

Request for Qualifications & Quotes (RFQQ) Number: 02413

Analytical Laboratory Services

Projected Procurement Schedule:

- (1)..... RFQQ posted and
available for download..... 7-24-13
- (2)..... Question & Answer period
..... 7-25 thru 8-6
- (3)..... Solicitation Amendment –
Q&A posted to WEBS..... 8-14-13
- (4)..... **Response due date and
time**..... **8-28-13--6:00 PM PST**
- (5)..... Bid Evaluation begins
..... 8-29-13
- (6)..... Announcement of
Apparent Successful Vendors 9-17-13
- (7)..... Unsuccessful Bidder
debriefs..... 9-23-13 thru 9-27-13
- (8)..... Begin issuing Master
Contracts 10-7-13
- (9)..... Master Contract effective
date 11-1-13

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NOTE: Bidders' Questions and Bid Responses are to be delivered electronically to Kevyn L. Davidson at the following e-mail address:

ALS2413@des.wa.gov

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1 SOLICITATION OVERVIEW

1.1 Acquisition Authority

The Washington State Department of Enterprise Services (DES), issues this Request for Qualifications (RFQ or Solicitation) acting under the authority of the Revised Code of Washington (RCW) [39.26](#) which regulates the manner in which state agencies may acquire services.

1.2 Who Should Apply

All analytical chemistry and bioassay laboratories accredited by the Washington State Department of Ecology are encouraged to bid. For a list of accredited laboratories or to become accredited by the Washington State Department of Ecology please visit <http://www.ecy.wa.gov/programs/eap/labs/lab-accreditation.html>.

1.3 Contract Formation

A Response submitted to this RFQ is an offer to contract with DES. A Response becomes a Contract only when accepted, awarded in writing and signed by both parties. Contracts resulting from this RFQ will be designated as Master Contracts which are intended to support the as-needed requirements of authorized Purchasers.

1.4 Competitive Procurement Standards

The Competitive Procurement Standards (CPS) include the Standard Definitions, Standard Instructions for Bidders, and Standard Terms and Conditions. The Competitive Procurement Standards' document applies to the procurement and to the contract(s) resulting from the procurement process. By responding to this Solicitation the Bidder agrees to read and understand this document. The CPS are imbedded in Appendix F

1.5 Final Contract

A Final Contract will be prepared using the terms of this solicitation. Bidders' proposal will become an attachment to that contract. No new terms will be introduced other than by way of negotiation into that contract.

To be responsive, a Bidder must indicate a willingness to enter into a Final Contract under terms that are substantially the same as those found in this solicitation by signing and including the Certifications and Assurances in [Appendix A, Certifications and Assurances](#) as part of its company's Response.

Under no circumstances is a Bidder to submit their own standard Contract terms and conditions. Instead, a Bidder must review and identify the problematic language prior to bid due date.

The above mentioned should not be interpreted to prohibit either party from proposing additional Master Contract terms and conditions during negotiation of the final Master Contract or Amendment, DES, at its sole discretion, reserves the right to negotiate improvements to responsive and responsible Responses.

Apparent Successful Bidders will be expected to execute a Final Contract within 30 business days of its receipt. If an Apparent Successful Bidder fails to sign a Master Contract within the allotted 30-day time frame, DES may consider the Apparent Successful Bidder to be non-responsive and cancel the intended Award. A Bidder's Response to this RFQ constitutes acceptance of all Contract requirements presented in the RFQ, including Amendments and attachments.

1.6 Work Orders

All services over the direct buy limit to be performed for a Purchaser under the Master Contract resulting from this RFQ shall be documented in a Purchaser's Work Order established between the Purchaser and the Contractor. Work Orders must reference the Master Contract number, and must include:

- Scope of Work (SOW) to be performed
- Projected timeline
- Estimated total cost of the project, and
- Authorized signatures of both parties.

1.7 Solicitation Amendments

DES reserves the right to revise the schedule or other portions of this RFQ at any time. changes or corrections will specified in by one or more written Amendment(s), which will be dated, attached to or incorporated in and made a part of this RFQ document. All changes must be authorized and issued in writing by the Procurement Coordinator. If there is any conflict between Amendments, or between an Amendment and the RFQ, whichever document was issued last in time shall be controlling.

Only Bidders who have properly registered and downloaded the original RFQ directly using [Washington's Electronic Business Solution](#), WEBS vendor registration system will receive notification of Amendments to the Solicitation. Bidders may be required to sign and return Solicitation Amendments with their Response. Bidders must carefully read each Amendment to ensure they have met all requirements of the RFQ.

1.8 Incorporation of Documents into Contract

This RFQ document, any subsequent Amendments and the Bidder's Response will be incorporated into the resulting Contractors Final Contracts.

1.9 Right to Cancel

DES reserves the right to cancel or reissue all or part of this RFQ at any time as allowed by law without obligation or liability.

1.10 Non-Endorsement and Publicity

In selecting Bidders, neither DES nor Purchasers endorse the Bidder's products or services, nor suggest they are the best or the only solution to their needs.

1.11 Minority and Women Owned Business Enterprises (MWBE)

In accordance with the legislative findings and policies set forth in [RCW 39.19](#), the State of Washington encourages participation in all of its Contracts by Minority and Woman Owned Business Enterprise (MWBE) firms certified by the [Office of Minority and Women's Business Enterprises](#) (OMWBE). While the state does not give preferential treatment, it does seek equitable representation from the minority and women's business community. In addition, the state welcomes participation by self-identified minority and woman owned firms and strongly encourages such firms to become certified by OMWBE.

Participation may be either on a direct basis in Response to this RFQ or as a subcontractor to a Contractor. However, unless required by federal statutes, regulations, grants, or Contract terms referenced in the original RFQ, no preference will be included in the evaluation of Bids, no minimum level of MWBE participation shall be required as condition for receiving an award, and Bids will not be evaluated, rejected or considered non-responsive on that basis.

Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the original RFQ will apply. Bidders are encouraged to contact [Office of Minority and Woman Owned Business Enterprise](#) (OMWBE) to obtain information on becoming a certified firm, or to obtain information on other certified firms for potential sub-Contracting arrangements.

Nothing in this section is intended to prevent or discourage Bidders from inviting others from participation from non-MWBE firms as well as MWBE firms.

Prior to performance, awarded Bidders who are MWBE or intend to use MWBE subcontractors are encouraged to identify themselves or the participating firm(s).

1.12 Veteran-Owned Business Enterprise

DES also strongly encourages participation of businesses owned by veterans.

Prior to performance, awarded Bidders who are veteran owned are encouraged to identify themselves

2 SUMMARY OF OPPORTUNITY

2.1 Background

Analytical Laboratory Service is a competitive, "Two-Tiered" Master Contract program administered by the Department of Enterprise Services (DES) in which participating Contractors provide services to eligible DES customers.

Purchasers may then use the pool for separate, competitively bid and awarded acquisitions (Tier Two).

2.2 Purpose

The purpose of this RFQ is to establish a prequalified pool of Contractors who provide Analytical Laboratory Services for Purchasers to use in separate competitively bid and awarded acquisitions. These acquisitions will follow rules as prescribed in Purchaser work requests conducted in conformity with local ordinances and/or state laws (Purchasers are accountable to the State Auditor to follow procurement rules).

2.3 Category Description and Contract Scope

The state has a need for a variety of analytical laboratory services for regulatory compliance, environmental investigations, and research. These analytical services include testing of water, sediment, tissue, soil, air, and waste samples. The contract's intent is to have laboratory services available throughout the state, by a wide variety of qualified vendors, meeting service requirements identified herein.

Contractor shall provide laboratory testing services for analytes, compounds, or bioassays by an Ecology accredited method.

2.4 Estimated Usage

We estimate that purchases over the two-year initial term of the contract may approximate \$500,000. Estimates are based on past or anticipated requirements. The State does not guarantee any minimum purchase volume.

Orders will be placed on an as-needed basis. This is only an estimate. Actual usage will be as needed with no guarantee.

2.5 Term

The initial award will be for two years with the option to renew for additional years or terms up to a total of six years.

2.6 Purchasers

The primary purchasers are the Washington State Department of Transportation, Department of Ecology, other State Agencies and participating Institutions of Higher Education (Colleges and Universities, Community and Technical Colleges) and municipalities within the State of Washington.

2.7 Award

DES intends to select and enter into Master Contracts with multiple Bidders as a result of this RFQ.

2.8 Vendor selection

Once awarded, Vendors will comprise a prequalified vendor pool and maybe selected for work through either of the following processes

- A rapid selection process for qualifying direct buy procurements or
- A second tier competition for larger projects or when the Purchaser prefers this method.

Vendors who complete the spreadsheet contained in Appendix D, *Analytical and Preparation Methods, Services, and Pricing* and include specified information in their Bid Response, may be placed on a rapid selection list of prescreened vendors for use by Purchasers of services meeting direct buy procurement qualifications.

3 TIMELINE

3.1 Projected Procurement Schedule

The dates listed on the [cover page](#) represent the projected procurement schedule. DES reserves the right to change the schedule.

Notification of changes to the procurement schedule prior to Response opening will be sent electronically to all properly registered users of Washington's Electronic Business Solution (WEBS), who have downloaded this RFQ.

Changes to the procurement schedule after Response opening may be communicated to all Bidders reflecting the change.

3.1.1 Additional Enrollment Opportunities

- Following the initial RFQ, Bidders will have the opportunity to apply for the rapid selection list, in accordance with the original RFQ requirements and the projected enrollment schedule.
- Bidders who fail to qualify for this list may reapply in the next calendar year.
- Bidders may only apply once per calendar year.
- Bidders may apply for award on this contract at the first opportunity after receiving Washington State Department of Ecology Accreditation. Applications may be made in February, May, August, and November.

3.2 Bidder Questions

Questions regarding this RFQ will be allowed consistent with the dates specified in the procurement schedule on the cover page. **All questions must be submitted in writing to ALS2413@des.wa.gov Please reference "Solicitation Q & A #02413" in your subject line, as**

applicable. Questions should reference the individual document, page number, paragraph number and subject title whenever possible.

DES will provide written responses to questions received by the question and answer period's deadline. Questions and answers will be memorialized in a Solicitation amendment posted to WEBS. Bidders registered in WEBS will receive automatic notification of amendments. Bidders will not be identified in either the questions or the answers.

Verbal responses to questions will not be provided. Only written answers from the DES Procurement Coordinator will be considered official and binding.

When the question and answer period is complete, additional comments will be for the purpose of informing the Procurement Coordinator of an issue only. Questions and comments outside the question and answer period will not be answered or acknowledged.

If interpretations or other changes to this RFQ are required as a result of inquiries made during the question and answer period, the RFQ may be amended.

Amendments are posted to WEBS at <https://fortress.wa.gov/ga/webs/>.

Complaints: Issues or concerns not resolved to a Bidder's satisfaction during the normal question and answer period may be addressed prior to the Response due date and time through the process detailed in [Appendix G, Protest Procedures](#).

3.3 Information Availability

In accordance with [RCW 39.26.030\(2\)](#), Response contents (including pricing information) and evaluations are exempt from disclosure until DES announces Apparent Successful Bidders.

3.4 Bidder Debriefing

Bidders have three business days to request a debriefing conference following DES' announcement of Apparent Successful Bidders. The requested debriefing conference must occur in accordance with the dates specified on the [cover page](#). The request is to be an e-mail addressed to the Procurement Coordinator. Only Bidders who submit a Response may request a debriefing conference to discuss the evaluation of their Response.

3.5 Protest Procedures

Only Bidders who have submitted a Response to this RFQ and have had a debriefing conference may make protests. Upon completion of the debriefing conference, a Bidder is allowed five Business Days to file a protest of the RFQ with the Procurement Coordinator. Further information regarding the grounds for, filing and resolution of protests is detailed in [Appendix G, Protest Procedures](#).

4 INSTRUCTIONS TO BIDDERS

4.1 Authorized Communication

Upon release of this RFQ, all Bidder communications concerning this RFQ must be in the form of email directed to the Procurement Coordinator listed on the cover page. Unauthorized contact regarding this RFQ with other state agencies or employees or customer advisory team members involved with the RFQ may result in disqualification. There will be no oral communications

4.2 Bidder Communication Responsibilities

Bidders will be responsible for communicating to the Procurement Coordinator any issues, exceptions, additions or omissions concerning the RFQ on or before the Response due date and time. Where requirements appear to prohibit or restrict participation, an explanation of the issue with suggested alternative language should be submitted in writing to the Procurement Coordinator by the deadline for questions and comments indicated on the cover page. The Solicitation process may continue and if changes result, written Amendments will be made by the Procurement Coordinator and provided by posting them to WEBS as indicated above.

While Bidder input will be considered, the Procurement Coordinator is under no obligation to respond, implement or otherwise share this information with the pool of potential Bidders. Further, if additional clarification is necessary such communication shall not be considered negotiation with the Bidder.

These communications will be accepted via email to the Procurement Coordinator; telephone calls cannot be accepted. Failure to notify DES of an issue by the deadline may be considered to be a waiver of the issue by the Bidder for protest purposes. Bidders are encouraged to make any inquiry as early in the process as possible to allow DES to consider and Respond; however, no Response is required.

4.3 Bidder Authorized Representative

Bidders must designate an authorized representative to be the principal point of contact for the Procurement Coordinator for the duration of the Solicitation process. Bidders shall complete [Appendix C, Bidder Profile](#).

4.4 Washington's Electronic Business Solution (WEBS)

Bidders are solely responsible for:

- Properly registering with WEBS at <https://fortress.wa.gov/ga/webs/>
- Maintaining an accurate Bidder profile in WEBS
- Downloading the Solicitation consisting of the RFQ with all related attachments and exhibits for which your company is interested in competing
- Downloading all current and subsequent Amendments to the Solicitation

To ensure receipt of all Solicitation documents, the RFQ for this Solicitation must be downloaded from WEBS. Notification of Solicitation Amendments will only be provided to those Bidders who have registered and downloaded the RFQ from WEBS. Failure to do so may result in a potential Bidder having incomplete, inaccurate, or otherwise inadequate information, or a Bidder submitting an incomplete, inaccurate, or otherwise inadequate Response.

Bidders and potential Bidders accept full responsibility and liability for failing to receive any Amendments resulting from their failure to register with WEBS and download the RFQ from WEBS, and hold DES harmless from all claims of injury or loss resulting from such failure.

4.5 Due date and time

The Response, in its entirety, must be received by DES no later than the Response due date and time indicated on the cover page. All Responses must be sent to the Procurement Coordinator by e-mail at the address shown on the cover page. The "receive date/time" posted by DES's email system will be used as the official time stamp but may not reflect the exact time received.

Bidders should allow sufficient time to ensure timely receipt of the Response by the Procurement Coordinator. Late Responses will not be accepted and will be automatically disqualified from

further consideration. DES assumes no responsibility for delays caused by Bidder's e-mail, network problems or any other party.

All Responses and any accompanying documentation become the property of DES and will not be returned. Responses may not be transmitted using facsimile transmission.

4.6 Bidder Responsiveness

Bidder must respond to each requirement contained in this RFQ. Failure to comply with any applicable item may result in the Response being deemed non-responsive and disqualified.

DES reserves the right to consider the actual level of a Bidder's compliance with the requirements specified in this RFQ and to waive informalities in a Response. Informalities are immaterial variation from the exact requirements of the RFQ, having no effect or merely a minor or negligible effect on quality, quantity, or delivery of the supplies or performance of the services being procured, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial to Bidders.

4.7 Withdrawal or Modification of Response

Bidders are liable for all errors or omissions contained in their Responses.

4.7.1 After Response Submittal but Prior to Response Opening

The Bidder may modify or withdraw his/her Response at any time prior to the Response due date and time by providing a written request to the Procurement Coordinator from an authorized representative of the Bidder.

4.7.2 After Response Opening

No Response shall be altered or amended. DES may allow a Response to be withdrawn if the Bidder demonstrates that the prices were miscalculated. A low Bidder, who claims error and fails to enter into a Master Contract with DES, may not participate in bidding on the same commodity or service if a Solicitation is subsequently reissued by DES.

4.8 Proprietary or Confidential Information

All Responses submitted become the property of DES and a matter of public record after DES announces Apparent Successful Bidders. Any information contained in the Response that is proprietary or confidential must be clearly designated. Marking of the entire Response or entire sections of the Response as proprietary or confidential will not be accepted nor honored. DES will not honor designations by the Bidder where pricing is marked proprietary or confidential.

5 BIDDER QUALIFICATIONS

5.1 Established Business

Prior to commencing performance, Contractor must be an established business firm with all required licenses, fees, bonding, facilities, equipment and trained personnel necessary to meet all requirements to perform the work as specified in the Solicitation.

5.2

Restrictions on Lobbying

Federal

The Bidder certifies, by submittal of a Response to this RFQ, that under the requirements of [Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq.](#), no Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any

Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

5.3 Debarment, Suspension and Termination

The Bidder certifies, by submittal of a Response to this RFQ, that neither it nor its "principals" (as defined in [49 CFR. 29.105](#) (p) and state statutes, [RCW 39.26.200](#) and [WAC chapter 200-305](#) is presently, or potentially about to be: debarred, suspended, declared ineligible, or voluntarily excluded from participation in similar transactions by any Federal or state department or agency.

Contractors may face suspension or termination for failure to perform under this contract. Such serious performance issues include:

- Loss of accreditation
- Data delivered late, outside of contract requirements
- Failure to follow methods, SOPs, or contract requirements
- Refusal to allow on-site audits
- Unacceptable performance testing results
- Failure to ensure subcontract labs maintain suitable accreditations
- Submittal of falsified data

In addition, any provider that is debarred during the course of the contract will be terminated. Work in progress may be reassigned and offending provider will be responsible for any costs incurred in the transfer, and will receive no compensation for partial work on such projects.

