

# Request for Proposals

## ***Geomagnetic Induced Current (GIC) Software and Training***

Planning Services

November 4, 2014

Issued: November 4, 2014

Responses Due: December 4, 2014



155 North 400 West, Suite 200

Salt Lake City, Utah 84103-1114

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**Attachments**

- Exhibit A: Statement of Work
- Exhibit B: Price Schedule
- Exhibit C: WECC Standard Clauses

## 1. Introduction

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The Western Electricity Coordinating Council (“WECC”) is issuing this Request for Proposals (“RFP”) seeking proposals from vendors qualified to provide Geomagnetic Induced Current (GIC) modeling software and training. WECC is seeking a single vendor to simulate GICs Western Interconnection-wide by expanding existing WECC power flow model data and modeling practices.

All respondents to this RFP (“Respondents”) must include pricing information and a proposed schedule for delivering the software and providing training; including pricing information and scheduling for developing a GIC representation for the Western Interconnection. The information derived from this RFP will be used to select the Respondent that will provide and license modeling software, work with WECC to install the software on WECC’s computer systems and train WECC’s users on its use. Exhibit A describes the specific work requirements. All proposals are subject to the conditions set forth in this RFP. Section I describes the content and format of the RFP responses. Any resultant contract will be based on the Exhibits to this RFP.

This RFP does not constitute an offer to form a contract and does not obligate WECC to accept or consider any party’s response to this RFP. WECC has no obligation to provide compensation in any form to any party in connection with any action taken or for any costs incurred in response to this RFP. WECC retains full discretion with respect to whether and how to proceed with this procurement including making this RFP available and proceeding or not proceeding with the procurement of GIC software and training in any manner WECC sees fit.

## 2. WECC Background

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WECC is the Regional Entity responsible for coordinating and promoting bulk electric system reliability in the Western Interconnection. WECC assures open and non-discriminatory transmission access among its members, provides a forum for resolving transmission access disputes, and provides an environment for coordinating the operating and planning activities of its members as set forth in the WECC Bylaws.

WECC's service territory extends from Canada to Mexico. It includes the provinces of Alberta and British Columbia, the northern portion of Baja California, Mexico, and all or portions of the 14 Western states.

WECC is geographically the largest and most diverse of the eight Regional Entities that have Delegation Agreements with the North American Electric Reliability Corporation (“NERC”). Due to the vast and diverse regional characteristics, WECC and its members face unique challenges in coordinating the day-to-day interconnected system operation and the long-range planning needed to provide reliable electric service across nearly 1.8 million square miles.

**3. Submitted Information**

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Ownership of all data, material, and documentation – regardless of where originated – that is submitted to WECC, pursuant to the RFP, shall belong exclusively to WECC and may be subject to inspection by the WECC Board of Directors, WECC staff, WECC members, or the public in accordance with the WECC Bylaws and applicable law except information specifically identified by the Respondent as confidential or proprietary.

WECC reserves the right to accept, reject, or use without obligation or compensation, any information submitted in response to this RFP.

**4. Proprietary or Confidential Information**

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WECC requires that confidential or proprietary information not be submitted in response to this RFP unless clearly marked as proprietary or confidential. WECC will not publicly release any submitted information which is marked confidential or proprietary. WECC may disclose information marked as confidential or proprietary to those evaluating the responses or otherwise having a direct need to know or as specifically required by authorized auditors or by applicable law, regulation, or court order. WECC may also release summaries of information marked as confidential or proprietary that do not specifically identify any confidential or proprietary information. WECC will ensure all evaluators have signed non-disclosure agreements prior to the review of information marked confidential or proprietary.

While WECC pricing-support documents submitted by Respondents will be kept confidential, WECC may release or publish aggregate pricing information (bid totals without identification of Respondents) for budgeting and comparison purposes.

**5. RFP Response Deadline and RFP Schedule**

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Responses to this RFP are due in their entirety on or before 11:59 p.m. Mountain Time on December 3, 2014, in the format and including the content described in Section I, delivered to Kirha Quick, WECC Procurement Coordinator via email at: [kquick@wecc.biz](mailto:kquick@wecc.biz).

Hard copy responses delivered via mail or other means will not be accepted.

WECC may reject late offers. WECC reserves the right to not consider unsolicited responses.

