

Cherokee Nation

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ADDENDUM 01 – RFP CONSULTANT PROGRAM EVALUATION

JANUARY 09, 2023



CHEROKEE NATION

P.O. Box 948

Tahlequah, OK 74465

(918) 453-5000

January 9, 2023

Following are the insurance requirements for this contract:

General Liability, including premises/operations and products/completed operations

\$1,000,000 each occurrence/\$2,000,000 annual aggregate

Such policy will name Cherokee Nation as an additional insured and include a waiver of subrogation in favor of the Cherokee Nation.

- Listed coverage is preferred, but optional.

Professional Liability, covering professional services rendered under this contract.

\$1,000,000 each wrongful act/\$3,000,000 annual aggregate.

Professional Liability policies issued on a claims-made basis must include a three year extended reporting endorsement, in the event the coverage is cancelled or non-renewed by the contractor.

- Listed coverage is preferred, but optional.
Automobile Liability, including hired and non-owned auto

\$300,000 combined single limit

Such policy will name Cherokee Nation as an additional insured and include a waiver of subrogation in favor of the Cherokee Nation.

Workers' Compensation – statutory to the State of jurisdiction

Employers' Liability - \$500,000/\$500,000/\$500,000

Such policy will include a waiver of subrogation in favor of the Cherokee Nation.

- Will accept Certificate of Non-Coverage from individual with no employees.

All coverage will be written with an AM Best "A X" rated carrier. Contractor will provide a certificate of insurance to the Cherokee Nation, evidencing coverage outlined above.

QUESTIONS FOR RFP

CONSULTANT PROGRAM EVALUATION

1. How Long will a vendor have to complete the TERO application upon selection? Can work begin while the application is in process? How long does it typically take for an applicant to be approved?

RESPONSE: Vendors must already be TERO Certified, due to time constraints there is no allowance for TERO certification to be obtained.

2. The RFP outlines the notification requirements associated with using a subcontractor. Will the Cherokee Nation need to see subcontractor qualifications or is that selection the sole responsibility of the prime contractor?

RESPONSE: We will not allow this job to be subcontracted out. The primary contractor must be able to perform the work.

3. Page 8 notes the vendors must submit “a complete set of any additional terms and conditions that they expect to have included in a contract”. Should vendors submit a copy of their standard terms or does Cherokee Nation prefer vendors submit a redline to their standard terms? If the latter could a sample agreement be provided”.

RESPONSE: The Cherokee Nation can provide a sample copy. If the awarded vendor wishes to submit a redlined of the Cherokee Nation standard agreement, they may do so. The proposed terms will be negotiated and must be approved and signed by both parties. Proposed terms on the sample agreement are not an acceptance of terms for this RFP.

4. Page 9, #3.5, discusses the commitment on staffing. While Guidehouse would absolutely remain committed to keeping the same team intact for this project, should inevitable turnover occur (i.e. staff leaving Guidehouse, etc.) is there a notification process the Cherokee Nation prefers? Will a simple notification (email) in writing be sufficient?

RESPONSE: The person whose credentials and experience is used for the contract must fulfill the contract.

5. Would the Nation please clarify if it is looking for a single consultant or a team of evaluators?

RESPONSE: However they want to submit the proposal but we would want one key contact.

6. Would the Nation please clarify the scope of work?
 - a. Does the Nation want the contractor to conduct the evaluation (p.2) and provide a final report of its findings?

We will provide the data and expect the contractor to analyze it and provide a written report regarding this specific program.

- b. Does the Nation want the contractor to provide advice and guidance as the Nation conducts the evaluation (p.11)?

RESPONSE: Yes the contractor will help us design the data collection and the methods of obtaining the data.

7. What is the level of effort for this opportunity?

RESPONSE: Would be minimal for this project. CN wants a straight analysis/report of the impact of WIC payments.

8. Would the Nation please clarify what it means by “proposals must be single sided?” (p.9)

RESPONSE: One side of the paper, not front and back.

9. Does the Nation anticipate awarding a fixed price or a cost-based contract as a result of this solicitation? Or should the bidder determine that and specify the cost basis within its bid?

- a. Is there an anticipated level of effort for this work?