5.4 Use of Subcontractors

Contractor agrees to take full responsibility for all actions of subcontractors and certifies that all subcontractors are certified by the Washington State Department of Ecology, not debarred, suspended or previously terminated, and will perform all tests to the standard established through this contract.

Specific restrictions apply to Contracting with current or former state employees pursuant to chapter [42.52 RCW](#). Bidders should familiarize themselves with the requirements prior to submitting a Response.

First-Tier

DES will accept Responses that include third party involvement only if the Bidder submitting the Response agrees to take complete responsibility for all actions of such subcontractors. Such Bidders must be certified and meet all contract requirements. Subcontractors must also be fully accredited.

Second-Tier

With prior written permission from Purchaser, Contractor may enter into subcontracts with third parties for its performance of any part of Contractor's duties and obligations under a Second-Tier Work Order.

6 SUCCESSFUL BIDDER RESPONSIBILITIES

6.1 No Costs or Charges

Costs or charges under the proposed Master Contract incurred before a Master Contract is fully executed will be the sole responsibility of the Bidder.

6.2 Post Award Conference

Awarded Contractors may be required to attend a post award conference scheduled by the Procurement Coordinator to discuss contract performance requirements. The time and place of the conference would be scheduled following Award.

6.3 Fees and Reporting

All Master Contracts executed as a result of this RFQ will be subject to a management fee. The management fee will be 0.74 percent of the purchase price for all work performed under this contract. The purchase price is defined as total invoice price less sales tax. No taxes will be assessed against the management fee.

- The management fee is to be included in Response pricing and not as a separate line item. Awarded Contractors will collect and distribute the fee to DES.
- The management fee will be reviewed to ensure that the Laboratory program is self-supporting.
- Contractor shall provide a quarterly sales report to DES.

6.4 Insurance

Successful Bidders are required to obtain at least \$1,000,000 of insurance and name the state as an additionally insured party. Purchasers should there be any claims, suits, actions, costs, or damages or expenses arising from any negligent or intentional act or omission of the Contractor or its subcontractor(s), or their agents, while performing work under the terms of any contract resulting from this RFQ. In addition the contractor agrees to hold the state harmless and to defend the state in such case as needed.

6.5 Statewide Payee Desk

In order to receive payment, Contractors are required to be registered with the Statewide Payee Desk maintained by DES for processing Contractor payments. Purchasers who are Washington state agencies cannot make payments to Contractors until the Contractors are registered. Registration materials are available here: [Receiving Payment from the State](#).

6.6 Contractor Licenses

Awarded Contractors will furnish copies of current licenses and accreditations to the Contract Administrator upon request.

- Contractor and subcontractor(s) shall, without additional expense to the State, obtain and maintain current any licenses and permits necessary for compliance with federal, state and local laws, regulations, rules and standards for services provided under this contract.
- Contractor is to keep all licensing and permit information current with the Contract Administrator and immediately notify them if Contractor loses any necessary licenses or permits to operate under this contract.
- Contractor must maintain valid accreditation status with the Washington State Department of Ecology Laboratory Accreditation Program for Contractor's laboratory, and for all analytical methods performed under this contract.

6.7 Invoicing

Contractor shall within thirty (30) days of service submit an invoice that shall include the following information:

- Purchaser's agency name
- Purchaser's shipment address
- Contract number and Purchaser's (generator's) order number

- Vendor name, address, phone number, and Federal Tax Identification Number
- Description of Services provided including quantity, unit prices and extended totals
- Detailed description of the services and supplies provided
- Date(s) that Services were provided, including number of hours worked
- Vendor's Price for Services
- Net invoice Price for each Service
- State and local sales taxes, as required by Washington State Department of Revenue
- Other applicable charges
- Total invoice Price
- Payment terms including any available prompt payment discounts
- Address where payment is to be mailed

Payments shall be due and payable within thirty (30) calendar days after provision and acceptance of Services or thirty (30) calendar days after receipt of properly prepared invoices, whichever is later.

Incorrect or incomplete invoices will be returned by The State to Vendor for correction and reissue.

The State Contract number **02413** *must* appear on all bills of lading, packages, and correspondence relating to this Contract.

The State shall not honor drafts, nor accept goods on a sight draft basis.

If the State fails to make timely payment, Vendor may invoice the State one percent (1%) per month on the amount overdue or a minimum of one dollar (\$1). Payment will not be considered late if payment is deposited electronically in Vendor's bank account or if a check or warrant is postmarked within thirty (30) calendar days of acceptance of the Services or receipt of Vendor's properly prepared invoice, whichever is later.

6.8 Contractor Performance

6.8.1 General Requirements

The state, in conjunction with purchasers, monitors and maintains records of Contractor performance. Said performance shall be a factor in evaluation and award of this and all future contracts. Purchasers will be provided with product/service performance report forms to forward reports of superior or poor performance to the State Procurement Officer.

6.8.2 Damages

The state has an immediate requirement for the services specified herein. Bidders are urged to give careful consideration to the state's requirements and to the Contractor's performance capabilities. If analytical preparation and methods performed are found to be non-compliant with the requirements set forth, the Contractor will fund the re-testing of the material. Such re-testing may be done at the same lab or another, at the sole discretion of the user. If performed at another lab, the non-compliant lab will cover all costs.

- If failure by the lab to perform tests as requested results in irreparable loss. Contractor will be liable for the cost of this loss. If a settlement cannot be reached by the parties they will be subject to binding arbitration.

6.8.3 Bonds or supplemental insurance

Agencies may require the establishment of Bonds or additional insurance to insure performance or to protect assets as appropriate to their work.

6.8.4 Cost of Remedying Defects

All defects, indirect and consequential costs of correcting, removing or replacing any or all of the defective deliverables or equipment will be charged against the Contractor.

6.8.5 Corrective Actions

The Vendor will conduct proper corrective actions following the Vendor's standard operating procedures (SOPs) in cases of analytical system nonconformance or quality control (QC) failure during the analyses of samples. The following outlines specific corrective actions in response to various common analytical anomalies:

- In cases of analytical system nonconformance, e.g., mass spectrometer tuning, initial calibration, or initial calibration verifications do not meet method or the Vendor's SOP criteria, the Vendor will correct the problems before analyzing any samples.

For metals and conventional chemical parameters, if the continuing calibration verification (CCV) is outside the control criteria, stop the analysis, correct the problems, and re-analyze associated samples.
- If a target analyte is detected in a method blank at a level \geq the reporting limit, samples with results ≤ 10 times the level found in the method blank will be re-extracted and re-analyzed. If insufficient sample volume is available for re-extraction/re-analysis then contact the purchaser immediately for further actions.
- If surrogate spike or internal standard recovery is outside the control limits, dilute the sample extract and re-analyze the sample to evaluate if matrix interference is present. If the dilution analysis meets recovery control limits, report the initial analysis and flag the result. If the dilution analysis still fails the acceptance criteria, re-extract and re-analyze the sample, and report the optimal result between the initial analysis and re-analyses. Flag data as appropriate and address the nonconformance in the case narrative
- In cases where the recovery of a target analyte in the laboratory control sample (LCS) analysis is outside the control limits and sample results are affected (e.g., low recovery in LCS and the analyte is not detected in associated samples), contact the purchaser to evaluate if re-extraction/re-analysis is required for organic analyses. For metals and inorganic analyses, re-digest and re-analyze all affected samples.
- In cases where the sample-specific QC (i.e., matrix spike, matrix spike duplicate, or, laboratory duplicates) result is outside the control limits, evaluate the cause(s) of the anomaly, report and flag the result if the failure is sample matrix related and not a result of analytical system problems (e.g., background contamination, instrument shifting, insufficient extraction).
- In case the sample-specific reporting limit for a target analyte exceeded the project-specific reporting limit as a result of sample matrix (including required dilution), report the result and address the issue in the case narrative.

6.9 Purchasing Card

The State is encouraging agencies to use the state contracted purchasing card to facilitate purchases. While at the present time, it is not mandatory that Contractors accept charge card purchases, we encourage all state Contractors to consider this alternate payment process. The current card available for state agency use is a VISA product. There shall be no additional cost to a Purchaser for the use of purchasing cards as a payment method

6.10 Compliance with Laws and Regulations

Contractor agrees that both services and items provided under this contract shall comply with all federal, state and local laws, permit conditions, standards and regulations, and as may be amended and any standards and regulations which may be promulgated. Contractor further agrees to indemnify and hold harmless the State from all damages assessed against the Purchaser as a result of the Contractor's failure to comply.

7 PRICING

Response prices must include all cost components needed to provide services as described in this RFQ. All costs associated with services must be incorporated into the price of the Bidder's Response.

Bidder agrees that rates quoted in the Response and included as part of any subsequent Work Order assumes work is performed during Business Days and Hours. Overtime rates are not allowed unless required by state or federal law.

There are no volume commitments specified in this RFQ. The proposed pricing levels should reflect the market provided by the Master Contract resulting from this RFQ.

All field QA/QC samples (trip blanks, field blanks, field duplicates, reinstate blanks) may be invoiced to Purchaser, subject to prior approval by the Purchaser.

Failure to identify all costs in a manner consistent with the instructions in this RFQ is sufficient grounds for disqualification.

7.1 Price Quotation

Bidders seeking placement on the rapid selection list will complete pricing information in [Appendix D, Analytical and Preparation Methods, Services, and Pricing](#) spreadsheet.

The analytical preparation or method price per sample shall include:

- Costs for laboratory QC samples (blanks, laboratory duplicates, matrix spike/matrix spike duplicates, and/or laboratory control sample/laboratory control sample duplicate) shall be included in the test method price.
- Delivery of a final copy of the Standard Laboratory Report (see [Appendix B](#) for report requirements) with analytical results; delivery of the report is to be either in a printed form or delivered electronically, at the preference of the Purchaser.
- Bidders are to identify pricing and geographic areas where courier service is available ([Appendix D, Analytical and Preparation Methods, Services, and Pricing](#))

7.2 Taxes

Contractor must collect and report all applicable state taxes.

7.3 No Best and Final Offer

DES reserves the right to make an Award without further discussion of the Response; i.e., there will be no best and final offer request. Therefore, the Response should be submitted on the most favorable terms that Bidder intends to offer.

7.4 Price Adjustments

For the initial term of a Master Contract resulting from this RFQ, Bidder must guarantee to provide services at no higher than the proposed rates. Prices quoted shall not be increased during the initial term of any Contract.

Contractor requests for adjustments in pricing will be considered at sole discretion of DES.

8 PREPARATION OF RESPONSES

8.1 Format

Required submittals, formats and file naming conventions are detailed below and must be included as attachments to an emailed Response. Each emailed Response must include the Bidder's name as the first word of the subject line.

All attachments must strictly adhere to the format and file naming conventions set forth therein. Zipped files cannot be received by DES and must not be used in Responses. All files in the Bidder's Response must be formatted in Microsoft Word, Microsoft Excel, PDF, or as otherwise outlined herein. Formats not identified herein may be accepted only with prior written approval of DES. DES will not accept zipped files.

The maximum allowable file size is 25 MB Bidders are cautioned not to use graphics in their Response.

Use of the file naming conventions as outlined herein is mandatory.

8.2 Identification and Delivery

Each emailed Response must include the Bidder's Company name as the first word of the subject line. Bidders may break email submittals into multiple emails provided each email clearly indicates in the subject line its overall place in the series, as well as the total number of separate emails being sent. For example, if ABC Company is submitting their response as three separate emails, the subject line of the first should be "ABC Company Response 1 of 3"; the next email's subject line would be "ABC Company Response 2 of 3"; etc.

8.3 Required Submittals / Checklist

Failure to include or properly document RFQ requirements may be grounds for disqualification Bidders must include, at a minimum, the following electronic submittals.

Certifications and Assurances; Signature Required

Bidder must complete, sign and scan [Appendix A: Certifications and Assurances](#).

- Expectation: One separate email attachment of a completed signed and scanned file; labeled in accordance with the file naming convention specified below.
- PDF Format
- File naming convention: BidderName_CA.pdf.
- In the contents of this file, Bidders must observe the following:
 - Do not include any exceptions, comments or special notations in this document.
 - Do not make any changes to this document other than to enter data where requested and sign.

Appendix C, Bidder Profile

Bidder must complete [Appendix C, Bidder Profile](#) as instructed in the submittal.

- Expectation: One separate email attachment of a completed file; labeled in accordance with the file naming convention specified below.
- Preferred Format: MS Excel
- File naming convention: BidderName_PROFILE.xls (.xlsx acceptable).
- In the contents of this file, Bidders must observe the following:
 - Do not include any exceptions, comments or special notations in this document.
 - Do not add any shading or other special formatting to any of the cells, columns or rows of the spreadsheet. Do not make any changes to the spreadsheet template provided other than to enter data where requested.
 - Use the following format for all telephone numbers: (123) 555-1234.
 - Use standard two-letter U.S. Postal Service abbreviations for state names in all addresses (e.g., "WA" rather than "Washington").

Appendix D, Analytical and Preparation Methods, Services, and Pricing

Bidders wishing to be considered for the rapid selection list will provide applicable information specified in [Appendix D, Analytical and Preparation Methods, Services, and Pricing](#)

Those Bidders wishing to be selected for the Rapid Response list will include pricing information for the select list of methods as well as indicate areas of courier service (in MS Excel format). If bidder performs an analogous Ecology Accredited method to one listed in the spreadsheet, the Bidder will identify the proposed method, identify the listed method it is analogous to, applicable matrix, and price.

- Expectation: One email attachment containing Appendix D spreadsheet; labeled in accordance with the file naming convention specified below.
- Preferred Format: MS Excel
- File naming convention: Bidder Name_APPENDIX_D.xls

Solicitation Amendments; As Applicable

In the event that Solicitation Amendments are required, Bidder must complete, sign and scan any Solicitation Amendments that DES requires as a submittal.

- Expectation: One separate email attachment of a completed signed and scanned file; labeled in accordance with the file naming convention specified below.
- Preferred Format: PDF
- File naming convention: BidderName_AMD_01.pdf, BidderName_AMD_02.pdf, BidderName_AMD_03.pdf, etc.
- In the contents of this file, Bidders must observe the following:
 - Do not include any exceptions, comments or special notations in this document.
 - Do not make any changes to this document other than to enter data where requested and sign.

9 EVALUATION AND AWARD

9.1 Award Criteria

DES intends to execute multiple final contracts as a result of this RFQ. Contracts will be awarded based on the Apparent Successful Bidders' abilities to meet all of the mandatory requirements of the RFQ.

Awarded vendors, who also provide pricing for evaluation with their bid submittal, will be placed in a rapid selection vendor pool that allows for, but does not guarantee, a "rapid response" selection process for qualifying Direct Buy procurements (<\$10,000). The Direct Buy provision does not require further competition.

Bidders who meet all of the criteria of the RFQ, but do not provide pricing with their Bid Submittal, will form a prequalified and unranked vendor pool from which (authorized) Purchasers may solicit firm bid pricing in second-tier competitive solicitations.

Bidders, whose Submittal is determined to be non-responsive, will be rejected and notified of the reasons for such rejection.

Contract Award will be based on the evaluation and Award criteria established herein and will be in accordance with provisions identified in [RCW 39.26.160](#) and other criteria identified in the RFQ.

9.2 Evaluation

To aid in the evaluation process, after Response due date and time, DES may require individual Bidders to appear at a date, time and place determined DES for the purpose of conducting discussions to determine whether both parties have a full and complete understanding of the nature and scope of contractual requirements. In no manner shall such action be construed as negotiations or an indication of DES's intention to award.

9.2.1 Initial Determination of Responsiveness

Responses will be reviewed initially by the Procurement Coordinator and authorized personnel to determine, on a pass/fail basis, whether each Response meets all the administrative requirements specified herein.

9.2.2 Evaluation

Responses meeting the Initial Determination of Responsiveness will then be reviewed on a pass/fail basis to determine if the Response meets the mandatory requirements.-Only Responses meeting all mandatory requirements will be further evaluated.

DES reserves the right to determine at its sole discretion whether a Bidder's response to a mandatory requirement is sufficient to pass. However, if all responding Bidders fail to meet any single mandatory item, DES reserves the right, at its option, to either: (1) cancel the procurement, or (2) revise or delete the mandatory item.

9.2.3 Responsibility

During evaluation, DES reserves the right to make reasonable inquiry to determine the responsibility of any Bidder.

9.3 Selection of Apparent Successful Bidders

Those Bidders who meet all of the RFQ requirements and have responded with the required electronic submittals by the closing deadline will be evaluated for award. Those successful in the evaluation process will be declared Apparent Successful Bidders and may enter into Contract negotiations with DES.

9.4 Notification of Apparent Successful Bidders

All Bidders responding to this RFQ will be notified when DES has determined the Apparent Successful Bidders who will constitute a prequalified and unranked Bidder pool. The date of announcement of the Apparent Successful Bidders will be the date of the notification from DES.

APPENDICES

Appendix A, Certifications and Assurances	 Appendix A - Certifications & Assur
Appendix B, Special Conditions	 Appendix B - Special Conditions 02413.doc
Appendix C, Bidder Profile	 Appendix C - Bidder Profile 02413.docx
Appendix D, Analytical and Preparation Methods, Services, and Pricing	 Appendix D - Methods and Pricing
Appendix E, References, Acronyms, Abbreviations, and Definitions	 Appendix E - References Definition
Appendix F, Competitive Procurement Standards	 Appendix F - Competitive Procurem
Appendix G, Protest Procedures	 Appendix G - Complaint, Debrief, P

Appendix A – Certifications and AssurancesRFQ 02413 – Analytical Laboratory Services

CERTIFICATIONS and ASSURANCES

We make the following certifications and assurances as a required element of submitting this bid for **Analytical Laboratory Services – Solicitation #02413**, affirming the truthfulness of the facts declared here and acknowledging that the continuing compliance with these statements and all requirements of the RFQ are conditions precedent to the award or continuation of the resulting contract.