**Acquisition Schedule**

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Date	Event
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November 4, 2014	RFP Issued
December 4, 2014	RFP responses due, 11:59 p.m. Mountain Time

## 6. RFP Point of Contact

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**RFP Point of Contact:** All RFP questions, comments, and proposals should be addressed to:

Kirha Quick  
Western Electricity Coordinating Council  
155 North 400 West, Suite 200  
Salt Lake City, UT 84103-1114  
Tel: (801) 819-7611  
E-mail: [kquick@wecc.biz](mailto:kquick@wecc.biz)

## 7. Respondent Questions to WECC

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Respondents may ask questions regarding the RFP. These questions must be submitted to the RFP Coordinator electronically via email. WECC may or may not elect to respond to the questions and to the extent the questions are not Respondent specific, the questions and responses will be posted on the WECC web site as part of an FAQ document.

## 8. WECC Questions to Respondents

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Upon reviewing the responses to this RFP, WECC may have additional technical business, or financial questions. Such questions and Respondents' answers to them will be kept confidential, consistent with the terms of Section 4 above, to the extent they are clearly marked as Proprietary or Confidential.

## 9. RFP Responses

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### 1. General

All responses must address the requirements contained in Exhibit A.

### 2. Response Requirements, Format and Organization

Acceptable response formats include MS Word (versions 2010, 2007 or '97-2003') and Adobe Acrobat PDF files. Any graphics included in the response should be able to be viewed by MS Word or Adobe Acrobat.

Each complete response shall contain the following components:

- a. Cover Letter
- b. Technical Proposal
  - Respondent Background and Qualifications
  - Technical Plan and Approach
  - Respondent Experience
  - References
  - Subcontracting
  - Supporting Documentation
- c. Business Proposal
  - Company Background
  - Pricing Proposal

Each of these components is explained in detail below.

**a. Cover Letter**

Each Respondent must identify who will act as the Respondent's primary contact throughout the RFP process, including that person's position in the organization, mailing address, telephone number, fax number, and email address. The cover letter shall be signed by an individual authorized by Respondent to submit a response.

**b. Technical Proposal**

All RFP responses shall include a Technical Proposal that specifically addresses the requirements contained in Exhibit A, in addition to each of the following requirements:

- **Respondent Background and Qualifications.**

Submit examples of Respondent's previous activities and work that are similar to the requirement of this RFP.

- **Technical Plan and Approach.**

Submit Respondent's approach for providing and licensing GIC software and training WECC staff on its use.

- **Respondent Experience**

Describe Respondent's experience in powerflow analyses and modeling software, geomagnetic induced currents, software development and user training and support. Describe Respondent's experience in managing projects of this nature.

- **References.**

Provide a list of at least three (3) customers WECC may contact for references. Use examples that are similar to this RFP. The reference information should include:

- Client business name and address
- Client contact name and telephone number
- Brief description of the scope of services provided

- **Subcontracting.**

Identify any subcontractors Respondent plans to use in the performance of this work. No subcontracting will be permitted unless WECC has been specifically notified and is able to evaluate the subcontractor prior to contract award or as provided under Exhibit C, Section A.

- **Supporting Documentation.**

Include examples of previous Respondent activities related to this proposal, including published documentation, as attachments to the proposal. Documentation may include presentations, white papers, formal publications or any other documents demonstrating expertise in any of the areas identified under Respondent Experience.

**c. Business Proposal**

- **Company Background**

A summary of both professional and financial background is requested from each Respondent. The following is the minimum, required information:

- Describe Respondent's company's legal structure and ownership.
- Identify the date the company was established and how long the business has provided similar products or services.
- Identify your office location(s).
- Provide any information that would support the volume of business, credit worthiness, and financial stability of Respondent.
- Provide qualifications/résumés of any individual(s) being proposed to perform the services in Exhibit A.

- **Pricing Proposal**

WECC requests prices on a firm fixed price basis. Complete Exhibit B and submit with the Business Proposal. Prices are to include all costs, overhead, profit, taxes, etc. of performing the work. Price is fixed for the life of the Contract.

## 10. Evaluation Criteria and Basis of Award

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WECC is seeking proposals that provide the best combination of attributes to select the "maximum value" proposal. The following criteria will be used in evaluating proposals and in determining the proposal that demonstrates the maximum value to WECC:

- total cost to WECC;
- technical and management expertise;
- quality and adaptability of supplies or services;
- Respondent's financial health;
- Respondent's independence from conflicts of interest;
- Respondent's skill, experience, reputation for integrity and honesty;
- Respondent's ability to furnish any required repairs and maintenance services;
- the expected time of delivery or performance;
- past performance, and
- Respondent's compliance with the specifications of this RFP.