RESPONSE: It should be a fixed price contract. Would be minimal for this project. CN wants a straight analysis/report of WIC payments.

10. Could the Nation provide the contract terms and conditions referenced in the RFP for bidders review in advance of proposal submission?

RESPONSE: Please see response to question 3.

11. Does the Nation believe the consulting services sought in this RFP would require the bidder to work with protected health information such that a Business Associate Agreement would be necessary?

RESPONSE: No

12. Would the Nation be willing to accept remaining silent in the contract as to the governing law and venue for disputes?

RESPONSE: The Cherokee Nation is open to negotiations.

13. Would the Nation be willing to accept to a mutual cap on liability between the parties as part of the eventual contract?

RESPONSE: Insurance to be submitted and reviewed.

14. The RFP indicates that the Cherokee Nation is seeking services from a consultant to provide a program evaluation for the WIC Economic Support Program. On page 11, the evaluation services to be provided are:

- Advise on the selection and development of tools for collecting information
- Provide guidance on evaluation strategies, including the strengths and weaknesses and costs of different approaches, and assist with quality control and analysis of the information collected.
- Be available, as needed, for individual and small group meetings with program leadership related to evaluation updates as well as guidance on further developing organizational evaluation capacities
- In addition, guidance on how to analyze the program evaluation information when the program ends in 2024

These activities suggest that the consultant would serve in an advisory capacity and work with program leadership and staff to build capacity for internal evaluation of the WIC Economic Support program, and assist with QC and analysis of information collected, based on the strategies used. Is this correct interpretation of the scope of work?

RESPONSE: Yes

15. However, under Evaluation Reporting, the RFP indicates “Cherokee Nation expect regular reports on progress, interaction on any needed changes to data collection methods, and a final report on the socioeconomic analysis of the program upon completion.” Does this mean that the consultant would conduct the evaluation activities –data collection, analysis, and reporting –and submit a final report of findings? Or does this mean that the final report would document the evaluation approach for the socio-economic adopted by the Cherokee Nation’s WIC program? Please clarify.

RESPONSE: No, CN will collect data and provide it to the consultant for analysis. As with any other contract we expect regular reports on progress or corrective measures regarding the data collection.

16. Can the Cherokee Nation provide information on the number of participants in the WIC program and the type of financial education activities?

RESPONSE: Anticipated 1,000 program participant and the types of financial education will be general, i.e. managing banks accounts, budgeting, savings plans, etc.

SAMPLE SERVICE AGREEMENT ATTACHED

CHEROKEE NATION
PROFESSIONAL SERVICE AGREEMENT

This Agreement is made and entered into this _____ day of _____, 2023, by and between Cherokee Nation, P.O. Box 948, Tahlequah, Oklahoma 74465 (hereinafter referred to as the "NATION"), and *insert name, address, city, state, zip code* Federal Identification Number *insert #*, (hereinafter referred to as the "CONTRACTOR").

The NATION is a sovereign nation and enjoys the full privileges of a sovereign's immunity from suit, as recognized by Congress and the United States Supreme Court. Execution of this Agreement shall not be construed to be a waiver of sovereign immunity, and neither shall any clause herein be construed to effectuate the consent to suit, as the NATION expressly declines to waive sovereign immunity.

WHEREAS, the NATION wishes to enter into an agreement with the CONTRACTOR to *insert very brief description* for the Cherokee Nation, and

WHEREAS, the CONTRACTOR hereby affirms it is an independent contractor in accordance with the laws of the State of Oklahoma and the Internal Revenue Service, and further maintains it is qualified, willing, and able to perform the services herein described, and

NOW THEREFORE, and in consideration of the mutual covenants, promises, agreements, understandings, and conditions herein contained, the parties hereto mutually promise to the other, agree, and understand as follows, to wit:

TERM: The term of this Agreement shall be from _____, 2023 through _____, 2023, unless canceled or extended in writing by both parties hereto.