1. We have read, understand, and agree to abide by all information contained in the RFQ, all Appendices, and incorporated documents.
2. The prices in this bid have been arrived at independently, without engaging in collusion, bid rigging, or any other illegal activity, and without for the purpose of restricting competition any consultation, communication, or agreement with any other bidder or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered. The prices in this bid have not been and will not be knowingly disclosed by the bidder, directly or indirectly, to any other bidder or competitor before contract award unless otherwise required by law. No attempt has been made or will be made by the bidder to induce any other concern to submit or not to submit an offer for the purpose of restricting competition. However, we may freely join with other persons or organizations for the purpose of presenting a bid.
3. The attached bid is a firm offer for a period of 90 days following the bid Due Date specified in the RFQ, and it may be accepted by DES without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 90-day period. In the case of a protest, our bid will remain valid for 90 days or until the protest and any related court action is resolved, whichever is later.
4. In preparing this bid, we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to the state's IFB, or prospective contract, and who was assisting in other than his or her official, public capacity. Neither does such a person nor any member of his or her immediate family have any financial interest in the outcome of this bid. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
5. We understand that the state will not reimburse us for any costs incurred in the preparation of this bid. All bids become the property of the state, and we claim no

proprietary right to the ideas, writings, items or samples unless so stated in the bid. Submittal of the attached bid constitutes an acceptance of the evaluation criteria and an agreement to abide by the procedures and all other administrative requirements described in the RFQ.

6. We understand that any contract awarded as a result of this bid will incorporate all RFQ requirements. Submittal of a bid and execution of this Certifications and Assurances document certify our willingness to comply with the contract terms and conditions appearing in the RFQ, all Appendices, and incorporated documents if selected as a contractor. It is further understood that our standard contract will not be allowed as a replacement for the terms and conditions appearing in the RFQ, all appendices, and incorporated documents of this RFQ.
7. By submitting this bid, bidder hereby offers to furnish materials, supplies, services and/or equipment in compliance with all terms, conditions, and specifications contained in this RFQ.
8. We are not submitting any exceptions.

BIDDER'S AUTHORIZED OFFER and CONTRACT SIGNATURE PAGE

In submitting this bid, the authorized signatory below acknowledges having read and understood the entire RFQ and amendments incorporated prior to the bid due date, and agrees to comply with its terms and conditions, as written, including the attached [Certifications and Assurances](#). If a contract award is tendered by the State as a result of Bidder's submittal, the authorized signatory also agrees to fulfill the offer made in this bid and any subsequently awarded contract(s).

In witness whereof, the parties hereto, having read this contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

This contract is effective as of **November 1, 2013**, or date of last signature, whichever is later.

<p>APPROVED (MCC) Department of Enterprise Services Master Contracts and Consulting 1500 Jefferson Building 1500 Jefferson Street SE Olympia, WA 98501</p>	<p>APPROVED (BIDDER)</p>
<p>Washington State Department of Enterprise Services</p>	<p>Bidder's Company Name & Address</p>
<p>Signature _____ Date _____ Kevyn L. Davidson, CPPB, Procurement Coordinator</p>	<p>Signature _____ Date _____ _____</p>
<p>Typed or Printed Name, Title</p>	<p>Typed or Printed Name, Title</p>
<p>Manager Signature (if applicable) _____ Date _____ Dale Colbert, CPPB, Unit Manager</p>	<p>_____</p>
<p>Manager's Typed or Printed Name, Title</p> <p>Contact Information Contact: Kevyn L. Davidson Title: Procurement Coordinator Phone: (360) 407-9413 Fax: 360-586-2426 Email: Kevyn.davidson@des.wa.gov</p>	<p>Contact Information Contact: _____ Title: _____ Phone: _____ Fax: _____ Email: _____</p>

Appendix B, Special Terms & Conditions

RFQ 2413-Analytical Laboratory Services

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Contractor shall provide analytical laboratory testing and support services as defined herein.

A. Accreditation and Methods

Contractor shall provide laboratory testing services for analytes, compounds, or bioassays by a Washington State Department of Ecology (Ecology) accredited method.

Bidders are encouraged to complete Appendix D, *Analytical Methods, Services, and Pricing* spreadsheet.

By including pricing and applicable specified information in the Response, successful bidders may be placed on a rapid selection list of approved laboratories for use by Purchasers of analytical services meeting direct buy procurement qualifications.

If accreditation is not available for a particular analytical method, please identify the method, applicable matrix, and a brief description of the proposed analogous method.

B. Experience

Vendors awarded to the Contract Pool may be asked to provide a brief summary of their laboratory's experience which, might include:

- Number of years in operation.
- Experience of the authorized representative in managing client projects.

C. Quality Assurance/Quality Control

1. Test Protocols

All work performed by the Contractor shall comply at a minimum with test protocols specified in the Code of Federal Regulations (CFR) or published by:

- U.S. Environmental Protection Agency (USEPA, 1983; 1990; 1996);
- Puget Sound Estuary Program (USEPA, 1997);
- Washington State Department of Ecology, Total Petroleum Hydrocarbon Analytical Methods (Ecology, 1997);
- American Society for Testing and Materials (ASTM, 1997); and
- American Public Health Association (APHA), American Water Works Association (AWWA), and Water Environment Federation (WEF), Standard Methods For the Examination of Water and Wastewater (APHA, AWWA, WEF, 2012).

For work performed in response to federal regulation, see Appendix E, *References, Acronyms, Abbreviations, and Definitions* to access a listing of CFRs specifying allowable analytical methods.

2. Quality Standards

The contractor shall:

- Fully participate in Ecology's Laboratory Accreditation Program, including
 - Performance testing,
 - Development and maintenance of the lab quality assurance manual which designates roles and responsibilities of quality assurance management and includes Standard Operating Procedures (SOPs) for all accredited methods, and
 - Lab audits (Ecology, 2010; USEPA, 2005, 2008b, 2012).
- Maintain accreditation with Washington State Department of Ecology as specified by [WAC 173-50](#). This accreditation occurs in two parts; the lab itself is accredited, and the analytical methods the lab performs are also accredited. Failure to maintain acceptable accreditation status may result in suspension or termination from this contract. For information on the

accreditation process and for a list of labs with current lab accreditation visit <http://www.ecy.wa.gov/programs/eap/labs/search.html>

- Ensure that subcontractor laboratories maintain accreditation with Washington State Department of Ecology as specified by [WAC 173-50](#) for work performed under this contract.
- Follow industry-standard quality assurance practices including
 - All QA requirements specified in accredited analytical methods performed in support of this contract
 - USEPA SW-846 Chapter 1 (USEPA, 1996 and updates), for SW-846 methods
 - USEPA statements of work for Contract Laboratory Program (CLP) inorganic and organic superfund methods (USEPA, 2010, 2013); and Chlorinated Dibenzo-P-Dioxins, Chlorinated Dibenzofurans, and Chlorinated Biphenyl Congener analyses (USEPA, 2009a, 2009b), when specifically requested
 - Standard Methods Part 1000 (APHA, AWWA, WEF, 2012 or latest edition), for Standard Methods techniques.
- Have a Laboratory Quality Assurance Manual as specified by [WAC 173-50-067](#). Contractor shall employ a policy that controls improper manipulation, falsification of data or deviation from contractual requirements (Ecology, 2010; USEPA, 2005, 2008b, 2012).
- Employ a Quality Assurance Manager with supervision duties over laboratories used in fulfilling contractual requirements.
- Have Standard Operation Procedures (SOP) in place, and readily available upon request, for all analytical methods and general procedures performed at the Contractor's laboratories.
- Provide support in response to reasonable requests for laboratory documentation, site visits, or to address other concerns a Purchaser may have regarding Laboratory procedures and policies. Reasonable requests will provide a five (5) business day notification of requested support.
- Upon request provide data packages that allow for full validation of data produced for the Purchaser. For example, all data and supporting information required for a USEPA level 4 data validation (USEPA, 2009c).
- Allow for Quality Assurance/Quality Control (QA/QC) and Technical Audits, by the Contract Administrator in conjunction with the Purchaser, with a five (5) business day notification. Purchaser may conduct site visits to Contractor's Laboratory to verify quality assurance methods are satisfactory throughout the contract performance period.

D. Manner of Performance

Contractor shall:

- Be solely responsible for all means, methods, techniques, sequences, and procedures for performing the work except as provided for herein. Purchaser will not exercise any right of control over the incidence of performance.
- Be responsible for any acts or omissions of all his or her employees and agents, all other persons performing any of the work, and shall not employ any person to perform the work who is not qualified for the task assigned to him or her.
- Give all required notices and comply with all applicable laws and regulations bearing on the performance of the work.

- Performed all work to the satisfaction of Purchaser and following all specified methods.

E. Supplies for Sampling

Contractor shall provide all required supplies and materials necessary to obtain, preserve, and transport samples including laboratory prepared sampling containers, shipping containers (coolers), labels, shipping documents, deionized water, and Chain-of-Custody/Quality Assurance Records.

Contractor shall deliver sampling supplies to Purchaser or designated subcontractor:

- For standard requests, delivery within five (5) business days of request, with no additional cost to Purchaser.
- For expedited requests, delivery within 48 hours from date/time of request, Contractor may charge an expedited fee.

F. Delivery of Samples

Purchaser is responsible for the cost and delivery of samples to the Contractor with adequate time to properly test samples. If the Contractor provides free pick-up service or is handling the sampling process, then the Contractor shall be responsible to deliver the sample to the laboratory and all associated cost.

When possible, Purchaser will provide the Contractor with a minimum of a five (5) business day notification of intent to deliver samples to the Contractor's laboratory. Contractor shall take necessary preparation steps for the requested sample test methods to meet Purchaser's time constraints.

If the requested analysis work has a holding time of less than two (2) days, then Purchaser shall make arrangements with the Contractor on a case-by-case basis to determine the best course of action.

G. Sample Handling and Chain of Custody

Contractor shall retain samples for a period of sixty (60) days following submission of the final results report providing the unused or extract sample can be properly stored for that length of time. Contractor may discuss the sample amount necessary for storage with Purchaser.

Contractor shall be responsible for loss or damage to samples after accepting delivery on a chain-of-custody document.

If the Contractor fails to meet an established holding time through negligence of Contractor, then the Contractor shall be held responsible for the costs of resampling and reanalysis as necessary.

After the required retention period, Contractor shall dispose of samples in accordance with all federal, state, and local regulations at no additional charge to the Purchaser.

H. Laboratory Time Requirements

All analyses will occur within the applicable holding times specified by a particular test method, regulation, or Purchaser.

Contractor shall deliver preliminary analytical reports to Purchaser within the requested turnaround time specified on laboratory chain-of-custody documentation. Turnaround time for reporting shall be calculated from the time of the sample receipt at the laboratory as documented on the chain-of-custody document.

Contractor shall conduct required analyses and submit a fully completed Quality Assurance/Quality Controlled final technical report in a printed copy or electronic copy, at the preference of Purchaser, within fifteen (15) calendar days of the sample receipt.

Contractor shall have a plan to handle emergency requests. Contractor acknowledges that certain work may constitute a bona fide emergency requiring immediate response.

- For expedited (RUSH) laboratory requests, Contractor shall provide within four (4) calendar days from the date of the sample receipt, a laboratory results report electronically to the Purchaser, and within ten (10) calendar days of the sample receipt the final laboratory report.
- Laboratory results that do not arrive within the requested expedited time period shall be invoiced at the next longer expedited rate and will not be pro-rated.

I. Laboratory Reports

Contractor shall provide printed and electronic copies of the Laboratory Analytical Report, and an electronic data deliverable (EDD) with response verification, at no additional cost, if requested. The EDD may be agency-specific. For example, Ecology may require an Environmental Information Management System (EIM) compatible EDD. Other Agencies may specify other EDD formats.

For the standard Laboratory Analytical Report, Contractor will also include results and discussion of all quality assurance samples including:

- Method blanks
- Duplicate or replicate samples
- Laboratory Control Samples
- Matrix Spikes
- Surrogate recoveries, where applicable
- Analysis of standard reference material, if requested
- Holding time violations, issues in shipping and/or storage, and a general discussion of any QA anomalies for samples covered by the Report.

If requested, Contractor shall provide a Data Validation Report and/or a full Contract Laboratory Program Deliverable Report. Either report shall include all raw data needed to validate results according to USEPA protocols (USEPA, 2002; 2008; 2009a; 2009b; 2009c; 2010a; 2010b; 2011; 2012), when applicable.

The following specify general requirements that apply to each laboratory report at all deliverable levels (i.e., Levels 2a, 2b, 3, and 4 as defined in USEPA 2009c):

1. Legible.
2. One laboratory report is to be submitted for one sample delivery group (SDG). It is assumed each data package should include twenty or less samples of the same matrix analyzed by a single analytical method.
3. A laboratory report should include a cover page signed and dated by the laboratory Director, the laboratory Quality Assurance (QA) Officer, or his/her designee to certify the eligibility of the reported contents and the conformance with applicable analytical methodology.
4. Definitions of abbreviations, data flags, and data qualifiers used in the report.
5. The laboratory is expected to meet the project specific reporting limits (RLs) (reporting limits are specified in the Project's quality assurance project plan (QAPP) or laboratory contract) or describe in the case narrative the reason the reporting limits could not be achieved.
6. Any modifications to laboratory SOPs for the method analysis, quality assurance and quality control (QA/QC) activities performed, and results specific to the analysis performed should be noted in the case narrative.
7. Sample identification (ID):
 - Provide the Field ID and Lab ID (and Subcontract ID, if applicable) associated with all sample results, as appropriate.

- Clearly identify QC samples and results. If QC samples are reanalyzed, these results need to be clearly identified as such.
8. **Sample Results:**
 - Required: Lab name, analytical method, matrix, sample weight/volume or weight/weight with units, project name, SDG number, field sample ID, lab sample ID, date received, date analyzed, concentration units, and comments.
 - For each result: Analyte Chemical Abstracts Service registry number (CAS number) (unless no CAS number exists), analyte name, concentration or other applicable measure, and data flags where applicable.
 - If applicable: % solids, date extracted.
 9. **QC analyses:**
 - Laboratory control sample (LCS) and LCS duplicate (LCSD) (if matrix spike duplicate analysis is not performed on a sample) results.
 - Matrix spike (MS) or LCS and results.
 - Laboratory duplicate results.
 - Provide results of certified reference material.
 - Provide results of method blanks and clearly identify samples associated.
 10. Completed chain of custody (COC) document, signed and dated by parties who are acquiring and receiving samples. Format may be in hardcopy or Portable Document Format (PDF).
 11. Completed sample receipt document with record of cooler temperature and sample conditions upon receipt at the laboratory. The document should be initialed and dated by Contractor personnel that complete the sample receipt document.
 12. Case narrative that addresses any anomalies or QC outliers in relation to sample receiving, preparation, and analysis on samples in the SDG.
 13. All pages in the report are to be paginated.
 14. Any resubmitted or revised report pages should be submitted to the Purchaser with a cover page stating the reason(s) and scope of resubmission or revision, and be signed by laboratory director, QA Officer, or the designee.

J. Primary Laboratory Services

- Bidder is to provide contact information and service areas for representative(s) as required in Appendix C, *Bidder Profile*.
- Representative shall function as the primary point of contact: ensuring supervision and coordination of Contractor and Subcontractor work, take corrective action as necessary, and make binding decisions to meet contractual requirements relating to Contractor's work.
- Representative, or designee, shall be available during normal business hours (Monday through Friday, 8AM to 5PM Pacific Time) and return Purchaser's calls within 24 hours.
- Contractor shall maintain current representative's contact information and service areas information with the Office of State Procurement.

1. Project Management Technical Services

Contractor shall provide Project Management Technical Services, when requested. A contractor may act as an overall project manager for a purchasing agency. To do so, the Purchaser would include the desired duties to be performed in a Work Request statement of work.

2. Sampling, Support, and Consultation Services

Additional services may be sought in the second tier, Work Request process. Pricing for these services will be determined based on the actual work and circumstances at that time.

Sampling and Support: Contractor shall provide, if possible and requested by the Purchaser, technically qualified and certified technicians to provide sample preparation services, sample collection services, and/or support. Examples of services and support may include: field samplers, mobile field laboratories, field analyses, field screening techniques, etc. Information shall be provided on the type of field services available and the pricing for each service.

Consultation Services: Contractor shall provide, if requested by the Purchaser, technically qualified staff to provide additional services to assist in the defense of the data produced by the Contractor.

3. Subcontractors

- Contractor shall perform all laboratory services in-house (at Contractor owned Laboratories), except as authorized herein.
- Contractor shall identify those analytical services offered in-house and those that are routinely subcontracted out in their bid submittals, if applicable.
- Contractor shall have the ability to project manage, coordinate, and review work from subcontractors.
- Contractor shall ensure all subcontracted work complies with all approved in-house quality assurance provisions pertaining to preparation, extraction, analysis, and reporting.
- All subcontracted analytical work performed must be done by an Ecology accredited laboratory for that method.
- No portion of the work under this contract may be subcontracted unless specifically approved by the Purchaser prior to commencement of work.