## 11. Examples of Contract Terms

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The following Exhibits A, B, and C are examples of the terms WECC uses for all procurements.  
*(Attached Exhibits A, B and C to this RFP)*

These Exhibits are being provided as examples only. The actual contract terms proposed by WECC may vary. While specific terms may be negotiated as necessary and appropriate, Respondents are expected to agree to the use of these Exhibits in any resulting contracts.



## Exhibit A—Statement of Work

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### Purpose

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Contractor shall provide modeling software (or expanded capability of existing software used by WECC), including initial model development and training, such that the software can be used to simulate Geomagnetic Induced Currents (GICs) on a Western Interconnection-wide basis by expanding existing WECC power flow model data and modeling practices.

### Background

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NERC Reliability Standard TPL-007-1, presently under development, indicates that during a Geomagnetic Disturbance (GMD), GICs may cause transformer hot-spot heating or damage, loss of reactive power sources, increased reactive power demand, and misoperation of protection and control (P&C) systems, the combination of which may result in voltage collapse and blackout. The standard requires that GIC system models be developed and maintained and that GIC studies be performed to complete GMD vulnerability assessments. A Western Interconnection GIC model needs to be developed and maintained for Western Interconnection utilities to use to comply with the standard. WECC currently develops Western Interconnection-wide power flow and dynamic stability models and seeks to expand the existing methods and processes by which these models are created to include GIC data necessary to perform GIC studies.

### Contractor-furnished property or service

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The Contractor is required to provide all property and services in support of this contract.

### WECC-furnished property or service

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WECC shall provide and collect GE PSLF power flow data need to develop the Western Interconnection-wide GIC model and shall work jointly with Contractor to screen the data for errors or inaccuracies and to correct any issues.

### Technical Requirements

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Contractor will provide software and training in the use of the software as follows. All GIC modeling software options or tasks shall accept or be based on the existing power flow data currently submitted to WECC by Area Coordinators in the General Electric (“GE”) Positive Sequence Load Flow (“PSLF”) format. The software shall have sufficient modeling capability to allow users to meet the requirements

in North American Electric Reliability Corporation (“NERC”) Reliability Standard TPL-007-1<sup>1</sup> in its’ current draft form. Contractor shall also provide services required to develop an initial GIC representation of the Western Interconnection using GE PSLF power flow data available from WECC and any additional data needed to be gathered from Western Interconnection utilities.

The following table provides details of technical requirements of this RFP:

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<sup>1</sup> TPL-007-1 Title: Transmission System Planned Performance for Geomagnetic Disturbance Events

### GIC Software Technical Requirements

Item	Description	Due Date	Deliverable(s)
1. Software customization	<p>To the extent that Contractor's GIC software requires modification to be used for the Western Interconnection, implement all customizations to provide software that is fully functional.</p> <p>Additionally, provide documentation, including but not limited to users' guides and on-line help, to support use of the software.</p>		<ul style="list-style-type: none"> <li>a. GIC software meeting the identified requirements</li> <li>b. Documentation to support use of the software</li> </ul>
2. GIC Software license	Provide costs for four licensing options for WECC use of the GIC software, including any ongoing maintenance costs.		<ul style="list-style-type: none"> <li>a. Cost to license software for individual user</li> <li>b. Cost to license software for all WECC employees</li> <li>c. Cost to license software for all registered Planning Coordinators in the Western Interconnection (one individual user license per Planning Coordinator)</li> <li>d. Cost to license software for all WECC members (excluding WECC members working as consultants)</li> </ul>
3. Software Training	Train users of the GIC software in its use. Training will be provided on-site at WECC's office in Salt Lake City, UT. Training will include, but not		<ul style="list-style-type: none"> <li>a. Two-day in-person training for approximately six individuals</li> </ul>

Item	Description	Due Date	Deliverable(s)
	<p>necessarily be limited to:</p> <ul style="list-style-type: none"> <li>• Simulation setup;</li> <li>• Model parameters;</li> <li>• Data checking;</li> <li>• Typical data assumptions;</li> <li>• Simulation examples with WECC specific data;</li> <li>• Expected simulation results; and</li> <li>• Simulation post-processing and presentation.</li> </ul>		<p>b. One-day remote (webinar-based) training for approximately six individuals</p>
4. GIC Model Development	<p>Develop a Western Interconnection-wide Geomagnetic Induced Current (GIC) model. Contractor shall use existing power flow data currently submitted to WECC by Area Coordinators in the GE PSLF format and additional data as required to develop the model.</p> <p>Contractor shall develop a list of additional data required from Western Interconnection utilities to create the Interconnection-wide GIC model. WECC staff will request the listed data and provide it to the contractor. Contractor will then work with WECC staff to jointly screen data for errors or inaccuracies and to correct any issues.</p> <p>During the development of the GIC model,</p>		<p>a. List of data required to develop GIC analysis</p> <p>b. Functional GIC model of Western Interconnection</p> <p>c. GIC simulation Assessment of Western Interconnection</p>

