected Party gives notice to the other Party promptly upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default.

4. INDEMNIFICATION

Contractor agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by Contractor to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Any attorney appointed to represent the State must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08. Contractor also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred if the State prevails in an action against Contractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

5. INSURANCE

Contractor shall secure and keep in force during the term of this agreement and Contractor shall require all subcontractors, prior to commencement of an agreement between Contractor and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 2) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 3) Workers compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this contract.
- 4) Employer's liability or "stop gap" insurance of not less than \$1,000,000 as an endorsement on the workers compensation or commercial general liability insurance.

The insurance coverages listed above must meet the following additional requirements:

- 1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
- 3) The duty to defend, indemnify, and hold harmless the State under this agreement shall not be limited by the insurance required in this agreement.
- 4) The state of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. The State shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this agreement or by the contractual indemnity obligations of the Contractor.
- 5) The insurance required in this agreement, through a policy or endorsement, shall include:
 - a) a "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the State;
 - b) a provision that Contractor's insurance coverage shall be primary (i.e. pay first) as respects any insurance, self-insurance or self-retention maintained by the State and that any insurance, self-insurance or self-retention maintained by the State shall be in excess of the Contractor's insurance and shall not contribute with it;
 - c) cross liability/severability of interest for all policies and endorsements;
 - d) The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary;
 - e) The insolvency or bankruptcy of the insured Contractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Contractor from meeting the retention limit under the policy.
- 6) The Contractor shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this agreement. All endorsements shall be provided as soon as practicable.
- 7) Failure to provide insurance as required in this agreement is a material breach of contract entitling the State to terminate this agreement immediately.
- 8) Contractor shall provide at least 30 day notice of any cancellation or material change to the policies or endorsements.

6. WORKS FOR HIRE

Contractor acknowledges that all work(s) under this Agreement is "work(s) for hire" within the meaning of the United States Copyright Act (Title 17 United States Code) and hereby assigns to State all rights and interests Contractor may have in the work(s) it prepares under this Contract, including any right to derivative use of the work(s). All software and related materials developed by Contractor in performance of this Contract for State shall be the sole property of State, and Contractor hereby assigns and transfers all its right, title, and interest therein to State. Contractor shall execute all necessary documents to enable State to protect State's intellectual property rights under this section.

7. WORK PRODUCT

All work product, equipment or materials created for State or purchased by State under this Contract belong to State and must be immediately delivered to State at State's request upon termination of this Contract.

8. NOTICE

All notices or other communications required under this Contract must be given by registered or certified mail and are complete on the date postmarked when addressed to the parties at the following addresses:

STATE	CONTRACTOR
Jerry Ekstrom	Name
Grants and Contracts Manager	Title
600 E Boulevard Ave, Dept 301	Address
Bismarck, ND 58505-0200	City, State, Zip

NOTE: This section is to be completed by the Contractor prior to returning to the State.

Notice provided under this provision does not meet the notice requirements for monetary claims against the State found at North Dakota Century Code § 32-12.2-04.

9. CONFIDENTIALITY

Contractor shall not use or disclose any information it receives from State under this Contract that State has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Contract or as authorized in advance by State. State shall not disclose any information it receives from Contractor that Contractor has previously identified as confidential and that State determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota public records law, N.D.C.C. ch. 44-04. The duty of State and Contractor to maintain confidentiality of information under this section continues beyond the Term of this Contract.

10. COMPLIANCE WITH PUBLIC RECORDS LAWS

Contractor understands that, in accordance with this Contract's Confidentiality clause, State must disclose to the public upon request any records it receives from Contractor. Contractor further understands that any records obtained or generated by Contractor under this Contract may, under certain circumstances, be open to the public upon request under the North Dakota public records law. Contractor agrees to contact State promptly upon receiving a request for information under the public records law and to comply with State's instructions on how to respond to the request.

11. INDEPENDENT ENTITY

Contractor is an independent entity under this Contract and is not a State employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workforce Safety and Insurance Act. Contractor retains sole and absolute discretion in the manner and means of carrying out Contractor's activities and responsibilities under this Contract, except to the extent specified in this Contract.