Appendix C - Bidder Profile

RFQ 02413 – Analytical Laboratory Services

COMPANY INFORMATION (for Contract administration purposes)

Company Name & Address:	Authorized Signatory Representative:	Name and Title:
	Phone:	
	Email:	
Ordering Address:	Person Responsible for Reporting Sales to DES:	
Remit Address:	Name:	
	Phone:	
	Email:	
	Person Responsible for Submitting Management Fee payments to DES:	
	Name:	
	Phone:	
	Email:	
	Customer Service/Ordering Representatives:	
	Name:	
	Phone:	
	Email:	
	Name:	
	Phone:	
	Email:	
Federal Tax Identification Number:		
WA Dept. of Revenue Registration Number:		
Number of years as an accredited lab:		

PURCHASING COOPERATIVE MEMBERS

1. Nonprofit Organizations:

Bidder agrees to sell the goods and services on this contract to self-certified nonprofit corporations which are members of the State of Washington Purchasing Cooperative (WSPC)

2. Oregon Purchasing Cooperative Purchasing Program:

Bidder agrees to sell the goods and services on this contract to political subdivisions and nonprofit organizations which are members of the State of Oregon Cooperative Purchasing Program (ORCPP)

3. State of Oregon:

If required, indicate percent increase to bid pricing for delivery to State of Oregon DASCPP/ORCPP Members: _____%

PROMPT PAY DISCOUNT (offered on all forms of payment except credit cards (ie: Purchasing card))

Please indicate any prompt pay discount you are offering on this contract: _____% Net 30

REFERENCES

Provide a minimum of three (3) commercial or government references for which Bidder has delivered goods and/or services similar in scope as described in the IFB. You may also attach written references.

<p>1. Customer: Title: Contact: Phone: Email:</p>	
<p>2. Customer: Title: Contact: Phone: Email:</p>	
<p>3. Customer: Title: Contact: Phone: Email:</p>	

SUBCONTRACTORS

If applicable and if known, on a separate sheet, identify any subcontractors who will perform services in fulfillment of contract requirements; the nature of services to be performed and federal tax identification (TIN) number for each subcontractor. Do NOT include Social Security numbers. If a subcontractor is a minority or women owned business please include their OMWBE Certification Number (if certified). If necessary, attach additional sheets (please identify each page with a company name and a page number.)

The Contractor, by including subcontractor(s) as part of a signed bid, agrees to take complete responsibility for all contract obligations, and for all actions of such subcontractors. The use of

Bidder Profile

RFQQ #02413 – Analytical Laboratory Services

subcontractors is subject to DES approval. DES reserves the right to approve or disapprove the utilization of any subcontractor.

MINORITY/WOMEN OWNED BUSINESS STATUS

Is your firm a Minority/Women Owned Business? Yes No

MWBE certification #

VETERAN OWNED STATUS

Is your firm a Veteran Owned Business? Yes No

DVA certification #

Bidder Name: _____

Washington State Department of Enterprise Services
RFQQ# 02413 Analytical Laboratory Services

Appendix D - Analytical Preparation and Methods, Services, and Pricing

Bidders seeking consideration for placement on the Contract #02413 Rapid Selection List will furnish pricing with their submittal for any applicable, below listed or analogous methods accredited by the Washington State Department of Ecology. (If bidder proposes price information for an analogous Ecology accredited method; identify the below listed method, provide the name of the proposed analogous method, matrices, and price per sample. Bidders seeking consideration in second-tier competition only must indicate which of the below methods they are accredited for by the Washington State Department of Ecology by placing an "X" in column D instead of submitting pricing.

Representative Analyses:

Group	Method	Matrix	X	Price per Sample
Organics	USEPA 624 (VOA)	water		
Organics	USEPA 625 (BNA)	water		
Organics	USEPA 1668 (Dioxins/Furans)	water		
Organics	USEPA 1668A (PCB Congeners)	soil/sediment/solid waste		
Organics	USEPA 1668A (PCB Congeners)	water		
Organics	USEPA 1694 (PPCP)	water		
Organics	USEPA 8081 (Chlorinated Pesticides)	sediment/soil/solid waste		
Organics	USEPA 8081 (Chlorinated Pesticides)	water		
Organics	USEPA 8081 (Halogenated Volatile Organics)	water		
Organics	USEPA 8082 (PCB Arochlors)	soil/sediment/solid waste		
Organics	USEPA 8082 (PCB Arochlors)	water		
Organics	USEPA 8141 (OP Pesticides)	water		

Group	Method	Matrix	X	Price per Sample
Organics	USEPA 8260 B (BTEX)	water		
Organics	USEPA 8260 B (BTEX)	sediment		
Organics	USEPA 8260 B (Volatile Organic Compounds-full list)	water		
Organics	USEPA 8260 B (Volatile Organic Compounds-full list)	soil/sediment		
Organics	USEPA 8260 C (VOA)	water		
Organics	USEPA SW-846 Method 8270D (SIM optimized for full list of BNAs)	water		
Organics	USEPA SW-846 Method 8270D (SIM optimized for full list of BNAs)	soil/sediment/solid waste		
Organics	USEPA SW-846 Method 8270D (SIM optimized for herbicides)	water		
Organics	USEPA SW-846 Method 8270D (SIM optimized for herbicides)	sediment		
Organics	USEPA SW-846 Method 8270D (SIM optimized for PAHs)	water		
Organics	USEPA SW-846 Method 8270D (SIM optimized for PAHs)	soil/sediment		
Organics	USEPA SW-846 Method 8270D (SIM optimized for PBDE)	water		
Organics	USEPA SW-846 Method 8270D (SIM optimized for pesticides)	water		
Organics	USEPA SW-846 Method 8270D (SIM optimized for Phenolics)	sediment		
Organics	USEPA SW-846 Method 8270D (SIM optimized for phthalates)	water		
Organics	USEPA SW-846 Method 8270D (SIM optimized for phthalates)	sediment		
Organics	USEPA 8290 (Dioxins/Furans)	water		
Metals	SM 2340B (Hardness as CaCO ₃)	water		
Metals	USEPA 200.7 (Hardness)	water		
Metals	USEPA 200.7 (Full list of analytes)	water		
Metals	USEPA 200.7 (Dissolved Metals, per analyte)	water		
Metals	USEPA 200.8 (Dissolved Metals, per analyte)	water		

Group	Method	Matrix	X	Price per Sample
Metals	USEPA 200.8 (Total Recoverable Metals, full list)	water		
Metals	USEPA 200.8 (Total Recoverable Metals, per analyte)	sediment		
Metals	USEPA 200.8 (Total Recoverable Metals, per analyte)	water		
Metals	USEPA 245.1 (Hg)	water		
Metals	USEPA 245.5 (Hg)	soil/sediment		
Metals	USEPA 245.7 (Hg, low level)	water		
Metals	USEPA 1631 E (Hg, low level)	water		
Metals	USEPA 6010 (MTCA 5 Metals)	soil		
Metals	USEPA 6010/7470 (RCRA 8 Metals)	soil		
Metals	USEPA 6020 (Full list of analytes)	soil/sediment		
Metals	USEPA 6020 (MTCA Metals)	soil/sediment/solid waste		
Metals	USEPA 6020, 245.5, 1311 (TCLP Metals)	soil/sediment/solid waste		
Metals	USEPA 6020, 7470 (Dissolved RCRA 8 Metals)	water		
Metals	USEPA 6020, 7470 (Total RCRA 8 Metals)	soil/sediment		
Metals	USEPA 6020, 7470 (Total RCRA 8 Metals)	water		
Metals	USEPA 7196 A (Dissolved Hexavalent Chromium)	soil/sediment		
Metals	USEPA 7196 A (Dissolved Hexavalent Chromium)	water		
Metals	USEPA 9010 B (Total Cyanide)	water		
Metals	USEPA 9010 B (Total Cyanide)	soil/sediment		
General Chemistry	ASTM D422 (Particle Size/grain size)	sediment		
General Chemistry	ASTM D3977-97 (Particle Size Distribution)	water		
General Chemistry	PSEP, 1997 (Grain Size)	soil/sediment		

Group	Method	Matrix	X	Price per Sample
General Chemistry	PSEP, 1997 (Total Organic Carbon)	sediment		
General Chemistry	SM 2310 (Turbidity)	water		
General Chemistry	SM 2320 B-97 (Alkalinity as CaCO ₃)	water		
General Chemistry	SM 2510 (Conductivity)	water		
General Chemistry	SM 2540B (Total Solids)	water		
General Chemistry	SM 2540G (Total Solids %)	sediment		
General Chemistry	SM 2540D (Total Suspended Solids)	water		
General Chemistry	SM 2540E (Total Volatile Solids)	water		
General Chemistry	SM 2540E (Total Volatile Solids)	sediment		
General Chemistry	SM 4500 Ammonia	water		
General Chemistry	SM 4500H*B (pH)	water		
General Chemistry	SM 4500 NO ₃ ⁻ Nitrate	water		
General Chemistry	SM 4500 NO ₃ ⁻ I (Nitrite/Nitrate)	water		
General Chemistry	SM 4500-P G (Ortho-phosphate)	water		
General Chemistry	SM 4500-N _{org} B (TKN-macro)	solid		
General Chemistry	SM 4500-P F (Total Phosphorus)	water		
General Chemistry	SM 5210 B (Biochemical Oxygen Demand)	water		
General Chemistry	SM 5220 D (Chemical Oxygen Demand)	water		
General Chemistry	SM 5220 D (Chemical Oxygen Demand)	soil/sediment		
General Chemistry	SM 5310B (Dissolved Organic Carbon)	water		
General Chemistry	SM 5540C (Methylene Blue Active Substances)	water		
General Chemistry	SM 5540D (Cobalt Thiocyanate Active Substances)	water		

Group	Method	Matrix	X	Price per Sample
General Chemistry	USEPA 300.0 (Total Anions, per analyte)	water		
General Chemistry	USEPA 351.2 (Total Kjeldahl Nitrogen)	water		
General Chemistry	USEPA 1664 (HEM)	water		
General Chemistry	USEPA 9045 C / 9040 B (pH)	soil		
General Chemistry	USEPA 9045 C / 9040 B (pH)	water		
Petroleum HCs	Ecology, 1997 Publication No. 97-602 (NWTPH-HCID)	water		
Petroleum HCs	Ecology, 1997 Publication No. 97-602 (NWTPH-HCID)	soil/sediment		
Petroleum HCs	Ecology, 1997 Publication No. 97-602 (NWTPH-Dx)	water		
Petroleum HCs	Ecology, 1997 Publication No. 97-602 (NWTPH-Dx)	soil/sediment		
Petroleum HCs	Ecology, 1997 Publication No. 97-602 (NWTPH-EPH)	soil		
Petroleum HCs	Ecology, 1997 Publication No. 97-602 (NWTPH-Gx)	water		
Petroleum HCs	Ecology, 1997 Publication No. 97-602 (NWTPH-Gx)	soil/sediment		
Petroleum HCs	Ecology, 1997 Publication No. 97-602 / USEPA 8260B (NWTPH-Gx with BTEX)	water		
Petroleum HCs	Ecology, 1997 Publication No. 97-602 / USEPA 8260B (NWTPH-Gx with BTEX)	soil/sediment		
Petroleum HCs	Ecology, 1997 Publication No. 97-602 (NWTPH-VPH)	soil		
Microbiology	SM 9213D (E.coli)	water		
Microbiology	SM 9221E (Fecal Coliform-MPN)	water		
Microbiology	SM 9222D (Fecal Coliform-MF)	water		
Microbiology	SM 9223B (Colilert)	water		
Bioassay	ASTM E1192-97 (<i>H. azteca</i> , 24 hour acute toxicity test)	water		
Bioassay	ECY 80-12 (Fish bioassay)	water		
Bioassay	ECY 80-12 (Fish bioassay)	soil/sediment		

Group	Method	Matrix	X	Price per Sample
Bioassay	USEPA 100.1 (Hyallolela)	water		
Bioassay	USEPA 2021.0 (Daphnid)	water		
Bioassay	WDOE 96-327 (Eisenia)	water		
Bioassay	WDOE 96-324 (Lolium)	water		
Bioassay	WDOE 96-324 (Lactuca)	water		

Specialty Analyses or Processes:

Group	Method	Matrix	X	Price per Sample
Herbicide	USEPA 547 (Glyphosate-non aquatic formula)	water		
Herbicide	USEPA 8151A (Glyphosate)	water		
Herbicide with confirmation	USEPA SW-846 Method 8270D with confirmation by SW 846 Method 8321B if detected (Diuron)	water		
Air toxics	USEPA TO-15 (Toxic Organic Compounds)	air		
Air toxics	NMAM 7903 (Inorganic Acids)	air		
Filtration	Process through 0.45 micron filter before analysis	water		
Toxicity extraction leaching procedure	USEPA 1311 (TCLP extraction, non-volatiles)	soil/sediment/solid waste		
Toxicity extraction leaching procedure	USEPA 1311 (TCLP extraction, volatiles)	soil/sediment/solid waste		

SM = Standard Methods

PSEP = Puget Sound Estuary Protocols. 1997

X

Appendix E- References, Acronyms, Abbreviations, and Definitions

Analytical Laboratory Services

A. State Regulations

[RCW 39.26.200](#)

[WAC 200-305](#)

[WAC 173-50](#)

B. Federal Regulations Specifying Analytical Methods

1. Air Pollution Controls

[40 CFR 1065](#) and [40 CFR 1066](#)

2. Air Programs

[40 CFR 50](#); [40 CFR 51](#); [40 CFR 53](#); [40 CFR 58](#); [40 CFR 60](#); and [40 CFR 80](#)

3. Pesticide Programs

[40 CFR 158](#) and [40 CFR 161](#)

4. Solid Wastes

[40 CFR 261](#); [40 CFR 264](#); [40 CFR 265](#); [40 CFR 266](#); and [40 CFR 268](#)

5. Superfund

[40 CFR 300](#)

6. Toxic Substances Control Act

[40 CFR 761](#); [40 CFR 763](#); [40 CFR 766](#); [40 CFR 795](#); [40 CFR 796](#); [40 CFR 797](#); [40 CFR 798](#); and [40 CFR 799](#)

7. Water Programs

[40 CFR 136](#); [40 CFR 141](#); [40 CFR 143](#)

C. Documents

American Public Health Association (APHA), American Water Works Association (AWWA), and Water Environment Federation (WEF) 2012. *Standard Methods for the Examination of Water and Wastewater*. January 2012.

American Society for Testing and Materials (ASTM) E 1192-97: *Standard Guide for Conducting Acute Toxicity Tests on Aqueous Ambient Samples and Effluents with Fishes, Macroinvertebrates, and Amphibians*. 1997.

United States Environmental Protection Agency (USEPA) 1983. *Methods for Chemical Analysis of Water and Wastes*, EPA-600/4-79-020. March 1983 and updates.

1990. *Method 547 – Determination of Glyphosate in Drinking Water by Direct Aqueous Injection HPLC, Post-Column Derivatization, and Fluorescence Detection*. July 1990.

1996. *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW846*. December 1996 and updates.
1997. *Recommended Guidelines for Measuring Organic Compounds in Puget Sound Water, Sediment and Tissue Samples*. April 1997.
2002. *Guidance on Environmental Data Verification and Data Validation*. USEPA QA/G-8. EPA 240-R-02-004. November 2002.
2005. *Manual for the Certification of Laboratories Analyzing Drinking Water, Fifth Edition*. EPA 815-R-05-004. January 2005.
2008. *USEPA Contract Laboratory Program National Functional Guidelines for Superfund Organic Methods Raw Data Review*. EPA-540-R-08-01. June 2008.
- 2008b. *Supplement 1 to the Fifth Edition of the Manual for the Certification of Laboratories Analyzing Drinking Water*. EPA 815-F-08-006. June 2008.
- 2009a. *Contract Laboratory Program Statement of Work for Analysis of Chlorinated Biphenyl Congeners (Multi-Media, Multi-Concentration), CBC01.2*. December 2009.
- 2009b. *Contract Laboratory Program Statement of Work for Analysis of Chlorinated Dibenzo-P-Dioxins and Chlorinated Dibenzofurans (Multi-Media, Multi-Concentration), DLM02.2*. December 2009.
- 2009c. *Guidance for Labeling Externally Validated Laboratory Analytical Data for Superfund Use*, EPA 540-R-08-005. January 13 2009.
- 2010a. *USEPA Contract Laboratory Program National Functional Guidelines for Inorganic Superfund Data Review*. EPA-540-R-10-011. January 2010.
- 2010b. *Contract Laboratory Program Statement of Work for Inorganic Superfund Methods (Multi-Media, Multi-Concentration), ISM01.2*. January 2010.
2011. *USEPA Contract Laboratory Program National Functional Guidelines for Chlorinated Dioxin/Furan Data Review*. EPA-540-R-11-016. September 2011.
2012. *Supplement 2 to the Fifth Edition of the Manual for the Certification of Laboratories Analyzing Drinking Water*. EPA 815-F-12-006. November 2012.
2013. *Contract Laboratory Program Statement of Work for Organic Superfund Methods (Multi-Media, Multi-Concentration), SOM02.0*. April 2013.
- Washington State Department of Ecology (Ecology) 1997. *Analytical Methods for Petroleum Hydrocarbons*. ECY 97-602. June 1997.
2010. *Procedures Manual for the Environmental Laboratory Accreditation Program*. ECY 10-03-048. September 2010.
2009. *Biological Testing Methods 80-12 for the Designation of Dangerous Waste*. ECY 80-12. July 2009