Item	Description	Due Date	Deliverable(s)
	<p>Contractor will include WECC in the development process, such that WECC has an understanding of how the model is being developed and is capable of recreating development going forward.</p> <p>Contractor shall be responsible for performing validation testing to ensure that the GIC software and Western Interconnection-wide model meet the requirements set forth herein.</p>		

**Exhibit B—Price Schedule**

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Bidders should provide the following information in their responses:

Item	Cost
1. Software Development/Customization, if applicable	\$0.00
2. Software License including maintenance	
a. Single user	\$0.00
b. All WECC employees	\$0.00
c. All Planning Coordinators	\$0.00
d. All WECC members	\$0.00
3. Training (including any necessary travel)	\$0.00
4. GIC Model Development	\$0.00

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## Exhibit C—WECC Standard Clauses

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The successful bidder will be required to comply with the following WECC Standard Clauses to execute a contract for providing services:

### WECC Standard Clauses

#### 1. Services

##### 1. Services

WECC agrees to retain and Contractor agrees to provide to WECC the services described in Exhibit A (“Services”). Contractor also has, or will obtain prior to commencing work on the Services, and will maintain any required certification necessary to provide the Services and will bear the cost of any such certification. All access by Contractor to WECC’s premises and property shall be in accordance with WECC’s applicable personnel and security policies and procedures.

##### 2. Performance Standards

Contractor agrees to perform the Services to the reasonable satisfaction of WECC as specified in Exhibit A and as required by any professional requirements, statutes or regulations to which the Services or work on the Services would be subject. Contractor agrees to perform the Services in a timely manner and in compliance with time schedules therein. Contractor shall perform any other ancillary duties reasonably related to performing the Services in the same manner and to the same standards as provided herein.

##### 3. Inspection

WECC may inspect any Services at any time and place. WECC will perform inspections in a manner that will not unduly delay the Services. If any of the Services do not conform to the requirements expressed or implied in Exhibit A, WECC may require Contractor to perform the Services again in conformity with this Contract. Neither inspection, lack of inspection, acceptance, nor payment shall relieve Contractor of any of its obligations under this Contract.

##### 4. Subcontracting

Contractor shall not subcontract any Services not specifically agreed upon at Contract award without WECC’s prior written approval. Consent to subcontract any portion of this Contract shall not relieve Contractor of any responsibility under this Contract.

##### 5. Warranty

Contractor warrants that all products purchased or Services performed under this Contract will be performed in a professional manner, be free from defects in workmanship and conform to the requirements expressed or implied in Exhibit A of this Contract. This warranty is valid for one year from

date of acceptance by WECC. WECC will give written notice of any defect or nonconformance to Contractor within a reasonable period of time after discovery. Corrections shall be at no cost to WECC, and any Services corrected or re-worked by Contractor shall be subject to this clause to the same extent as work initially performed.

## **2. Payment**

### **1. Payment – Firm-Fixed Price Contracts**

WECC shall pay Contractor the fixed amount specified in Exhibit B for all Services required by Exhibit A of this Contract. Interim payments may be made as follows:

- a.) WECC shall make interim payments as the work proceeds based on the stage, milestone, or percentage of work accomplished. Contractor shall furnish a breakdown of the work by major milestone or as a percentage of the total Contract price for approval by WECC and in such detail as required by WECC.
- b.) Title to all material and work covered by progress payments shall pass to WECC at the time of payment. This shall not be construed as relieving Contractor from the sole responsibility for all work upon which payments have been made or the restoration of any damaged work; or waiving WECC's right require the fulfillment of all of the terms of the Contract.
- c.) WECC shall pay the amount due Contractor under this Contract after completion and acceptance of all work. Upon receipt and approval of the invoice designated by Contractor as the "final invoice" and supporting documentation, and upon compliance by Contractor with all terms of this Contract, WECC shall promptly pay any balance due Contractor.

### **2. Withholding**

If necessary, WECC reserves the right to withhold an amount not to exceed ten (10) percent of the total Contract price for a reasonable period of time to ensure Contractor's performance or to otherwise protect WECC's interests under the Contract.

### **3. Billing Instructions**

Contractor may bill upon completion and acceptance of any fixed price item identified in Exhibit B or in accordance with any milestone schedule submitted by Contractor and approved by WECC under B.1, Payment – Firm-Fixed Price Contracts.