NOTICES: All notices required hereunder shall be sent via U.S. Mail, postage paid as follows:

For the NATION: Cherokee Nation *insert program name*
Attention: *Insert name*
P. O. Box 948
Tahlequah, OK 74465

With a copy to: Cherokee Nation Acquisition Management
Attention: Contracts Office
P.O. Box 948
Tahlequah, OK 74465

To the CONSULTANT: *insert contractor name*
Attention: *insert name*
Insert address
Insert city state and zip code

PERFORMANCE REQUIREMENTS OF THE CONTRACTOR:

The CONTRACTOR shall furnish all labor, materials, administration, services, supplies, equipment and transportation and quality control necessary to provide services *insert detailed description of services to be provided, include any bids and or requests for bids*

(use this clause only if applicable to the service)

The CONTRACTOR hereby agrees to complete, sign, and submit to the NATION, a "Cherokee Nation Declaration for Prospective Interns, Volunteers, or Independent Contractors", hereby attached and incorporated into this Agreement by reference.

PERFORMANCE REQUIREMENTS OF THE NATION:

The NATION shall provide insert any requirements the Nation may have

ASSIGNMENT OR NON-ASSIGNMENT PROVISION:

The NATION and the CONTRACTOR hereby agree the services specified in this Agreement may not be delegated or assigned without the prior written approval of the Principal Chief, Cherokee Nation or the authorized designee.

TERMINATION OR CANCELLATION CLAUSE:

In the event the NATION should cancel or terminate the requested work, such cancellation or termination shall be submitted in writing and the NATION shall pay the CONTRACTOR for documented and completed work up to the point of notice of termination or cancellation. Should the CONTRACTOR be adjudged bankrupt, or make a general assignment for the benefit of its creditors, or should a receiver be appointed because of its insolvency, or should it fail to make reasonable prompt payment to its subcontractors or for materials or labor, disregard laws, ordinances or other governmental regulations, or substantially violate any provisions of this Agreement, the NATION may, upon giving written notice, terminate the CONTRACTOR'S services, and take possession of the premises and all belongings thereon and arrange for the completion of the work. The CONTRACTOR shall be paid only the Agreement's price for work satisfactorily performed prior to the date of termination, and shall not receive such payment until the work is finished. Should the cost of completing the work exceed said unpaid balance, the CONTRACTOR shall pay the NATION the difference, plus any other proper charges or damages resulting from the termination of the CONTRACTOR'S services. The CONTRACTOR, at its cost, shall remove from the site any material designated by the NATION to be removed.

Should the CONTRACTOR wish to terminate or cancel any contracted work, it may do so by informing the NATION of its intent with written notice. The CONTRACTOR agrees to request no further compensation and understands the NATION will make no payment for any work project canceled at the CONTRACTOR'S request.

DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS:

The CONTRACTOR certifies to the best of its knowledge and belief that neither the CONTRACTOR, nor any of its principals, are presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal, State, Local or Tribal agency. The CONTRACTOR also certifies to the best of its knowledge and belief that they have not, within a three-year-period preceding this contract, been convicted of or had a civil judgment rendered against them for: commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, Local or Tribal) contract or subcontract; violation of Federal or State antitrust statutes relating to submission of offers; or commissions or embezzlement, theft, forgery, bribery, falsifications or destruction of records, making false statements, and are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in this provision. The CONTRACTOR certifies it has not within a three-year period preceding this contract, had one or more contracts terminated for default by a Federal, State, Local or Tribal agency.

STATUS OF THE PARTIES:

The parties hereto stipulate and agree the CONTRACTOR is an independent contractor, and the NATION is interested only in the results of the CONTRACTOR'S services and shall not control the means and methods by which the CONTRACTOR'S services are rendered. The CONTRACTOR is not eligible for federal, Social Security, State Workers' Compensation, or Unemployment Insurance Benefits from the NATION by virtue of payment received and shall be responsible for all federal and state taxes related to payments received from the NATION under this Agreement.

HOLD HARMLESS:

To the extent allowed by federal law, both parties shall hold harmless the other, and their respective employees, agents, and representatives from and against any and all suits, actions, legal or administrative proceedings, claims, demands, liabilities, losses, costs, and expenses of whatsoever kind or nature, whether arising before or after the completion of the work and in a manner directly or indirectly caused, claimed to be caused, by reason of any act, omission, or negligence, whether active or passive or of anyone acting under its direction or control, or on its behalf, in connection with, or incident to the performance of this Agreement.