Acronyms, Abbreviations, and Definitions

Acronyms	Description
Amendment	A change to a legal document. For the purposes of a Solicitation document, an amendment shall be a unilateral change issued by DES, at its sole discretion.
Analytical Methods	Analytical chemistry and bioassay methods.
APHA	American Public Health Association
Apparent Successful Bidder	A Bidder who is recommended for Award after evaluation of Responses.
ASTM	American Society for Testing and Materials
Award	DES's acceptance of a Bidder's offer to enter into a Master Contract.
AWWA	American Water Works Association
Bidder	A Bidder who submits a Response to a Solicitation.
Business Days	Monday through Friday, 8:00 AM to 5:00 PM, Pacific Time, except for holidays observed by the state of Washington.
CAS number	Analyte Chemical Abstracts Service registry number
CD	Compact disk
CFR	Code of Federal Regulations
CLP	Contract Laboratory Program
COC	Chain of custody
Confidential Information	Information that may be exempt from disclosure to the public or other unauthorized persons under either RCW 42.56 or other state or federal statutes. Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, payroll/labor data, driver's license numbers, medical data, law enforcement records, agency source code or object code, agency security data, and information identifiable to an individual. Purchasers may identify additional confidential information in a Work Order. Confidential information also includes any personal information under the provisions of RCW 19.255.010 and RCW 42.56.590
Contract	The RFQ, submitted price lists, contract documents, all schedules and exhibits, all statements of work, and all amendments awarded pursuant to this RFQQ.
Contractor	An individual, company, corporation, firm, or combination thereof with which DES enters into a Master Contract for the procurement of materials, supplies, services, and/or equipment. It shall also include any subcontractor retained by a Contractor as permitted under the terms of the Master Contract.
DASCPP/ORCPP	State of Oregon Cooperative Purchasing Program
DES	Washington State Department of Enterprise Services
Dup	Laboratory duplicate
Ecology	Washington State Department of Ecology
EDD	Electronic data deliverable
EIM	Washington State Department of Ecology's Environmental Information Management database

Acronyms	Description
	system.
et al.	and others
ID	Identification
Intent to Award	A notice which recommends Award.
LCS	Laboratory control sample
LCSD	Laboratory control sample duplicate
Mandatory	The Vendor must comply with the requirement, and the Response will be evaluated on a pass/fail basis.
Master Contract	The document formalizing the agreement between the parties pursuant to this Solicitation, together with all incorporated schedules and exhibits, including the Solicitation, the Response, all Work Orders, and all Amendments.
MDL	Method detection limit
MS	Matrix spike
MSD	Matrix spike duplicate
N/A	Not applicable
PDF	Portable document format
Prequalified Bidder Pool	Bidders who have been vetted and selected through a competitive qualification process.
Price	The not-to-exceed hourly rate(s) quoted by a Bidder in a Response as outlined in this Solicitation to be charged, as applicable, for services rendered under any Master Contract and any subsequent Program-related Work Order. All prices shall be quoted and paid in United States dollars.
Procurement Coordinator	The individual authorized by DES who is responsible for conducting a specific Solicitation.
PSEP	Puget Sound Estuary Protocols
Purchaser	An authorized user of the Master Contract, as identified in the Solicitation, who may or actually does make purchases of material, supplies, services, and/or equipment under the resulting Master Contract.
QA	Quality assurance
QAPP	Quality Assurance Project Plan
QC	Quality control
RCW	Revised Code of Washington
Response	The written proposal submitted by Vendor to the Department of Enterprise Services in accordance with this RFQQ. The Response shall include all written material submitted by Vendor as of the date set forth in the RFQQ schedule or as further requested by Department of Enterprise Services.
Responsible	The capability in all respects of performing all Master Contract requirements in full and meeting the elements of responsibility. (See RCW 39.26.160 (2))
Responsive	Conforming in all material respects to the terms and conditions, the specifications, and other

Acronyms	Description
	requirements of a Solicitation.
RFQ	A Solicitation for Bidder qualifications issued by DES.
RL	Reporting limit
SDG	Sample Delivery Group
Services	Those services provided by Bidder relating to this Solicitation and that are appropriate to the scope of this Solicitation.
SIM	Selective ion monitoring
SM	Standard Method
Solicitation	This Request for Qualifications, and any Amendments or revisions thereto, used as a Solicitation document.
SOP	Standard operating procedure
SOW	Scope of Work
Specifications	Specifications set forth the characteristics of the goods and/or services to be purchased or sold so as to enable the Bidder or supplier to determine and understand requirements of the Purchaser.
State	The state of Washington acting by and through DES or the Purchaser.
Subcontractor	One not in the employment of a Contractor, who is performing all or part of the business activities under a Master Contract resulting from this Solicitation, or any subsequent Work Order, under a separate Contract with Contractor. The term "subcontractor" means a subcontractor of any tier.
USEPA	United States Environmental Protection Agency
Vendor	A company, organization, or entity submitting a Response to this RFQQ.
WAC	Washington Administrative Code
WEBS	Washington's Electronic Business Solution (WEBS) - The Contractor registration and Bidder notification system maintained by the DES located at: WEBS for Vendors.
WEF	Water Environment Federation
Work Order	The second-tier contractual document issued by a Purchaser and executed between the Purchaser and Contractor.
Work Request	The second-tier Solicitation document developed and issued by the Purchaser to Contractors to request Responses responsive to the Purchaser's requirements.
WSDOT	Washington State Department of Transportation
WSPC	Washington State Purchasing Cooperative

Appendix F - Competitive Procurement Standards

Solicitation #02413

For purchases of materials, supplies, services, and equipment under the Authority of [Chapter 39.26 RCW](#)

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Competitive Procurement Standards

For purchases of materials, supplies, services, and equipment under the Authority of [Chapter 39.26 RCW](#)

This document consists of general provisions and terms for Solicitations issued by the Washington State Department of Enterprise Services (DES). Should a term within this document conflict with a term elsewhere in a Solicitation, the latter will prevail.

1 INSTRUCTIONS TO BIDDERS

1.1 Minority and Women Business Enterprises (MWBE)

In accordance with the legislative findings and policies set forth in [RCW 39.19](#), the State of Washington encourages participation in all of its Contracts by Minority and Woman Owned Business Enterprise (MWBE) firms certified by the [Office of Minority and Women's Business Enterprises](#) (OMWBE). While the state does not give preferential treatment, it does seek equitable representation from the minority and women's business community. In addition, the state welcomes participation by self-identified minority and woman owned firms and strongly encourages such firms to become certified by OMWBE.

Participation may be either on a direct basis in Response to this Solicitation or as a Subcontractor to a Contractor. However, unless required by federal statutes, regulations, grants, or Contract terms referenced in the original Solicitation, no preference will be included in the evaluation of Bids, no minimum level of MWBE participation shall be required as condition for receiving an award, and Bids will not be evaluated, rejected or considered non-responsive on that basis.

Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the original Solicitation will apply. Bidders are encouraged to contact [Office of Minority and Woman Owned Business Enterprise](#) (OMWBE) to obtain information on becoming a certified firm as set forth in Washington Administrative Code (WAC) Chapters 326-02 and 326-20; or to obtain information on other certified firms for potential sub-contracting arrangements. Nothing in this section is intended to prevent or discourage Bidders from inviting participation from non-MWBE firms as well as MWBE firms. Prior to performance, Awarded Bidder who is a MWBE or intends to use MWBE Subcontractors is encouraged to identify the participating firm(s) to DES.

1.2 Bidder's Authorized Representative

Bidders must designate an Authorized Representative in the Bidder Profile Appendix who will be the principal point of contact for DES for the duration of this Solicitation process.

1.3 Include all Cost Components in Pricing

Bidders must identify and include all elements of recurring and non-recurring costs in their pricing. Unless otherwise specified, this must include, but is not limited to, all administrative fees, maintenance, manuals, documentation, shipping charges, labor, travel, training, consultation services, wiring and supplies needed for the installation (including cost of all uncrating, disposal of shipping materials), set-up, testing and initial instruction to agency personnel, warranty work and

Competitive Procurement Standards

For purchases of materials, supplies, services, and equipment under the Authority of [Chapter 39.26 RCW](#)

maintenance of the products/services, handling charges such as packing, wrapping, bags, containers, reels; or the processing fees associated with the use of credit cards.

Notwithstanding the foregoing, in the event that market conditions, laws, regulations, or other unforeseen factors dictate, at DES's sole discretion, additional charges may be allowed during the contract term.

1.4 Alternate or Equal

Bidders may bid a product or service that is an Equal to what is specified in the Solicitation. An "Equal" for purposes of this Solicitation is "an offer of materials, supplies, services and/or equipment that meets or exceeds the quality, performance, and use of the specifications identified in a Solicitation" (See WAC [200-300-015](#) (3)). DES reserves the right to make the final determination whether the proposed materials, supplies, services and/or equipment is an Equal.

Bidders may not bid a product or service that is an Alternate to those specified in the Solicitation except as set out in this section. An "Alternate" for purposes of this Solicitation is "a substitute offer of materials, supplies, services and/or equipment that is not at least a functional Equal in features, performance and use and which materially deviates from one or more of the specifications in a competitive Solicitation" (See WAC [200-300-014](#) (14)). Bidders may suggest Alternates by providing a detailed description, supporting documentation, and any associated exceptions to the specifications to DES in writing at least five business days prior to the bid opening date. DES will review the Bidder's proposed Alternate, including any specification exceptions and supporting documentation in determining whether or not the proposed Alternative will be acceptable in meeting the State's needs. DES reserves the right to make the final determination whether the proposed Alternate is acceptable. If the proposed Alternative is determined to be acceptable then it will be communicated to all potential Bidders via an Amendment. Otherwise, any Bid that does not conform to the minimum mandatory specifications may be deemed non-responsive.

1.5 Public Records and Exempt Information

All Responses submitted become the property of the State of Washington and after contract execution may be subject to public disclosure under the Public Records Act, RCW 42.56. Only after the announcement of the Apparent Successful Bidder is bid information available for public inspection per RCW 39.26.030.

Any information contained in the Response that is exempt from public disclosure because it is proprietary, a trade secret or otherwise exempt must be clearly designated. Marking of the entire Response or entire sections of the Response as exempt will not be accepted or honored. DES will not honor designations by the Bidder where pricing is marked proprietary.

Prior to release, DES will give notice to the Bidder of any request for disclosure of identified exempt information received within five years from the date of submission. DES will delay release of the information identified as exempt for up to 10 business days to allow the Bidder to obtain court protection from release. Failure to label such materials as exempt or to respond in a timely

manner after notice of request for public disclosure has been given shall be deemed a waiver by the submitting Bidder of any claim that such materials are, in fact, so exempt.

1.6 In-State Preference/Reciprocity

Pursuant to RCW [39.26.260](#) and WAC [200-300-075](#), DES has established a schedule of price adjustments applicable against any Bidders submitting responses from states which grant a preference to their own in-state businesses. The reciprocity adjustment is applied as follows.

- These adjustments will be applied in Formal Sealed Bid solicitations only.
- The business address from which the response was submitted will determine if an adjustment is to be applied.
- The appropriate percentage will be added to each Response bearing the address from a state with in-state preferences rather than subtracting a like amount from Washington State Bidders.
- This action will be used only for evaluation. In no instance shall the increase be paid to a supplier whose response is accepted.

1.7 Withdrawal or Modification of Response

Bidders are liable for all errors or omissions contained in their Responses.

a. Prior to Response due date and time

Modification: Mistakes in bids or proposals detected prior to the due date and time may be corrected by the Bidder by withdrawing the original bid or proposal and submitting a corrected bid or proposal to DES before the due date and time. If there is not sufficient time prior to the due date and time to withdraw the original bid or proposal and submit a corrected bid or proposal, the bidder, or an authorized representative, may correct the mistake on the face of the original bid or proposal provided that the corrected bid or proposal is time stamped by DES upon resubmission prior to the due date and time. (See WAC [200-300-105](#)).

Withdrawal: An authorized Bidder representative is permitted to withdraw its response before the due date and time by submitting the withdrawal request in writing. Withdrawn responses will be returned unopened to the Bidder.

b. After Response due date and time

No Modification: Bidder mistakes in a bid or proposal detected after due date and time may not be corrected.

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Withdrawal: If the Bidder submits evidence in writing satisfactory to DES that a mistake has been made by the Bidder in the calculation of its bid or proposal, DES may allow the bid or proposal to be withdrawn provided that the claim of mistake and supporting documentation is provided within three business days after the due date and time. Compliance with this section within the specified time limit shall relieve the Bidder of forfeiture of its bid guarantee. If DES subsequently reissues the solicitation, the Bidder having made the mistake may not participate in that solicitation. (See WAC [200-300-110](#)).

Clarification: DES reserves the right to contact Bidder for clarification of Response contents.

1.8 Order of Precedence, Conflict and Conformity

In the event of a conflict in such terms, or between the terms and any applicable statute or rule, the inconsistency will be resolved by giving precedence in the following order:

- a. Applicable Federal and state of Washington statutes and regulations
- b. Mutually agreed written Amendments to the resulting Contract
- c. The Contract, including all documents incorporated in the subsection immediately above.

Conflict: To the extent possible, the terms of the Contract shall be read consistently.

Conformity: If any provision of the Contract violates any Federal or state of Washington statute or rule of law, it is considered modified to conform to that statute or rule of law.

1.9 Legal Notices

Any notice or demand or other communication required or permitted to be given under the Contract or applicable law (except notice of malfunctioning Equipment) will be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid, certified mail, return receipt requested, via facsimile or by electronic mail, to the parties at the addresses and fax numbers, e-mail addresses provided in the *Authorized Offer and Contract Signature Page* below. For purposes of complying with any provision in the Contract or applicable law that requires a "writing," such communication, when digitally signed with a Washington State Licensed Certificate, shall be considered to be "in writing" or "written" to an extent no less than if it were in paper form. Notices will be effective upon receipt or four Business Days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Equipment or Services provided pursuant to the Contract is served upon Contractor or DES, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. The Contractor and DES

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further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

1.10 Liens, Claims and Encumbrances

All materials, equipment, supplies and/or services shall be free of all liens, claims, or encumbrances of any kind, and if DES or the Purchaser requests, a formal release of same shall be delivered to the respective requestor.

2 STANDARD DEFINITIONS

This section contains definitions of terms commonly used in Solicitations conducted by the State of Washington, Department of Enterprise Services. Additional definitions may also be found in [Chapter 39.26 RCW](#) and ([WAC 200-300](#)), and all terms contained herein will be read consistently with those definitions.

Acceptance	The Products passed appropriate Inspection and Acceptance Testing period, if required.
Acceptance Testing	The process for ascertaining that the Products meet the standards set forth in the Solicitation, prior to Acceptance by the Purchaser.
Agency	State of Washington institutions, the offices of the elective state officers, the Supreme Court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. "Agency" does not include the legislature but does include colleges, community colleges and universities who choose to participate in state contract(s).
All or Nothing Award	A method of award resulting from a competitive solicitation by which the purchaser will award all items to a single bidder. Also, a designation the Bidder may use in its Bid or response to indicate its offer is contingent upon full award and it will not accept a partial award.
Alternate	A substitute offer of goods and services which is not at least a functional equal in features, performance and use and which materially deviates from one or more of the specifications in a competitive solicitation.
Amendment	A change to a legal document. Solicitation: For the purposes of a Solicitation document, an amendment shall be a unilateral change issued by DES, at its sole discretion. Contract: An agreement between the parties to change the Contract after it is fully signed by both parties. Such agreement shall be memorialized in a written document describing the agreed upon change including any terms and conditions required to support such change. An Order Document shall not constitute an Amendment to a Contract.
Apparent Successful Bidder(s)	The Bidder identified by DES, after evaluation of Responses, who is recommended for Award.

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Authorized Representative	An individual designated by the Bidder or Contractor to act on its behalf and with the authority to legally bind the Bidder or Contractor.
Authorized Signatory	An individual with the authority to legally bind the Bidder or Contractor concerning the terms and conditions set forth in Solicitation, Response and Contract documents.
Award	The official act of DES of accepting the offer to enter into a Contract as contained in the Bidder(s) Response.
Bid	A sealed written offer to perform a Contract to provide materials, supplies, services, and/or equipment in reply to an Invitation For Bid (IFB).
Bidder	A Vendor who submits a Response in reply to a Solicitation.
Brand	A specification identifying a manufacturer of the goods described in a competitive solicitation to identify a standard of quality against which other products will be evaluated. (See WAC 200-300-015(7))
Business Days	Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.
Calendar Days	Consecutive days of the year including weekends and holidays, each of which commence at 12:00:01 a.m. and end at Midnight, Pacific Time. When "days" are not specified, Calendar Days shall prevail.
Contract	An agreement, or mutual assent, between two or more competent parties with the elements of the agreement being offer, acceptance, and consideration.
Contract Administrator	The individual authorized by DES who is responsible for administration of a Contract.
Contractor	Individual, company, corporation, firm, or combination thereof with whom DES develops a Contract for the procurement of materials, supplies, services, and/or equipment. It shall also include any Subcontractor retained by Contractor as permitted under the terms of the Contract.
Department of Enterprise Services (DES)	An agency serving state government and the citizens of Washington.

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Equal	Materials, supplies, services and/or equipment that meets or exceeds the quality, performance and use of the specifications identified in a Solicitation.
Estimated Useful Life	The estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner.
Inspection	An examination of delivered material, supplies, services, and/or equipment prior to Acceptance aimed at forming a judgment as to whether such delivered items are what was ordered, were properly delivered and ready for Acceptance. Inspection may include a high level visual examination or a more thorough detailed examination as is customary to the type of purchase, as set forth in the Solicitation document and/or as agreed between the parties. Inspection shall be acknowledged by an authorized signature of the Purchaser.
Intent to Award	Notice of the recommendation for Award for a specific Solicitation.
Invitation For Bid (IFB)	The form utilized to solicit Bids in the formal, sealed Bid procedure and any amendments thereto issued in writing by DES. Specifications and qualifications are clearly defined.
Late Bids or Proposals	A bid or proposal received at the place specified in the solicitation after the time designated for all bids or proposals to be received. (See WAC 200-300-025).
Lead Time/After Receipt Of Order (ARO)	The period of time between when the Contractor receives the order and the Purchaser receives the materials, supplies, equipment, or services order.
Life Cycle Cost	The total cost of an item to the state over its Estimated Useful Life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life.
Master Contracts & Consulting	A unit of the Contracts & Legal Services Division of DES authorized under Chapter 39.26 RCW to develop and administer contracts for goods and services on behalf of state agencies, colleges and universities, non-profit organizations and local governments.