Contractor may submit invoices electronically (email, fax, etc.). Invoices must include (1) Contractor's name and address, (2) the invoice date, (3) a description of products delivered or work performed, (4) the price and quantity of items actually delivered or services rendered, (5) any associated expenses, (6) total amount due, (7) the name and address of the person to whom payment will be made, and (8) the name, title, phone number, mailing address of person to be notified in event of a defective invoice or defective product. *(If federally funded, insert the following here and adjust the "and" and punctuation accordingly:*



Invoices shall be submitted to:

*Kirha Quick*

Western Electricity Coordinating Council

*155 North 400 West, Suite #200*

*Salt Lake City, UT 84103*

Email: *kquick@wecc.biz*

4. Payment Terms

Payment will be made after (1) invoicing as described in this Section B and (2) 30 days after WECC acceptance of any performed services or delivered items as described in Exhibit A. Acceptance is deemed to occur within 15 days after receipt of goods and services unless Contractor is notified otherwise.

5. Discounts For Prompt Payment

In connection with any discount offered for prompt payment, time shall be computed from the date shown on the invoice or, if no date is shown, from the date WECC receives the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check.

6. Taxes, Permits, Licenses

Contractor shall be responsible for obtaining, maintaining, and bearing the cost of all permits and licenses, as well as self-employment, social security, revenue, business, sales, excise, or any other taxes, fines, penalties, or other liability to the Internal Revenue Service of the United States or to the applicable taxing authority of another country, and to any state, province, or other entity with taxing jurisdiction. Contractor agrees to indemnify and hold harmless WECC from any claim of liability of any kind by any taxing, permitting, or licensing authority as a result of the payments made under this Contract.

**3. Assignment of Inventions**

1. Covered Work

“Covered Work” means all Services and all inventions or other intellectual property that is conceived by Contractor (alone or with others) while performing Services for WECC, or developed in whole or in part on WECC’s time, or in whole or in part using WECC’s equipment, supplies, or facilities, or that depend for their effectiveness on, or incorporate, WECC’s Confidential Information. Covered Work includes all Services and all inventions or other intellectual property conceived or developed by Contractor, whether or not the activities occur (i) on or off the premises; (ii) before, during or after working hours; or (iii) within or without the scope of work assigned to Contractor.

## 2. Assignment

Subject to the payment by WECC of all agreed upon fees and expenses, Contractor assigns to WECC exclusively, throughout the world, all of its rights, titles, and interest in and to the Covered Work, including without limitation all copyright and trademark rights associated therewith and confirms that WECC has the right to make, have made, and own enhancements, derivative works, and other modifications to Covered Work. To the extent Contractor includes any third-party content in the Covered Work, Contractor will identify all third-party content and any limitations that are applicable to the use and exploitation of such third-party content prior to or at the time of delivery thereof. Contractor has the sole obligation for obtaining any and all rights, clearances, or licenses necessary to use and exploit any third-party content in connection with the Services. Contractor agrees to execute any documents required to perfect WECC's rights and ownership under this section, on request, even after Contractor is no longer performing Services for WECC.

## 3. Reporting

Contractor agrees to inform an officer of WECC in an executed writing if it intends to incorporate into WECC's products or technology or otherwise use for WECC's benefit any invention made by Contractor that it believes is not a Covered Work. If Contractor fails to inform an officer of WECC prior to such use of an invention, Contractor hereby grants to WECC a non-exclusive, unlimited, perpetual, irrevocable, worldwide, royalty-free right and license to use such invention in connection with WECC's business and in its sole discretion.

## 4. Exceptions

As required under the Utah Employment Inventions Act, this Contract does not apply to any invention of Contractor that predates this Contract or to any invention for which no equipment, supplies, facility, or trade secret information of WECC was used and that was developed entirely on Contractor's own time, unless (i) the invention relates directly to the business of WECC, or to WECC's actual or demonstrably anticipated research or development; or (ii) the invention results from any work performed by Contractor for WECC.

## 5. Cooperation

Contractor agrees to promptly reveal all information relating to inventions and Covered Works to an appropriate officer of WECC and to cooperate with WECC to execute such documents as may be necessary in the event WECC desires to seek copyright, patent or trademark protection thereafter relating to inventions and Covered Work Contractor conceives or develops. Contractor irrevocably appoints WECC as its agent and attorney-in-fact to perform any acts necessary to obtain and protect from infringement letters patent, copyright and other intellectual property rights provided by law. Any acts taken by WECC on Contractor's behalf pursuant to this section shall have the same legal force and effect as if executed by Contractor.