LAWS AND REGULATIONS:

The CONTRACTOR'S performance hereunder shall comply with all applicable laws, ordinances, rules, and regulations of any governmental agency having jurisdiction and shall pay any fine, penalty, loss, damage, or expense resulting from the CONTRACTOR'S failure to comply therewith.

MARKETING/MEDIA/PROHIBITION:

CONTRACTOR acknowledges that it is prohibited from referencing, directly or indirectly, the Cherokee Nation, or any entity thereof, in any solicitation, marketing material, advertisement, news, release or other release to any publication without the express written permission of the Cherokee Nation. CONTRACTOR'S confidentiality obligations set forth in this section continue after the termination or expiration of this Agreement.

CONFIDENTIALITY:

It is understood that any information submitted by the NATION to the CONTRACTOR in respect of the work hereunder embodies certain proprietary information and is loaned to the CONTRACTOR on a confidential basis. Any information acquired at the site or otherwise relating to processes belonging to the NATION incorporated into the project(s) shall be kept confidential. The CONTRACTOR agrees not to use in any unauthorized manner or communicate to others any such confidential items without the prior written consent of the NATION and will undertake such measures as are necessary to require its employees and subcontractors to maintain complete confidentiality.

DISPUTES:

In the event of any dispute which may affect this Agreement, the CONTRACTOR agrees this Agreement shall be governed by the laws of the United States and, where applicable, the laws of the Cherokee Nation, and shall be bound by the procedures of the NATION'S Justice Department regarding resolution thereof.

INSURANCE:

The CONTRACTOR shall provide all employees and/or assistants under this Agreement with Workers' Compensation and Public Liability Insurance, in accordance with the Oklahoma Workers' Compensation Act. The CONTRACTOR and all employees and/or assistants shall be covered by professional liability insurance with minimum amounts not less than One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) aggregate. The PROVIDER shall provide certificates of insurance showing the limits of such coverage, and such insurance shall be subject to the approval of the NATION. Each policy of insurance shall provide that the NATION is notified in writing before any policy may be canceled or materially changed by the CONTRACTOR or its insurance carrier within thirty (30) days from such material change.

GOVERNING LAWS AND CONFLICT OF LAW:

This Agreement shall be governed by, construed, and enforced in accordance with the United States and where applicable the laws of the Cherokee Nation. If it should appear that any of the Agreement terms are in conflict with any rule of law or statutory provision of the United States, or where applicable the laws the Cherokee Nation, such conflicting term(s) shall be deemed inoperative and null and void insofar as it may be in conflict with such law or statutory provision, and shall be deemed modified to conform to such rule of law or statutory provision. However, such conflict shall not operate to nullify or void the entire agreement.

INTEGRATION AND WAIVER:

This Agreement contains the complete expression of the parties' agreement with respect to the subject matter hereof, and shall bind the parties, their successors and assigns. There are no previous or contemporary understandings, representations, or warranties not set forth herein. No subsequent amendment or modification of this Agreement shall be of any force or effect unless in writing and signed by the parties to be bound thereby. No provision of this Agreement shall be considered waived by the NATION unless such waiver is in writing and signed by the NATION. No such waiver shall be a waiver of any past or future default, breach, or modification of any of the provisions of this Agreement unless expressly stipulated in such waiver. The parties further state to the best of their knowledge, no employee of the NATION who exercises any functions or responsibilities in connection with the performance hereunder has any

personal interest, direct or indirect, in this Agreement. This Agreement shall supersede any and all written or oral statements, agreements, and/or representations of the parties made prior to or contemporaneously with the execution hereof. The parties agree their respective performances hereunder shall be governed by an obligation of good faith.