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Order Document	A written communication, submitted by a Purchaser to the Contractor, which details the specific transactional elements required by the Purchaser within the scope of the Contract such as delivery date, size, color, capacity, etc. An Order Document may include, but is not limited to field orders, purchase orders, work order or other writings as may be designated by the parties hereto. No additional or alternate terms and conditions on such written communication shall apply unless authorized by the Contract and expressly agreed between the Purchaser and the Contractor.
Original Equipment Manufacturer (OEM)	A supply management term for the purchase of parts and material directly from the manufacturer of the equipment or from an authorized reseller. For example, Ford automotive replacement parts would be purchased from an authorized Ford reseller.
Procurement Coordinator	The individual authorized by DES who is responsible for conducting a specific Solicitation.
Product	Materials, supplies, services, and/or equipment provided under the terms and conditions of this Contract.
Prompt Payment Discount	A discount offered by the Bidder to encourage timely payment by purchaser within the stated term identified by bidder.
Proposal	A sealed written offer to perform a Contract to supply materials, supplies, services, and/or equipment in reply to a Request For Proposal (RFP).
Purchaser	The authorized user of the Contract, as identified in the Solicitation, who may or actually does make purchases of material, supplies, services, and/or equipment under the resulting Contract.
Quotation	An informal written or oral offer to perform a Contract to supply materials, supplies, services, and/or equipment in reply to a Request For Quote (RFQ).
Recycled Material	Waste materials and by-products that have been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product and consists of materials derived from post-consumer waste, manufacturing waste, industrial scrap, agricultural wastes and other items, all of which can be used in the manufacture of new or recycled products.
Recycled Content	A product containing recycled material.

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Product	
Request For Proposal (RFP)	The form utilized to solicit Proposals in the formal, sealed Solicitation procedure and any amendments thereto issued in writing by DES. The specifications and qualification requirements are written in an outcome based form allowing for consideration of a broad range of different solutions to meet the procurement need.
Request For Quotations (RFQ)	A written or oral request by DES to solicit Quotations in the informal Solicitation procedure.
Response	A Bid or Proposal.
Responsible	The capability in all respects to perform in full the contract requirements and meets the elements of responsibility. (See 39.26 RCW)
Responsive	Conforms in all material respects to the terms and conditions, the specifications, and other requirements of a solicitation.
Sealed Bid	A formal submission from a Bidder submitted in response to a solicitation. It is submitted in a sealed manner to prevent its contents from being revealed before the time and date set for the bid opening.
Solicitation	The process of notifying prospective Bidders that DES desires to receive competitive Bids or Proposals for furnishing specified materials, supplies, services, and/or equipment. Also includes reference to the actual documents used for that process, including: the Invitation For Bids (IFB) or Request For Proposals (RFP), along with all attachments and exhibits thereto.
Specifications	The explicit requirements furnished with a competitive solicitation upon which a purchase order or contract is to be based. Specifications set forth the characteristics of the goods and/or services to be purchased or sold so as to enable the Bidder or supplier to determine and understand requirements of the purchaser. Specifications may be in the form of a description of the physical or performance characteristics, a reference brand or both. It may include a description of any requirement for inspecting, testing, or preparing a material, equipment, supplies, or service for delivery. (See WAC 200-300-015(34)).
State	The State of Washington acting by and through DES.

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State Contract	<p>The written document memorializing the agreement between the successful Bidder and DES for materials, supplies, services, and/or equipment and/or administered by the Master Contracts & Consulting Unit on behalf of the State of Washington.</p> <p>“State Contract” does not include the following:</p> <ul style="list-style-type: none">– Colleges and universities that choose to purchase under RCW 28B.10.029– Purchases authorized as an emergency purchase under RCW 39.26.130; or– Purchases made pursuant to other statutes granting the Agency authority to independently conduct purchases of materials, supplies, services, or equipment.
Subcontractor	<p>A person or business that is, or will be, providing or performing an essential aspect of the Contract under the direction and responsibility of the Contractor and with the agreement of DES.</p>
Term Contract	<p>A State Contract that extends beyond a single purchase and may be available to multiple purchasers.</p>
Vendor	<p>A provider of materials, supplies, services, and/or equipment.</p>
Washington’s Electronic Business Solution (WEBS)	<p>The Vendor registration and Bidder notification system maintained by the Washington State Department of Enterprise Services located at: www.des.wa.gov/webs.</p>

3 STANDARD TERMS & CONDITIONS

3.1 Contract Modifications

DES reserves the right to modify the resulting Contract (including but not limited to adding or deleting products, services, or delivery locations) by mutual agreement between DES and the Contractor, so long as such modification is substantially within the scope of the original Contract. Such modifications will be memorialized in a signed written document describing the agreed upon change including any terms and conditions required to support such change.

3.2 Contract Administration

– **State Contract Administrator**

DES shall appoint a single point of contact that will be the Contract Administrator for this Contract and will provide Contract oversight. The Contract Administrator will be the principal contact for Contractor concerning business activities under this Contract. DES will notify Contractor, in writing, when there is a new Contract Administrator assigned to this Contract.

– **Administration of Term Contract**

DES may maintain Contract information and pricing and make it available on DES's web site. The Contract prices are the maximum price Contractor can charge. The Contractor may also offer volume discounts to Purchasers.

3.3 Contractor Supervision and Coordination

Contractor shall:

- a. Competently and efficiently, supervise and coordinate the implementation and completion of all Contract requirements specified herein.
- b. Identify the Contractor's Authorized Representative, who will be the principal point of contact for DES concerning Contractor's performance under this Contract.
- c. Immediately notify the Contract Administrator in writing of any change of Designated Contractor's Authorized Representative assigned to this Contract.
- d. Be bound by all written communications given to or received from the Contractor's Authorized Representative.

Violation of any provision of this section may be considered a material breach establishing grounds for Contract termination.

3.4 Post Award Conference

The Contractor may be required to attend a post award conference scheduled by the Procurement Coordinator and/or the Contract Administrator to discuss contract performance requirements. The time and place of this conference will be scheduled following contract award.

3.5 Term Contract Management

Upon award of a Term Contract, the Contractor shall:

- a. Review the impact of the award and take the necessary steps needed to ensure that contractual obligations will be fulfilled.
- b. Promote and market the use of this contract to all authorized contract Purchasers.
- c. Ensure that those who endeavor to utilize this contract are authorized Purchasers under this Contract.
- d. At no additional charge, assist Purchasers in making the most cost effective, value based purchases which may include, but is not limited to:
 - Having representatives available to provide information regarding products and services, including visiting the Purchaser site if needed, and providing Purchaser with materials/supplies/equipment recommendations.
 - Providing Purchasers with a detailed list of contract items including current contract pricing and part numbers.

The Contractor shall designate a customer service representative who will be responsible for addressing Purchaser issues including, but not limited to:

- Logging requests for service, ensuring repairs are completed in a timely manner, dispatching service technicians, and processing warranty claim documentation.
- Providing Purchasers with regular and timely status updates in the event of an order or repair fulfillment delay.
- Acting as the lead and liaison between the manufacturer and Purchaser in resolving warranty claims for contract items purchased.

3.6 Changes

Alterations to any of the terms, conditions, or requirements of this Contract shall only be effective upon written issuance of a mutually-agreed Contract Amendment by DES. However, changes to point of contact information may be updated without the issuance of a mutually agreed Contract Amendment.

3.7 Statewide Vendor Payment Registration

Contractors are required to be registered in the Statewide Vendor Payment system, prior to submitting a request for payment under this Contract. Purchasers who are Washington state agencies require registration to be completed prior to payment.

The Washington State Office of Financial Management (OFM) maintains a central contractor registration file for Washington State agencies to process contractor payments.

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To obtain registration materials go to <http://www.ofm.wa.gov/accounting/vendors.asp> the form has two parts; Part 1 is the information required to meet the above registration condition. Part 2 allows the state to pay invoices electronically with direct deposit and is the state's most efficient method of payment and you are encouraged to sign up for this form of payment.

3.8 Sales & Subcontractor Reports

The Contractor shall provide a Sales and Subcontractor Report to the Master Contracts & Consulting Unit on a quarterly basis in the electronic format provided by the Master Contracts & Consulting Unit at: <https://fortress.wa.gov/ga/apps/CSR/Login.aspx>.

Reports must be submitted electronically within thirty (30) days after the end of the calendar quarter, i.e., no later than April 30th, July 31st, October 31st and January 31st.

3.9 Other Required Term Contract Reports

DES may require the Contractor to provide a detailed annual contract sales history report. This report shall include at a minimum, but is not limited to: product description, part number or other product identifier, per unit quantities sold, and contract price. This report must be provided to DES in an electronic format that can be read by MS Excel. Unless the solicitation specifies otherwise, all other required reports will be designed and approved by the parties by mutual agreement.

3.10 Common Vendor Registration and Bid Notification System

Contractor shall be registered in the State's common vendor registration and bid notification system, RCW [39.29.006](#) (currently Washington's Electronic Business Solution (WEBS) <http://www.des.wa.gov/services/ContractingPurchasing/Business/Pages/WEBSRegistration.aspx>

Contractors already registered need not re-register. It is the sole responsibility of Contractor to properly register and maintain an accurate vendor profile.

3.11 Contractor Qualifications and Requirements

DES reserves the right to require receipt of proof of compliance with any of the requirements in this section within ten (10) calendar days from the date of request, and to terminate this Contract as a material breach for noncompliance with any requirement of this paragraph. Contractor shall maintain compliance with these requirements throughout the life of this contract.

a. Qualified and established business

Prior to performance, or prior to that time if required by DES, law or regulation, Contractor must be an established business with all required licenses, fees, bonding, facilities, equipment, and trained personnel necessary to meet all requirements and perform the work as specified in the Solicitation.

b. Authorized Service Provider and Product Reseller certifications

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Upon request, Contractor must provide evidence of its status as an authorized service provider or product reseller. Contractor shall maintain its authorized service provider or product reseller status for the initial term and any extensions of the resulting Contract. If this status is discontinued, this Contract may be terminated.

c. Dealer Authorization (when applicable)

The Contractor shall maintain dealer authorization from the manufacturer consistent with the requirements outlined in the original Solicitation.

d. Personnel substitutions (when applicable)

If at Contract award or any time thereafter, any named individual specifically identified in the Response to work on this engagement is not available, DES reserves the right to approve or reject any personnel substitutions.

e. Use of subcontractors (when applicable)

Prior to performance, Contractor shall identify all subcontractors who will perform services in fulfillment of contract requirements. Additionally Contractor may be required to identify contact information as well as federal tax identification number (TIN), and anticipated dollar value of each subcontract.

DES reserves the right to approve or reject any and all Subcontractors that identified by the contractor. Any Subcontractors not listed in the Bidder's Response, who are engaged by the Contractor, must be pre-approved, in writing, by DES.

Contractor agrees to be responsible for all actions of any Subcontractors in the performance of this contract. The Contractor shall be responsible to ensure that all requirements of the Contract shall flow down to any and all Subcontractors. In no event shall the existence of a Subcontract operate to release or reduce the liability of Contractor to the state for any breach in the performance of the Contractor's duties.

f. Assignment

Contractor shall not assign or otherwise transfer its obligations, nor any claim arising under this Contract without the prior written consent of DES. Such consent will not be unreasonably withheld. Contractor shall provide a minimum of thirty (30) calendar days advance notification of intent to assign or otherwise transfer its obligations under this Contract. Violation of this provision may be considered a material breach and be grounds for Contract termination. Assignment or transfer of Contract shall not relieve the Contractor from its responsibilities and obligations under the contract.

g. Contractor authority and infringement

Under this Contract, Contractor is authorized to sell only those materials, supplies, services and/or equipment as stated herein and allowed for by the Contract provisions. Contractor shall not misrepresent to Purchasers that they have the contract authority to

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sell any other materials, supplies, services and/or equipment. Further, Contractor may not intentionally infringe on other established State Contracts.

h. Hours of labor

In compliance with RCW [49.28](#), Contractor agrees that no worker, laborer, or mechanic in the employ of the Contractor or subcontractor shall be permitted or required to work more than eight (8) hours in any one calendar day, or forty (40) hours in any one calendar week. However, in cases of extraordinary emergency such as danger to life or property, the hours of work may be extended but in such cases the rate of pay for time employed in excess of the above shall be at the prevailing overtime rate of pay. Except, contracts will not require the payment of overtime rates for the first two hours worked in excess of eight (8) hours per day when the employer has obtained the employee's agreement (as defined in WAC [296-127-022](#)) to work a four-day, ten-hour work week.

i. Materials and workmanship

The Contractor is required to furnish all materials, supplies, equipment and/or services necessary to perform Contractual requirements. Materials, supplies, equipment and/or services used in the performance of this Contract shall conform to all applicable federal, state, and local codes, regulations and requirements for such equipment, specifications contained herein, and the normal uses for which intended. Materials, supplies, and equipment shall be manufactured in accordance with the best commercial practices and standards for this type of materials, supplies, and equipment.

j. Best Pricing

For the term of the Contract, pricing for all Products will be no greater than the prices quoted in the Bidder's Response. If, however, during the Contract period lower prices and rates become effective through reduction in Manufacturer's or Contractor's list prices, promotional discounts, or other circumstances, Purchasers must be given immediate benefit of such lower prices and rates.

k. Mercury content and preference (when applicable)

Contractor shall provide mercury-free products when available. Should mercury-free products not exist, Contractors shall provide products with the lowest mercury content available in meeting performance requirements.

Contractor shall disclose products that contain added mercury and provide an explanation that includes the amount or concentration of mercury, and justification as to why added mercury is necessary for the function or performance of the product. The Contractor is to provide any existing technical data pertaining to the addition of mercury or a mercury compound intentionally added to the product.

Contractor shall maintain compliance with these requirements throughout the life of this contract. DES reserves the right to require receipt of proof of compliance with within ten

(10) calendar days from the date of request, and to terminate this Contract as a material breach for noncompliance.

3.12 Ordering Requirements

Contractor must ensure that Authorized Purchasers can place orders against this Contract either in person, electronically, facsimile or by phone. Once an order is issued, the following shall apply:

- Upon receipt of a purchase order the Contractor must send written confirmation to the Purchaser.
- If requested, the Contractor must supply Purchaser with manufacturer's list pricing or other documentation needed to verify Contract pricing compliance.
- Contractor must notify Purchaser of any surcharges or other price adjustments if applicable and as contract allows.

3.13 Delivery Requirements

a. Delivery:

Contractor must ensure that delivery of goods/services will be made as required in the Contract terms, the Purchase Order, or as otherwise mutually agreed in writing between the Purchaser and Contractor. The following apply to all deliveries:

- The Contractor must deliver the goods/services during Purchaser's normal work hours and within Contract time frames or as otherwise mutually agreed in writing between the Purchaser and Contractor at the time of order placement.
- The Contractor must verify specific working hours of individual Purchasers and instruct carrier(s) to deliver/service accordingly.
- The Purchaser may refuse goods/service when delivered after normal working hours.
- Failure to comply with agreed upon delivery/service times may subject Contractor to liquidated damages and/or other damages.
- The acceptance of late delivery of goods/services does not constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by Contractor.
- The Contractor must make all deliveries of goods/services to the applicable delivery location as indicated in the Contract or Purchase Order.
- The Contractor is responsible for verifying delivery conditions/requirements of goods/services with the Purchaser prior to the delivery.
- When applicable, the Contractor must take all necessary actions to safeguard items during inclement weather.

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- All packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written materials associated with this Contract shall be identified by the Contract identifier and the applicable Purchaser's order number. Packing lists shall be enclosed with each shipment and clearly identify all contents and any backorders.
- The Contractor must not initiate performance prior to receipt of written or verbal authorization from authorized Purchasers. Expenses incurred otherwise will be borne solely by the Contractor.

b. Receipt of good/services: (when applicable)

Inspection and rejection: The Purchaser's inspection of all materials, supplies and equipment upon delivery is for the purpose of forming a judgment as to whether such delivered items are what was ordered, were properly delivered, and are ready for Acceptance. If applicable, the state reserves the right to independently test, at Contractor's expense, any product of questionable freshness, quality, or origin delivered against this contract. Such inspection shall not be construed as final acceptance, or as acceptance of the materials, supplies or equipment, if the materials, supplies or equipment does not conform to contractual requirements.

If there are any apparent defects in the materials, supplies, or equipment at the time of delivery, the Purchaser will promptly notify the Contractor. At the Purchaser's option and without limiting any other rights, the Purchaser may require the Contractor to:

- Repair or replace, at Contractor's expense, any or all of the damaged goods.
- Refund the price of any or all of the damaged goods.
- Accept the return of any or all of the damaged goods.

Alternatively and at the Purchaser's option, any possible damage to the product may be noted on the receiving report and the cost deducted from final payment.