## 6. Use of Know-how

Notwithstanding that title to all Covered Work prepared for WECC under and during the term of this Contract shall belong to WECC, the ideas, methods, concepts, know-how, techniques, or processes developed during the course of this Contract by personnel of Contractor, may be used by either Party, without an obligation to account, in any way that Party deems appropriate, including by or for its clients or customers, notwithstanding anything to the contrary contained in this Contract. Nothing in this Contract shall preclude or limit Contractor from providing services the same as or similar to the services it provides for itself or other clients.

## 4. **Confidential Information**

### 1. Confidential Information

Contractor acknowledges that in the course of providing services and advice to WECC, Contractor may acquire knowledge (whether orally or in writing) relating to the confidential affairs of WECC and confidential or proprietary information relating to WECC members or NERC Registered Entities including: (i) information of a technical nature such as know-how, formulas, trade secrets, secret processes or machines, inventions or research projects; (ii) personnel and other information that is not generally disclosed by WECC or NERC Registered Entities to the public; (iii) business matters such as information about costs, profits, pricing policies, markets, sales, suppliers, customers, plans for future development, plans for future products, marketing plans or strategies, electric utility maintenance schedules, or non-public or confidential or restricted information about the Bulk Electric System; and (iv) Critical Energy Infrastructure Information (CEII) as defined at 18 CFR 388.113 (collectively, "Confidential Information").

### 2. Confidentiality

Both during and after the termination of this Contract, Contractor agrees that, except as authorized in writing by WECC, Contractor shall: (i) use reasonable efforts to preserve and protect the confidentiality of all Confidential Information (and, in any event, no less care than is used by Contractor in protecting the confidentiality of its own confidential information); (ii) except as reasonably necessary to carry out the terms hereof, use reasonable efforts to prevent any disclosure to anyone, including its employees of the substance of the Confidential Information; and (iii) not use Confidential Information in any way other than in furtherance of this Contract. Confidential Information of any nature that Contractor acquires regarding any aspect of WECC's business shall be treated in strict confidence. Information so obtained shall not be divulged, furnished or made accessible to third parties without the written permission of WECC; provided however, that such required permission shall not apply in cases where Contractor uses a contracted entity to assist in the performance of Services and that contracted entity is bound by a contract not to disclose Confidential Information that

is at least as restrictive as this Section D. The terms of this Section D, shall survive termination or expiration of this Contract.

### 3. Exceptions

Contractor shall not have any liability to WECC for disclosure of any Confidential Information that Contractor can establish to have: (i) become publicly known without breach of this Contract; (ii) been publicly released for disclosure by WECC or its affiliates; (iii) been given to Contractor by someone other than WECC without a duty to maintain confidentiality; or (iv) been required by applicable laws.

### 4. Injunctive Relief

Contractor agrees that any material breach or attempted or threatened breach of this Section D could result in irreparable injury to WECC for which damages would be an insufficient remedy. Accordingly, Contractor consents to injunctive relief without limiting the applicability of any other remedies.

### 5. Return of Confidential Information

Not later than three (3) days after the termination or expiration of this Contract, Contractor will return to WECC all originals or copies of Confidential Information and all notes with respect thereto; provided however, that as to notes and internal analyses and work products containing Confidential Information, Contractor may, in lieu of delivering such material to WECC, destroy all such material without retaining any copies thereof and shall certify and confirm in writing to WECC that such destruction occurred.

## 5. **Representations, Warranties and Covenants**

### A. By Both Parties

Each Party represents and warrants individually that: (i) it has full power and authority to enter into and perform its obligations under this Contract and that such power and authority are not limited or restricted by any Contracts or understandings between the individual Party and any other persons; and (ii) neither the execution, delivery nor performance of this Contract will result in the breach of any term or provision of any contract or understanding with any third party.

### B. By Contractor

Contractor further represents and warrants that this Contract to provide work product to WECC will not violate or infringe the copyright, patent, intellectual property, or other proprietary rights of any third party. Contractor agrees that it shall not use or disclose to WECC confidential information or trade secrets of any third party without that party's consent. Contractor acknowledges that WECC requires that Contractor abide strictly by the terms of valid and enforceable obligations it has to prior employers or clients, and that Contractor is to inform in a signed writing an appropriate officer of WECC whenever Contractor believes a task assigned to Contractor would put its ability to abide by

those obligations at risk. Contractor further represents that the certifications completed by Contractor are true and correct.