DRUG FREE and TOBACCO FREE WORKPLACE

- a) Any contractor performing work for the Cherokee Nation agrees to publish a statement notifying all employees, subcontractors, and other workers that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the contractor's workplace and specifying the actions that will be taken against violators of such prohibition.
- b) The NATION will consider lack of enforcement or lax enforcement of the statement by the CONTRACTOR a default of the contract.
- c) The CONTRACTOR further agrees to provide all persons engaged in performance of the contract with a copy of the statement.
- d) A copy of the Contractor's Drug Free Workplace statement shall be included with any bid submitted or the Contractor will be deemed to accept and agree to use the statement provided by the NATION.
- e) The CONTRACTOR understands and recognizes that all Cherokee Nation buildings, whether leased or owned, and the grounds surrounding those facilities are considered by the NATION to be a tobacco free workplace. The CONTRACTOR will ensure all employees, subcontractors, and other workers will abide by this policy.

TERO:

The Cherokee Nation shall, to the greatest extent feasible, give preference in the award of contracts to Indian organizations and Indian-owned economic enterprises. All contracting is required to comply with procedures for selection of Contractors and Sub-contractors as set forth in legislation pertaining to preference to Indians in the awarding of contracts, Section 7(b) of the Indian Self-Determination Act, if applicable, as well as, the Cherokee Nation Acquisition Management Policies and Procedures. The successful contractor will insert this clause into every subcontract in connection with the project.

TAXES, FEES, ASSESSMENTS:

The CONTRACTOR accepts full and exclusive liability for the payment of any and all taxes and assessments which may now or hereafter be imposed by tribal, local, state, or federal governments, including without limitation, all applicable TERO fees, sales tax, use power, gross receipts, or other taxes levied with respect to materials furnished or work performed by the CONTRACTOR, or payments made to the CONTRACTOR through issuance of a purchase order including but not limited to, building permits, CONTRACTOR'S licenses, specialty permits required by law to be issued to the CONTRACTOR, and/or transportation permits. The CONTRACTOR and its subcontractor's shall, in addition to the above, comply with the NATION'S job site procedures and regulations.

ADDITIONAL PROVISIONS PER SECTION 7(b):

The service to be performed under this Agreement is on a project subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b). Section 7(b) requires to the greatest extent feasible:

- 1) Preference and opportunities for training and employment shall be given to Indians; and
- 2) Preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises.

The parties to this Agreement shall comply with the provisions of Section 7(b) of the Indian Self-Determination and Education Assistance Act in the award of any subcontracts. In connection with this Agreement, the CONTRACTOR shall, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned economic enterprises, and preferences and opportunities for training and employment to Indian and Alaska Natives.

The CONTRACTOR shall include this Section 7(b) clause in every subcontract in connection with the project, and shall at the direction of the NATION, take appropriate action pursuant to a finding by the NATION of a violation of Section 7(b) by a contractor or subcontractor.

AVAILABILITY OF FUNDS:

The NATION'S obligation for payment under this Agreement is contingent upon the availability of appropriated funds from which payment for services can be made. Funds are available for performance under this Agreement when appropriated or authorized by the Tribal Council of the Cherokee Nation. No legal liability on the part of the NATION for any payment may arise hereunder until funds are made available by the designated officer of the NATION for performance and until the CONTRACTOR receives notice of availability from the NATION'S designated officer through issuance of a purchase order.

CONSIDERATION OR COMPENSATION:

In consideration for the services provided, the NATION shall compensate the CONTRACTOR *insert services*, in the amount of _____ Dollars (\$_____.00), for services provided, payable upon completion of services and receipt and approval of an original invoice. The CONTRACTOR shall submit original invoices with appropriate receipts attached to the attention _____, Cherokee Nation _____ P.O. Box 948, Tahlequah, OK 74465. The CONTRACTOR'S original invoices shall include a description of services provided, date(s) and amount(s). The NATION shall process payment for services completed within a reasonable time upon receipt and approval of the CONTRACTOR'S original invoice and attached receipts. This Agreement shall not exceed _____ Dollars (\$_____.00) without the prior written consent of the Principal Chief or his authorized designee.

PROMPT PAYMENT:

The CONTRACTOR certifies that all sums due to any suppliers have been paid or will be paid within ten (10) days of receipt of payment by Cherokee Nation.

INSERT CONTRACTOR'S NAME..:

Authorized Signature

Date

Please print name and title

CHEROKEE NATION:

*Insert Program E.D Name
Title*

Date

*Insert proper signatures, Chief or Treasurer
Title etc.*

Date