Acceptance: Acceptance shall be as specified in the Contract or Purchase Order. In the event that there is a formal Acceptance Testing period required in the Solicitation document then acceptance is formalized in writing. If there is no Acceptance Testing period required, Acceptance occurs when the Products are delivered and inspected.

c. Shipping and risk of loss: (when applicable)

Unless the Contract specifies otherwise, Contractor shall ship all Goods freight prepaid, FOB Purchaser's destination. The method of shipment shall be consistent with the nature of the Goods and hazards of transportation. Regardless of FOB point, Contractor agrees to bear all risks of loss, damage, or destruction of the Goods ordered hereunder that occurs prior to Delivery Date or Acceptance, whichever is applicable, except loss or damage attributable to Purchaser's fault or negligence; and such loss, damage, or destruction shall not release Contractor from any obligation hereunder. After Delivery Date or Acceptance,

whichever is applicable, the risk of loss or damage shall be borne by Purchaser, except loss or damage attributable to Contractor's fault or negligence.

d. Site security:

While on Purchaser's premises, Contractor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations.

e. Installation:

When applicable, installation shall be performed in a professional manner in accordance with industry standard best practices. The premises shall be left in a neat, clean, and undamaged condition. The state reserves the right to require Contractor to repair any damage caused during installation or provide full compensation as determined by the state.

f. Title to product: (when applicable)

Upon Delivery or Acceptance, whichever is applicable, Contractor shall convey to Purchaser good title to the Goods free and clear of all liens, pledges, mortgages, encumbrances, or other security interests.

g. Labeling: (when applicable)

Individual shipping cartons shall be labeled with the name of the Purchaser, order number, contract number, Contractor, state stock numbers. Where applicable, date of manufacture, batch number, storage requirements, conditions, and recommended shelf life shall also be included.

h. Hazardous materials: (when applicable)

Consistent with WAC [296-839](#), all manufacturers and distributors of hazardous substances, including any of the items listed in this Contract, must include a complete material safety data sheet (MSDS) for each hazardous material. Additionally, each container of hazardous materials must be appropriately labeled with:

- The identity of the hazardous material,
- Appropriate hazard warnings, and
- Name and address of the chemical manufacturer, importer, or other responsible party

The Department of Labor and Industries may levy appropriate fines for noncompliance and agencies may withhold payment-pending receipt of a legible copy of MSDS. It should be noted that OSHA Form 20 is not acceptable in lieu of this requirement unless it is modified to include appropriate information relative to "carcinogenic ingredients" and "routes of entry" of the product(s) in question.

3.14 Treatment of Assets

Title to all property furnished by DES and/or Purchaser shall remain with DES and/or Purchaser, as applicable. Any property of DES and/or Purchaser furnished to the Contractor shall, unless otherwise provided herein or approved by DES and/or Purchaser, be used only for the performance of this Contract.

The Contractor shall be responsible for damages as a result of any loss or damage to property of DES and/or Purchaser which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain, administer and protect that property in a reasonable manner and to the extent practicable in all instances.

If any DES and/or Purchaser property is lost, destroyed, or damaged, the Contractor shall immediately notify DES and/or Purchaser and shall take all reasonable steps to protect the property from further damage.

The Contractor shall surrender to DES and/or Purchaser all property of DES and/or Purchaser prior to settlement upon completion, termination, or cancellation of this contract.

Title to all property furnished by the Contractor, the cost for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Purchaser upon delivery of such property by the Contractor and Acceptance by the Purchaser. Title to other property, the cost of which is reimbursable to the Contractor under this Contract, shall pass to and vest in the Purchaser upon (i) issuance for use of such property in the performance of this Contract, or (ii) commencement of use of such property in the performance of this Contract, or (iii) reimbursement of the cost thereof by the Purchaser in whole or in part, whichever first occurs.

All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

3.15 Standard of Quality/Consistency over Term of Contract

If, in the sole judgment of DES or the Purchaser, any Product is determined not to be Equal, the Purchaser may take any or all of the following actions:

- The Product may be returned at Contractor's expense and the Purchaser reimbursed for any payments.
- The contract may be terminated without any liability to the State of Washington or Purchaser.

3.16 Payment

a. Advance payment prohibited:

No advance payment shall be made for the Products and Services furnished by Contractor under this Contract.

Competitive Procurement Standards

For purchases of materials, supplies, services, and equipment under the Authority of [Chapter 39.26 RCW](#)

Notwithstanding the above, maintenance payments, if any, may be made on a quarterly basis at the beginning of each quarter.

b. Payment:

Payment is the sole responsibility of, and will be made by, the Purchaser.

Under [Chapter 39.76 RCW](#) , if Purchaser fails to make timely payment(s), Contractor may invoice for 1% per month on the amount overdue or a minimum of \$1.00. Payment will not be considered late if a check or warrant is mailed within the time specified. If no terms are specified otherwise in the solicitation, net 30 days will automatically apply.

Payment(s) made in accordance with Contract terms shall fully compensate the Contractor for all risk, loss, damages or expense of whatever nature and acceptance of payment shall constitute a waiver of all claims submitted by Contractor.

Payment for materials, supplies and/or equipment received and for services rendered shall be made by Purchaser and be redeemable in U.S. dollars. Unless otherwise specified, the Purchaser's sole responsibility shall be to issue this payment. Any bank or transaction fees or similar costs associated with currency exchange procedures or the use of purchasing/credit cards shall be fully assumed by the Contractor.

Note: when the state has been overcharged or otherwise reimbursed, the Purchaser may elect to have either direct payments or written credit memos issued. If the Contractor fails to make timely payment(s) or issuance of credit memos, the Purchaser may impose a 1% per month on the amount overdue 30 days after notice to the Contractor.

c. Invoicing and Discounts

Contractor must provide a properly completed invoice to Purchaser. All invoices are to be delivered to the address indicated in the purchase order.

Each invoice must be identified by the associated Contract Number; the Contractor's Statewide Vendor registration number assigned by Washington State Office of Financial Management (OFM), the applicable Purchaser's order number, and must be in U.S. dollars. Invoices must be prominently annotated by the Contractor with all applicable prompt payment and/or volume discount(s) and shipping charges unless otherwise specified in the Solicitation.

Invoices for payment will accurately reflect all discounts due the Purchaser. Invoices will not be processed for payment, nor will the period of prompt payment discount commence, until receipt of a properly completed invoice denominated in U.S. dollars and until all invoiced items are received and satisfactory performance of Contractor has been accepted by the Purchaser. If an adjustment in payment is necessary due to damage or dispute, any prompt payment discount period shall commence on the date final approval for payment is authorized.

3.17 Taxes, Fees and Licenses

a. Taxes

Where required by statute or regulation, the Contractor shall pay for and maintain in current status all taxes that are necessary for Contract performance. Unless otherwise indicated, the Purchaser agrees to pay State of Washington taxes on all applicable materials, supplies, services and/or equipment purchased. No charge by the Contractor shall be made for federal excise taxes and the Purchaser agrees to furnish Contractor with an exemption certificate where appropriate.

b. Collection of Retail Sales and Use Taxes

In general, Contractors engaged in retail sales activities within the State of Washington are required to collect and remit sales tax to Department of Revenue (DOR). In general, out-of-state Contractors must collect and remit "use tax" to Department of Revenue if the activity carried on by the seller in the State of Washington is significantly associated with Contractor's ability to establish or maintain a market for its products in Washington State. Examples of such activity include where the Contractor either directly or by an agent or other representative:

- Maintains an in-state office, distribution house, sales house, warehouse, service enterprise, or any other in-state place of business;
- Maintains an in-state inventory or stock of goods for sale;
- Regularly solicits orders from Purchasers located within the State of Washington via sales representatives entering the State of Washington;
- Sends other staff into the State of Washington (e.g. product safety engineers, etc.) to interact with Purchasers in an attempt to establish or maintain market(s);
or
- Other factors identified in [WAC 458-20](#).

c. Department of Revenue Registration for Out-of-State Contractors

Out-of-state Contractors meeting any of the above criteria must register and establish an account with the Department of Revenue. Refer to [WAC 458-20-193](#), and call the Department of Revenue at 800-647-7706 for additional information. When out-of-state Contractors are not required to collect and remit "use tax," Purchasers located in the State of Washington are responsible for paying this tax, if applicable, directly to the Department of Revenue.

d. Fees/Licenses

After award of Contract, and prior to commencing performance under the Contract, the Contractor shall pay for and maintain in a current status any licenses, fees, assessments, permit charges, etc., which are necessary for Contract performance. It is the Contractor's

sole responsibility to maintain licenses and to monitor and determine any changes or the enactment of any subsequent regulations for said fees, assessments, or charges and to immediately comply with said changes or regulations during the entire term of this Contract.

e. Customs/Brokerage Fees

Contractor shall take all necessary actions, including, but not limited to, paying all customs, duties, brokerage, and/or import fees, to ensure that materials, supplies, and/or equipment purchased under the Contract are expedited through customs. Failure to do so may subject Contractor to liquidated damages as identified herein and/or to other remedies available by law or Contract. Neither DES nor the Purchaser will incur additional costs related to Contractor's payment of such fees.

f. Taxes on Invoice

Contractor shall calculate and enter the appropriate Washington State and local sales tax on all invoices. Tax is to be computed on new items after deduction of any trade-in in accordance with [WAC 458-20-247](#).

g. Ferry Vessel Exemption (if applicable)

Orders for tangible personal property which become a component part of ferry vessels of the State of Washington or local government units in the State of Washington are exempt from use tax under [RCW 82.12.0279](#).

h. Minority and Women's Business Enterprise (MWBE) Participation

With each invoice for payment and within thirty (30) days of Purchaser's request, Contractor shall provide Purchaser an Affidavit of Amounts Paid. The Affidavit of Amounts Paid shall either state that Contractor still maintains its MWBE certification, or state that its Subcontractor(s) still maintain(s) its/their MWBE certification(s) and specify the amounts paid to each certified MWBE Subcontractor under this Contract. Contractor shall maintain records supporting the Affidavit of Amounts Paid in accordance with this Contract's **Retention of Records** section.

i. Overpayments to Contractor

Contractor shall refund to Purchaser the full amount of any erroneous payment or overpayment under this Contract within thirty (30) days' written notice. If Contractor fails to make timely refund, Purchaser may charge Contractor one percent (1%) per month on the amount due, until paid in full.

j. Contractor expenses (if applicable)

Purchaser shall reimburse Contractor for travel and other expenses as identified in this Contract, or as authorized in writing, in advance by Purchaser in accordance with the then-current rules and regulations set forth in the *Washington State Administrative and Accounting Manual* (<http://www.ofm.wa.gov/policy/10.50.htm>). Contractor shall provide

a detailed itemization of expenses, including description, amounts and dates, and receipts for amounts of fifty dollars (\$50) or more when requesting reimbursement.

The amount reimbursed to Contractor is included in calculating the total amount spent under this Contract.

k. Audits

The state reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing may be considered complete cause for contract termination.

3.18 Quality Assurance

a. Right of Inspection

Contractor shall provide right of access to its facilities to DES, or any of DES's officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

b. Contractor Commitments, Warranties and Representations

Any written commitment by Contractor within the scope of this Contract shall be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and shall render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor in its Bid or contained in any Contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its Bid or used to effect the sale to Purchaser.

c. Warranties

Contractor warrants that all materials, supplies, services and/or equipment provided under this Contract shall be fit for the purpose(s) for which intended, for merchantability, and shall conform to the requirements and specifications herein. Acceptance of any materials, supplies, service and/or equipment, and inspection incidental thereto, by the Purchaser shall not alter or affect the obligations of the Contractor or the rights of the Purchaser.

d. Date Warranty

Contractor warrants that all Products provided under this Contract: (i) do not have a life expectancy limited by date or time format; (ii) will correctly record, store, process, and present calendar dates; (iii) will lose no functionality, data integrity, or performance with respect to any date; and (iv) will be interoperable with other software used by Purchaser

that may deliver data records from the Products, or interact with data records of the Products ("Date Warranty"). In the event a Date Warranty problem is reported to Contractor by Purchaser and such problem remains unresolved after three (3) calendar days, at Purchaser's discretion, Contractor shall send, at Contractor's sole expense, at least one (1) qualified and knowledgeable representative to Purchaser's premises. This representative will continue to address and work to remedy the failure, malfunction, defect, or nonconformity on Purchaser's premises. This Date Warranty shall last perpetually. In the event of a breach of any of these representations and warranties, Contractor shall indemnify and hold harmless Purchaser from and against any and all harm, injury, damages, costs, and expenses incurred by Purchaser arising out of said breach.

e. Cost of Remedy

Cost of Remedying Defects: All defects, indirect and consequential costs of correcting, removing or replacing any or all of the defective materials or equipment will be charged against the Contractor.

3.19 Information & Communications

a. Advertising

Contractor shall not publish or use any information concerning this Contract in any format or media for advertising or publicity without prior written consent from DES.

b. Retention of Records

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and the provision of materials, supplies, services and/or equipment described herein, including, but not limited to, accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. Contractor shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review, or audit by DES, personnel duly authorized by DES, the Washington State Auditor's Office, and federal and state officials so authorized by law, regulation or agreement.

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

c. Proprietary or Confidential Information

To the extent consistent with [Chapter 42.56 RCW](#), the Public Disclosure Act, DES shall maintain the confidentiality of Contractor's information marked confidential or proprietary. If a request is made to view Contractor's proprietary information, DES will

notify Contractor of the request and of the date that the records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, DES will release the requested information on the date specified.

The State's sole responsibility shall be limited to maintaining the above data in a secure area and to notify Contractor of any request(s) for disclosure for so long as DES retains Contractor's information in DES records. Failure to so label such materials or failure to timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Contractor of any claim that such materials are exempt from disclosure.

d. Non-endorsement and publicity

Neither DES nor the Purchasers are endorsing the Contractor's Products or Services, nor suggesting that they are the best or only solution to their needs. Contractor agrees to make no reference to DES, any Purchaser or the state of Washington in any literature, promotional material, brochures, sales presentation or the like, regardless of method of distribution, without the prior review and express written consent of DES.

e. Ownership/rights in data

Purchaser and Contractor agree that all data and work products (collectively called "Work Product") produced pursuant to this Contract shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 *et seq*, and shall be owned by Purchaser. Contractor is hereby commissioned to create the Work Product. Work Product includes, but is not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product.

If for any reason the Work Product would not be considered a work made for hire under applicable law, Contractor assigns and transfers to Purchaser the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

Contractor shall execute all documents and perform such other proper acts as Purchaser may deem necessary to secure for Purchaser the rights pursuant to this section.

Contractor shall not use or in any manner disseminate any Work Product to any third party, or represent in any way Contractor ownership in any Work Product, without the prior written permission of Purchaser. Contractor shall take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors shall not copy or disclose,

transmit or perform any Work Product or any portion thereof, in any form, to any third party.

Material that is delivered under this Contract, but that does not originate there from ("Preexisting Material"), shall be transferred to Purchaser with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, display, and dispose of such Preexisting Material, and to authorize others to do so except that such license shall be limited to the extent to which Contractor has a right to grant such a license. Contractor shall exert all reasonable effort to advise Purchaser at the time of delivery of Preexisting Material furnished under this Contract, of all known or potential infringements of publicity, privacy or of intellectual property contained therein and of any portion of such document which was not produced in the performance of this Contract. Contractor agrees to obtain, at its own expense, express written consent of the copyright holder for the inclusion of Preexisting Material. Purchaser shall receive prompt written notice of each notice or claim of copyright infringement or infringement of other intellectual property right worldwide received by Contractor with respect to any Preexisting Material delivered under this Contract. Purchaser shall have the right to modify or remove any restrictive markings placed upon the Preexisting Material by Contractor.

f. Protection of Confidential and Personal Information

Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either [Chapter 42.56 RCW](#) or other state or federal statutes ("Confidential Information"). Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, agency security data, etc or information identifiable to an individual that relates to any of these types of information. Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchaser's express written consent or as provided by law. Contractor agrees to release such information or material only to employees or Subcontractors who have signed a nondisclosure agreement, the terms of which have been previously approved by Purchaser. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

"Personal information" including, but not limited to, "Protected Health Information" (PHI) under Health Insurance Portability And Accountability Act (HIPAA), individuals' names,

addresses, phone numbers, birth dates, and social security numbers collected, used, or acquired in connection with this Contract shall be protected against unauthorized use, disclosure, modification or loss.

HIPAA establishes national minimum standards for the use and disclosure of certain health information. The Contractor must comply with all HIPAA requirements and rules when determined applicable by the Purchaser. If Purchaser determines that (1) Purchaser is a "covered entity" under HIPAA, and that (2) Contractor will perform "business associate" services and activities covered under HIPAA, then at Purchaser's request, Contractor agrees to execute Purchaser's business associate Contract in compliance with HIPAA.

Contractor shall ensure its directors, officers, employees, Subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. Contractor and its Subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the Agency or as otherwise required by law.

Any breach of this provision may result in termination of the Contract and demand for return of all personal information. The Contractor agrees to indemnify and hold harmless the State of Washington and the Purchaser for any damages related to both: (1) the Contractor's unauthorized use of personal information and (2) the unauthorized use of personal information by unauthorized persons as a result of Contractor's failure to sufficiently protect against unauthorized use, disclosure, modification, or loss.

Contractor shall maintain a log documenting the following: the Confidential Information received in the performance of this Contract; the purpose(s) for which the Confidential Information was received; who received, maintained and used the Confidential Information; and the final disposition of the Confidential Information. Contractor's records shall be subject to inspection, review or audit in accordance with Retention of Records.

Purchaser reserves the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Contractor through this Contract. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by Contractor or its Subcontractors may result in termination of this Contract and demand for return of all Confidential Information, monetary damages, or penalties.

Immediately upon expiration or termination of this Contract, Contractor shall, at Purchaser's option: (i) certify to Purchaser that Contractor has destroyed all Confidential Information; or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser requires of Contractor to protect Purchaser's Confidential Information.