#### **F. Advertising and Marketing**

The Parties hereto agree that Contractor, after obtaining WECC's prior express written approval, may use its name and a brief factual description of the services provided. WECC will not endorse (e.g., provide a value judgment) vendor services for the use by that vendor in its promotional material or in references.

#### **G. Indemnification**

Contractor agrees to indemnify and hold harmless WECC and WECC officers, employees, and agents against any suits, losses, liabilities, damages, claims, settlements, costs, and expenses, including reasonable attorneys' fees and expenses (collectively, "Damages"), arising from: (i) any breach by Contractor of this Contract; (ii) any breach of any representations and warranties contained herein; or (iii) including, but not limited to, any intellectual property infringement by Contractor, any subcontractors, agents, partners or others acting for or on behalf of Contractor.

#### **H. Termination**

The following terms shall be applicable to all terminations. Termination shall not affect any indemnity obligations between the Parties or the obligations of Section D, Confidential Information, which shall survive the termination of this Contract. Termination shall not affect WECC's ownership of any Covered Work for which WECC has made payment to Contractor. Upon notice of termination: (1) Contractor shall discontinue providing to WECC any Services under this Contract, (2) Contractor shall deliver to WECC any Services in-progress or completed as of the date of termination, and (3) WECC shall make payments, as appropriate, to Contractor.

##### **1. Termination for Cause**

Either party may terminate this Contract for cause after providing the other party with ten (10) calendar day's written notice and a reasonable opportunity to cure any alleged default. Cause shall include, but not be limited to, lack of compliance with applicable law, a conflict of interest, failure to perform in a timely manner; and failure to comply with any other terms of this contract.

##### **2. Termination for Convenience**

Only WECC may terminate this Contract for convenience or when it determines, at its sole discretion, that the continuation of the Contract would not produce beneficial results commensurate with the further expenditure of funds, by providing Contractor with thirty (30) calendar days prior written notice. The Parties agree that WECC's termination for convenience shall not prohibit WECC from later claiming that Contractor breached the Contract.

#### **I. General Provisions**

1. No Solicitation of Employees

Each Party agrees not to hire or solicit, directly or indirectly, any employee or former employee of the other Party during the term of this Contract and for a period of one (1) year after the expiration or termination of this Contract without the other Party's prior written consent provided; however, that the foregoing restriction shall not apply with respect to former employees of such other Party who have not been employed by such other Party for the six (6) months prior to such hire or solicitation.

2. Modification

This Contract may be modified or amended by the Parties only in writing executed by both Parties hereto.

3. Waiver

All waivers of any term set forth in the Contract or of any breach or default must be specifically set forth and acknowledged as such in writing. Any such waiver in one instance shall not constitute a waiver in any future instance unless specifically set forth and acknowledged as such in writing.

4. Applicable Law and Forum

This Contract shall be interpreted and enforced in accordance with the laws of the state of Utah, without regard to conflict of law principles. The exclusive jurisdiction for any action to interpret or enforce this Contract shall be in Salt Lake County, Utah. The Parties hereby consent to the personal jurisdiction of such courts.

5. Notices

All notices between WECC and Contractor shall be in writing and shall be effective when delivered either by (i) U.S. Mail, with a confirming email; or (ii) by email directed to the following individuals:

a.) Notices to WECC shall be directed to:

General Counsel  
Western Electricity Coordinating Council  
155 North 400 West, Suite 200  
Salt Lake City, UT 84103-1114  
Tel: (801) 582-0353  
Email: [sgoodwill@wecc.biz](mailto:sgoodwill@wecc.biz)

b.) Notices to Contractor shall be directed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A Party may inform the other Party that a change will occur regarding the contact information of an individual to whom notices are to be delivered without the need to amend this Contract by providing a notice to the other Party in writing that describes the change. No such change shall be deemed to have been given until notice of the change has been received by the Party to which the notice was provided.

#### 6. Assignment

This Contract shall not be assigned by either Party without the other's prior written consent. If approved, this Contract shall be binding upon the Parties' successors and assigns.

#### 7. Uncontrollable Events

If either Party cannot perform any of its obligations because of a Force Majeure Event, as defined below in this section, then such nonperforming Party will: (i) notify the other Party; (ii) take reasonable steps to resume performance as soon as possible; and (iii) not be considered in breach during the period of such Force Majeure Event.

Force Majeure Events shall include acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, labor dispute, strike, or lockout. WECC shall not terminate this Contract under Exhibit C Clause H.1 (Termination for Cause) in such circumstances.