12. ASSIGNMENT AND SUBCONTRACTS

Contractor may not assign or otherwise transfer or delegate any right or duty without State's express written consent, provided, however, that Contractor may assign its rights and obligations hereunder in the event of a change of control or sale of all or substantially all of its assets related to this Contract, whether by merger, reorganization, operation of law, or otherwise. Should Assignee be a business or entity with whom State is prohibited from conducting business, State shall have the right to terminate without cause.

Contractor may enter into subcontracts provided that any subcontract acknowledges the binding nature of this Contract and incorporates this Contract, including any attachments. Contractor is solely responsible for the performance of any subcontractor with whom Contractor contracts. Contractor does not have authority to contract for or incur obligations on behalf of State.

13. SPOILIATION-NOTICE OF POTENTIAL CLAIMS

Contractor shall promptly notify State of all potential claims that arise or result from this Contract. Contractor shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to State the opportunity to review and inspect such evidence, including the scene of the accident.

14. MERGER AND MODIFICATION -CONFLICT IN DOCUMENTS

This Contract, including the following documents, constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

Notwithstanding anything herein to the contrary, in the event of any inconsistency or conflict among the documents making up this Contract, the documents must control in this order of precedence, when applicable:

- a. The terms of this Contract as may be amended;
- b. State's Solicitation Amendment(s) to Request for Proposal ("RFP");
- c. State's Request for Proposal ("RFP");
- d. Contractor's proposal.

e. All automated end-user agreements (e.g., click-through, shrink-wrap, or browse-wrap) are specifically excluded and null and void. Clicking shall not represent acknowledgement or agreement to any terms or conditions contained in those agreements.

15. SEVERABILITY

If any term of this Contract is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the parties are to be construed and enforced as if this Contract did not contain that term.

16. APPLICABLE LAW AND VENUE

This Contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Contract must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or forum non conveniens.

17. ALTERNATIVE DISPUTE RESOLUTION-JURY TRIAL

By entering into this Contract, State does not agree to binding arbitration, mediation, or any other form of mandatory Alternative Dispute Resolution. The parties may enforce the rights and remedies in judicial proceedings. State does not waive any right to a jury trial.

18. ATTORNEY FEES

In the event a lawsuit is initiated by State to obtain performance due under this contract, and State is the prevailing party, Contractor shall, except when prohibited by N.D.C.C. § 28-26-04, pay State's reasonable attorney fees and costs in connection with the lawsuit.

19. NONDISCRIMINATION-COMPLIANCE WITH LAWS

Contractor agrees to comply with all applicable federal and state laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights (See N.D.C.C. Title 34 – Labor and Employment, specifically N.D.C.C. ch. 34-06.1 Equal Pay for Men and Women).

Contractor agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation and workers' compensation premiums. Contractor shall have and keep current at all times during the Term of this Contract all licenses and permits required by law. Contractor's failure to comply with this section may be deemed a material breach by Contractor entitling State to terminate in accordance with the Termination for Cause section of this Contract.

20. STATE AUDIT

Contractor agrees to retain financial records for three years from the date of submission of the final expenditure report or if subject to audit, from the date the audit is completed and closed, whichever occurs later. Contractor must provide the State, the federal government, and their duly authorized representatives access to the books, documents, papers, and records of Contractor that are pertinent to the services provided under this contract. Program Records must be maintained for a period of six years or until an audit is completed and closed, whichever comes first.

21. RETENTION OF RECORDS

All records, regardless of physical form, and the accounting practices and procedures of Contractor relevant to this Contract are subject to examination by the North Dakota Department of Health and Human Services, the North Dakota State Auditor, the Auditor's designee, or Federal auditors, if required. Contractor shall maintain all of these records for at least three (3) years following completion of this Contract and be able to provide them upon reasonable notice. State, State Auditor, or Auditor's designee shall provide reasonable notice to Contractor prior to conducting examination.

22. CONTINGENT LIABILITY

During the term of this contract, and for three years after this contract expires or is terminated, Contractor agrees to reimburse State for any claims submitted by State for federal financial participation in the cost of this contract to the extent those claims are disallowed by any federal agency for failure on the part of Contractor to comply with this contract or any federal or state statutory or regulatory provisions which govern the source of funding. The State agrees to give Contractor prompt written notice of any disallowed claims subject to reimbursement by Contractor. Any amount disallowed as described is a debt owing to the State. Action may be brought by the State as allowed by law.