#### 8. Independent Contractor Relationship

In accordance with the mutual intentions of the Parties hereto, Contractor is performing services for WECC as an independent contractor, and all of the terms and conditions of this Contract shall be interpreted in light of such relationship. Nothing contained in this Contract constitutes appointment of either Party as an agent, representative, partner, joint venture, or employee of the other Party for any purpose. Neither Party may bind the other Party to any Contract with any third Party. No acts or assistance given by WECC to Contractor will be construed to alter this relationship. Contractor acknowledges that neither it nor its employees, contractors, and agents have any rights in or under any health, liability or disability, or other insurance policies maintained by WECC, nor to any overtime, vacation, holiday, sick leave, seniority, or other benefits. Contractor further acknowledges that neither it, nor its employees, contractors and agents have any right to claim unemployment compensation, worker's compensation, or disability compensation pursuant to this Contract, or as a result of Contractor's relationship with WECC. Contractor represents that, to the extent required by law, Contractor is covered by, and will continuously maintain, disability insurance, worker's compensation insurance, or other such insurance, and agrees that all activities and work performed under this Contract will be at Contractor's own risk and liability. At WECC's request, Contractor will promptly provide proof of insurance.

#### 9. Severability

The parties agree that any provision of this Contract or its application that is held invalid shall be modified as necessary to render it valid and enforceable. If any provision of this Contract or its application is held invalid and cannot be modified to render it valid and enforceable, the invalidity shall not affect other obligations, provisions, or applications or part thereof of this Contract that can be given effect without the invalid provisions or applications.

#### 10. Headings

The headings of the Sections of this Contract are for convenience only and shall not be of any effect in construing their meanings.

#### 11. Counterparts

This Contract may be executed in counterparts, each of which shall be deemed an original Contract for all purposes, including the judicial proof of any of the terms hereof; provided however, that all such counterparts shall constitute one and the same Contract.

#### 12. Remedies

Unless expressly set forth to the contrary, either Party's election of any remedies provided in this Contract shall not be exclusive of any other remedies available hereunder or otherwise at law or in equity, and all such remedies shall be deemed to be cumulative.

#### 13. Disputes

All disputes in connection with this Contract shall be settled, to the extent possible, by negotiation between the authorized representatives of the Parties. If the matter is not resolved by such negotiations, either Party may at any time, by giving written notice to the other Party as provided in this Contract, and upon the agreement of the other Party, cause the matter to be referred to:

- a.) A mutually agreed upon mediator for nonbinding confidential mediation. The Parties will share equally in the cost of the mediation services; and/or
- b.) Arbitration in Salt Lake City, Utah, before a single arbitrator under the then current rules of the American Arbitration Association for final and binding confidential arbitration. The prevailing Party is entitled to recover its reasonable costs, attorney fees, and out-of-pocket expenses relating to arbitration.

The pendency of a dispute shall not excuse or suspend any Party's obligations pursuant to this Contract.

#### 14. Limitation of Liability



WECC's liability to Contractor for any breach arising out of or relating to this Contract shall not exceed the total amount payable under the Contract Price paragraph of this Contract. In no event shall WECC be liable to Contractor for any incidental, indirect, special, consequential or emotional distress damages of any kind, including, but not limited to, lost profits, lost income, lost revenue, loss of data, loss of anticipated business, loss of goodwill, or loss of third party contracts or other opportunity costs. Such damages shall not be recoverable even if they were, or should have been, known or foreseeable by WECC. The Parties agree that these provisions are an agreed benefit of the bargain and remain in effect even if any remedy, set forth in the Contract or at law, fails of its essential purpose.

#### 15. Conflict of Interest

In addition to any certifications obtained at Contract initiation, Contractor shall provide such disclosure regarding any possible conflicts of interest throughout the term of this Contract, in advance unless not feasible. Both Parties retain the right to do business with third parties in matters that may be competitive with the interests of the other Party to this Contract. However, such right shall not alter Contractor's obligation under this section to disclose to WECC any potential conflicts or Contractor's obligation to protect all Confidential Information from disclosure to third parties. While consulting for WECC, Contractor will not solicit NERC Registered Entities for the purpose of selling products or services for any person or entity.

#### 16. Bankruptcy

In the event Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, Contractor agrees to furnish written notification of the bankruptcy pursuant to Section I, Notices. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, and the identity of the court in which the bankruptcy petition was filed. This obligation remains in effect until final payment under this contract.

#### 17. Contractor Compliance with WECC Policies

Contractor shall comply with all WECC policies affecting the WECC workplace environment. Examples of specific policies include, but are not limited to:

- a.) Harassment-free workplace policies;
- b.) Nonsmoking workplace policies; and
- c.) Nondiscrimination policies