23. COLLATERAL CONTRACTS

If any inconsistency exists between this contract and other provisions of collateral contractual agreements that are made a part of this contract by reference or otherwise, the provisions of this contract shall govern.

24. SPECIAL CONDITIONS

Contractor shall meet all applicable special conditions as specified in the contract.

25. LIMITATIONS ON APPROPRIATIONS AND SPENDING AUTHORITY

Continuation of this contract beyond June 30 of any odd numbered year is contingent on continued legislative appropriation of funds for the purposes of this contract. If those appropriations are not forthcoming, State will notify Contractor as soon as possible and the contract will terminate on June 30 of that year. State will neither be penalized nor incur any liability because of termination of the contract as provided above.

26. CONTRACTOR ASSURANCES

This agreement will be construed according to the laws of the State of North Dakota. In connection with furnishing supplies or performing work under this agreement, Contractor OR Subcontractor with or receive funds to provided services to State are obligated and agree to comply with all local, state, and federal laws, regulations, and executive orders related to the performance of this agreement including the following:

- a) Fair Labor Standards Act, Equal Pay Act of 1963,
- b) Titles VI and VII of the Civil Rights Act of 1964,
- c) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency,
- d) Age Discrimination Employment Act of 1967,
- e) Age Discrimination Act of 1975,
- f) Drug-free Workplace Act of 1988,
- g) Americans with Disabilities Act of 1990,
- h) Pro-Children Act of 1994,
- i) Executive Order 13513, Federal Leadership on Reducing Text Messaging while Driving,
- j) 45 CFR Part 92 Nondiscrimination in health programs,
- k) Executive Order 13279, Equal Protection of the Laws for Faith-Based and Community Organizations
- l) Section 504 of the Rehabilitation Act of 1973,
- m) Executive Order 13043, Increasing Seat Belt Use in the United States,
- n) Hatch Act (5 U.S.C. 1501-1508 and 7324-7328),
- o) Violence Against Women Reauthorization Act of 2013 (VAWA),
- p) Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104(g))

27. EVALUATION

State shall, throughout the effective dates on the contract, conduct an ongoing evaluation of Contractor's performance in carrying out the Scope of Service in the award. Compliance with Contract Requirements and Assurances will also be monitored. Such evaluation may include periodic site visits by State representatives to review progress made by Contractor in accomplishing stated goals and objectives.

28. DEBARMENT/SUSPENSION

By signing this requirements addendum, Contractor certifies that neither Contractor, Subcontractor, nor their principals, are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions with State or Federal Government by any Department or Agency of the State or Federal Government.

29. APPROVED VENDOR

If not a governmental agency or political subdivision of the State of North Dakota, Contractor must be an approved vendor with the Office of Management and Budget within the State of North Dakota as required by N.D.C.C. § 54-44.4-09.

30. SMOKE FREE

Any Contractor that conducts business in North Dakota will abide by N.D.C.C. § 23-12-09 through N.D.C.C. § 23-12-11. Further, if Contractor is not in North Dakota, Contractor will provide a smoke-free workplace and promote the nonuse of tobacco products in areas including office space, conference or meeting rooms, corridors, stairways, lobbies, rest rooms, cafeterias and other public space.

**CERTIFICATION FOR ALL PURCHASE OF SERVICE AGREEMENTS WITH
NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES
THE PERIOD JULY 1, 2023 THROUGH JUNE 30, 2025**

I hereby certify that our organization/agency has agreed upon the conditions of the Requirements Addendum applicable to funding received through all contracts issued by the State and will ensure all program managers are aware of and will comply with these requirements. I also certify that the person(s) responsible for authorizing, expending or accounting for contract funds will be provided access to the contract requirements.

If my organization/agency has contract(s) in place that extend past June 30, 2025, I agree that this requirement form will become a part of the contract.

Company/Agency/Organization (Contractor):		
Name and Title:		
Address:		
City:	State:	9 Digit Zip Code:
Unique Entity Identifier Number (UEI-12 digit alpha numeric):	Federal Taxpayer Identification Number/SSN:	
Signature:		Date:

Please return completed form with the Purchase of Service Agreement.