3.20 General Provisions

a. Governing Law/Venue

This Contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

b. Severability

Severability: If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract that can be given effect without the invalid provision, and to this end the provisions of this Contract are declared to be severable.

c. Survivorship

All transactions executed for Products and Services provided pursuant to the authority of this Contract shall be bound by all of the terms, conditions, Prices and Price discounts set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive. In addition, the terms of the sections titled Overpayments to Contractor; Ownership/Rights in Data; Contractor's Commitments, Warranties and Representations; Protection of Purchaser's Confidential Information; Section Headings, Incorporated Documents and Order of Precedence; Publicity; Retention of Records; Patent and Copyright Indemnification; Contractor's Proprietary Information; Disputes; and Limitation of Liability shall survive the termination of this Contract.

d. Independent Status of Contractor

In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. The parties intend that an independent contractor relationship will be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor shall not make any claim of right, privilege or benefit which would accrue to an employee under [Chapter 41.06 RCW](#), or [Title 51 RCW](#).

e. Gifts and Gratuities

Contractor shall comply with all state laws regarding gifts and gratuities, including but not limited to: [RCW 42.52.040](#), [RCW 42.52.110](#), [RCW 42.52.150](#), [RCW 42.52.140](#), and [RCW 42.52.120](#) under which it is unlawful for any person to directly or indirectly offer, give or accept gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with state business or contract activities.

Under [RCW 39.26.020](#) and the Ethics in Public Service Law, [Chapter 42.52 RCW](#) state officers and employees are prohibited from receiving, accepting, taking or seeking gifts (except as permitted by [RCW 42.52.150](#)) if the officer or employee participates in contractual matters relating to the purchase of goods or services.

f. Immunity and Hold Harmless

To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless State, agencies of State and all officials, agents and employees of State, from and against all claims for injuries, death or damage to property arising out of or resulting from the performance of the contract. Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractors' agents, employees, representatives, or any subcontractor or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Contractor's or any subcontractor's performance or failure to perform the contract. Contractor shall be required to indemnify, defend, and hold harmless the State only to the extent claim is caused in whole or in part by negligent acts or omissions of Contractor.

Contractor waives its immunity under Title 51 to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

g. Personal Liability

It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of the State of Washington when executing their official duties in good faith, be in any way personally liable or responsible for any agreement herein contained whether expressed or implied, nor for any statement or representation made herein or in any connection with this agreement.

3.21 Insurance

The following are general insurance provisions for the State of Washington. Additional requirements specific to a good/service may be detailed elsewhere in a Solicitation or its Appendices.

a. General Requirements

Contractor shall, at their own expense, obtain and keep in force insurance as follows until completion of the Contract. Upon request, Contractor shall furnish evidence in the form of a certificate of insurance satisfactory to the State of Washington that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, will result in Contract cancellation.

Contractor shall include all Subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each Subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated

herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

All insurance provided in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state.

b. Specific Requirements

Employers Liability (Stop Gap): The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable and will maintain Employers Liability insurance with a limit of no less than \$1,000,000.00. The State of Washington will not be held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this Contract.

Commercial General Liability Insurance: The Contractor shall at all times during the term of this Contract, carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of services provided under this Contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or servants.

The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the Contractor's premises/operations, independent Contractors, products/completed operations, personal injury and advertising injury, and contractual liability (including the tort liability of another assumed in a business Contract), and contain separation of insured's (cross liability) conditions.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by general liability or umbrella insurance.

The limits of liability insurance shall not be less than as follows:

General Aggregate Limits (other than products-completed operations)	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury Aggregate	\$1,000,000
Each Occurrence (applies to all of the above)	\$1,000,000
Fire Damage Limit (per occurrence)	\$50,000
Medical Expense Limit (any one person)	\$5,000

c. Business Auto Policy (BAP)

Competitive Procurement Standards

For purchases of materials, supplies, services, and equipment under the Authority of [Chapter 39.26 RCW](#)

In the event that services delivered pursuant to this Contract involve the use of vehicles, or the transportation of clients, automobile liability insurance shall be required. The coverage provided shall protect against claims for bodily injury, including illness, disease, and death; and property damage caused by an occurrence arising out of or in consequence of the performance of this service by the Contractor, Subcontractor, or anyone employed by either.

Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a combined single limit not less than \$1,000,000 per occurrence. The business auto liability shall include Hired and Non-Owned coverage.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

d. Additional Insurance Provisions

All above insurance policies shall include, but not be limited to, the following provisions:

Additional Insured:

The State of Washington and all authorized Purchasers shall be named as an additional insured on all general liability, umbrella, excess, and property insurance policies. All policies shall be primary over any other valid and collectable insurance.

Notice of Policy(ies) Cancellation/Non-renewal:

For insurers subject to [Chapter 48.18 RCW](#) (Admitted and regulated by the Washington State Insurance Commissioner) a written notice shall be given to the director of purchasing or designee forty-five (45) calendar days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall include the affected Contract reference number.

e. Surplus Lines

For insurers subject to [Chapter 48.15 RCW](#) (Surplus Lines) a written notice shall be given to the director of purchasing or designee twenty (20) calendar days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall include the affected Contract reference number.

Cancellation for Non-payment to Premium:

If cancellation on any policy is due to non-payment of premium, a written notice shall be given the director of purchasing or designee ten (10) calendar days prior to cancellation. Written notice shall include the affected Contract reference number.

Identification:

Policy(ies) and Certificates of Insurance shall include the affected Contract reference number.

f. Insurance Carrier Rating

The insurance required above shall be issued by an insurance company authorized to do business within the State of Washington. Insurance is to be placed with a carrier that has a rating of A- Class VII or better in the most recently published edition of Best's Reports. Any exception must be reviewed and approved by the Risk Manager for the State of Washington, by submitting a copy of the Contract and evidence of insurance before Contract commencement. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with [Chapter 48.15 RCW](#) and [Chapter 284-15 WAC](#).

g. Excess Coverage

The limits of all insurance required to be provided by the Contractor shall be no less than the minimum amounts specified. However, coverage in the amounts of these minimum limits shall not be construed to relieve the Contractor from liability in excess of such limits.

h. Limit Adjustments

The state reserves the right to increase or decrease limits as appropriate.

3.22 Industrial Insurance Coverage

The Contractor shall comply with the provisions of [Title 51 RCW](#) Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, DES may terminate this Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from the Contractor.

3.23 Nondiscrimination

During the performance of this Contract, the Contractor shall comply with all applicable federal and state nondiscrimination laws, regulations and policies, including, but not limited to, Title VII of the Civil Rights Act, 42 U.S.C. section 12101 et. seq.; the Americans with Disabilities Act (ADA); and, [Chapter 49.60 RCW](#), Discrimination – Human Rights Commission.

3.24 OSHA and WISHA Requirements

Contractor agrees to comply with conditions of the Federal Occupational Safety and Health Administration (OSHA) and, if manufactured or stored in the State of Washington, the Washington Industrial Safety and Health Act (WISHA) and the standards and regulations issued there under, and certifies that all items furnished and purchased will conform to and comply with said laws, standards and regulations. Contractor further agrees to indemnify and hold harmless DES and Purchaser from all damages assessed against Purchaser as a result of Contractor's failure to comply with those laws, standards and regulations, and for the failure of the items furnished under the Contract to so comply.

3.25 Antitrust

The state maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the Purchaser. Therefore, the Contractor hereby assigns to the State of Washington any and all of the Contractor's claims for such price fixing or overcharges which arise under federal or state antitrust laws, relating to the materials, supplies, services and/or equipment purchased under this Contract.

3.26 Waiver

Failure or delay of DES or Purchaser to insist upon the strict performance of any term or condition of the Contract or to exercise any right or remedy provided in the Contract or by law; or DES's or Purchaser's acceptance of or payment for materials, supplies, services and/or equipment, shall not release the Contractor from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of DES or Purchaser to insist upon the strict performance of the entire agreement by the Contractor. In the event of any claim for breach of Contract against the Contractor, no provision of this Contract shall be construed, expressly or by implication, as a waiver by DES or Purchaser of any existing or future right and/or remedy available by law.

3.27 Disputes and Remedies

a. Problem Resolution and Disputes

Problems arising out of the performance of this Contract shall be resolved in a timely manner at the lowest possible level with authority to resolve such problem. If a problem persists and cannot be resolved, it may be escalated within each organization.

In the event a bona fide dispute concerning a question of fact arises between DES or the Purchaser and Contractor and it cannot be resolved between the parties through the normal problem escalation processes, either party may initiate the dispute resolution procedure provided herein.. The dispute shall be handled by a Dispute Resolution Panel in the following manner. Each party to this Contract shall appoint one member to the Panel. These two appointed members shall jointly appoint an additional member. The Dispute Resolution Panel shall review the facts, Contract terms and applicable statutes and rules and make a determination of the dispute as quickly as reasonably possible. The determination of the Dispute Resolution Panel shall be final and binding on the parties hereto. DES and/or Purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

In the event a bona fide dispute concerning a question of fact arises between DES or the Purchaser and Contractor and it cannot be resolved between the parties through the normal escalation processes, either party may initiate the dispute resolution procedure provided herein.

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The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) Business Days. The initiating party shall have three (3) Business Days to review the Bid. If after this review a resolution cannot be reached, both parties shall have three (3) Business Days to negotiate in good faith to resolve the dispute.

If the dispute cannot be resolved after three (3) Business Days, a Dispute Resolution Panel may be requested in writing by either party who shall also identify the first panel member. Within three (3) Business Days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next three (3) Business Days.

The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

Both parties agree to be bound by the determination of the Dispute Resolution Panel.

Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible.

DES, the Purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

If the subject of the dispute is the amount due and payable by Purchaser for materials, supplies, services and/or equipment being provided by Contractor, Contractor shall continue providing materials, supplies, services and/or equipment pending resolution of the dispute provided Purchaser pays Contractor the amount Purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Contractor, in good faith, believes is due and payable.

b. Administrative Suspension

When it in the best interest of the state, DES may at any time, and without cause, suspend the Contract or any portion thereof for a period of not more than thirty (30) calendar days per event by written notice from DES to the Contractor's Representative. Contractor shall resume performance on the next business day following the 30th day of suspension unless an earlier resumption date is specified in the notice of suspension. If no resumption date was specified in the notice of suspension, the Contractor can be demanded and required to resume performance within the 30 day suspension period by DES providing the Contractor's Representative with written notice of such demand.

c. Force Majeure

The term "force majeure" means an occurrence that causes a delay that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure shall include acts of God, war, riots, strikes, fire, floods, epidemics, or other similar occurrences.

Exceptions: Except for payment of sums due, neither party shall be liable to the other or deemed in breach under this Contract if, and to the extent that, such party's performance of this Contract is prevented by reason of force majeure.

Notification: If either party is delayed by force majeure, said party shall provide written notification within forty-eight (48) hours. The notification shall provide evidence of the force majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall likewise be provided. So far as consistent with the Rights Reserved below, the time of completion shall be extended by Contract amendment for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Contract.

Rights Reserved: DES reserves the right to authorize an amendment to this Contract, terminate the Contract, and/or purchase materials, supplies, equipment and/or services from the best available source during the time of force majeure, and Contractor shall have no recourse against the State.

d. Alternative Dispute Resolution Fees and Costs

In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

e. Non-Exclusive Remedies

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

3.28 Liquidated Damages

a. Liquidated Damages - General

DES and or the Purchasers and the Contractor agree that the liquidated damages provisions in the Contract are a reasonable forecast of the actual damages that would be suffered by the Purchaser in the event of contractor's nonperformance, that such liquidated damages are not a penalty but represent the reasonable compensation due purchaser in the event of a breach, and that such liquidated damages will be assessed as set forth herein.

Any delay by Contractor in meeting the Delivery Date, Installation Date, maintenance or repair date, or other applicable date set forth in this Contract will interfere with the

proper implementation of Purchaser's programs and will result in loss and damage to Purchaser.

As it would be impracticable to fix the actual damage sustained in the event of any such failure(s) to perform, Purchaser and Contractor agree that in the event of any such failure(s) to perform, the amount of damage which will be sustained will be the amount set forth in the following subsections and the parties agree that Contractor shall pay such amounts as liquidated damages and not as a penalty.

Liquidated damages provided under the terms of this Contract are subject to the same limitations as provided in the section titled Limitation of Liability.

b. Limitation of Liability

The parties agree that neither Contractor, DES nor Purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections regarding liquidated damages or any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled Termination for Default and Retention of Records are not consequential, incidental, indirect, or special damages as that term is used in this section.

Neither the Contractor, DES nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of the Contractor, DES or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than DES or the Purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of the Contractor, DES or the Purchaser, or their respective Subcontractors.

If delays are caused by a Subcontractor without its fault or negligence, Contractor shall not be liable for damages for such delays, unless the Services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Contractor to meet its required performance schedule.

Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

c. Federal Funding (if applicable)

In the event that a federally funded acquisition results from this procurement, the contractor may be required to provide additional information (free of charge) at the

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request of DES or purchaser: Further, the contractor may be subject to those federal requirements specific to the commodity.

d. Federal Restrictions on Lobbying (if applicable)

Contractor certifies that under the requirements of Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq., no Federal appropriated funds have been paid or will be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

e. Federal Debarment and Suspension (if applicable)

The contractor certifies, that neither it nor its "principals" (as defined in 49 CFR. 29.105 (p)) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

3.29 Contract Termination

a. Material Breach

A Contractor may be Terminated for Cause by DES, at the sole discretion of DES, for failing to perform a contractual requirement or for a material breach of any term or condition.

Material breach of a term or condition of the Contract may include but is not limited to:

- Contractor failure to perform services or deliver materials, supplies, or equipment by the date required or by an alternate date as mutually agreed in a written amendment to the Contract;
- Contractor failure to carry out any warranty or fails to perform or comply with any mandatory provision of the contract;
- Contractor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder;
- Contractor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors that endangers the Contractor's proper performance hereunder;
- Appointment of any receiver, trustee, or similar official for Contractor or any of the Contractor's property and such appointment endangers the Contractor's proper performance hereunder;

- A determination that the Contractor is in violation of federal, state, or local laws or regulations and that such determination renders the Contractor unable to perform any aspect of the Contract.

b. Opportunity to Cure

In the event that Contractor fails to perform a contractual requirement or materially breaches any term or condition, DES may issue a written cure notice. The Contractor may have a period of time in which to cure. DES is not required to allow the Contractor to cure defects if the opportunity for cure is not feasible as determined solely within the discretion of DES. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages, or otherwise affects any other remedies available against Contractor under the Contract or by law.

If the breach remains after Contractor has been provided the opportunity to cure, DES may do any one or more of the following:

- Exercise any remedy provided by law;
- Terminate this Contract and any related Contracts or portions thereof;
- Procure replacements and impose damages as set forth elsewhere in this Contract;
- Impose actual or liquidated damages;
- Suspend or bar Contractor from receiving future Solicitations or other opportunities;
- Require Contractor to reimburse the state for any loss or additional expense incurred as a result of default or failure to satisfactorily perform the terms of the Contract.

c. Termination for Cause

In the event DES, in its sole discretion, determines that the Contractor has failed to comply with the conditions of this Contract in a timely manner or is in material breach, DES has the right to suspend or terminate this Contract, in part or in whole. DES shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days or as otherwise specified by DES, or if such corrective action is deemed by DES to be insufficient, the Contract may be terminated. DES reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged breach and pending corrective action by the Contractor or a decision by DES to terminate the Contract.

In the event of termination, DES shall have the right to procure for all Purchasers any replacement materials, supplies, services and/or equipment that are the subject of this Contract on the open market. In addition, the Contractor shall be liable for damages as

authorized by law including, but not limited to, any price difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive Bidding, mailing, advertising and staff time.

If it is determined that: (1) the Contractor was not in material breach; or (2) failure to perform was outside of Contractor's or its Subcontractor's control, fault or negligence, the termination shall be deemed to be a "Termination for Convenience". The rights and remedies of DES and/or the Purchaser provided in this Contract are not exclusive and are in addition to any other rights and remedies provided by law.

d. Termination for Convenience

Except as otherwise provided in this Contract, DES, at the sole discretion of DES, may terminate this Contract, in whole or in part by giving thirty (30) calendar days or other appropriate time period written notice beginning on the second day after mailing to the Contractor. If this Contract is so terminated, Purchasers shall be liable only for payment required under this Contract for properly authorized services rendered, or materials, supplies and/or equipment delivered to and Accepted by the Purchaser prior to the effective date of Contract termination. Neither DES nor the Purchaser shall have any other obligation whatsoever to the Contractor for such termination. This Termination for Convenience clause may be invoked by DES when it is in the best interest of the State of Washington.

e. Termination for Withdrawal of Authority

In the event that DES and/or Purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, DES may terminate this Contract, in whole or in part, by seven (7) calendar days or other appropriate time period written notice to Contractor.

f. Termination for Non-Allocation of Funds

If funds are not allocated to Purchaser(s) to continue this Contract in any future period, DES may terminate this Contract by seven (7) calendar days or other appropriate time period written notice to Contractor or work with Contractor to arrive at a mutually acceptable resolution of the situation. Purchaser will not be obligated to pay any further charges for materials, supplies, services and/or equipment including the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then-current period. DES and/or Purchaser agrees to notify contractor in writing of such non-allocation at the earliest possible time.

No penalty shall accrue to the Purchaser in the event this section shall be exercised. This section shall not be construed to permit DES to terminate this Contract in order to acquire similar materials, supplies, services and/or equipment from a third party.

g. Termination for Conflict of Interest

DES may terminate this Contract by written notice to Contractor if it is determined, after due notice and examination, that any party to this Contract has violated [Chapter 42.52 RCW](#), Ethics in Public Service, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Contract is so terminated, DES and /or Purchaser shall be entitled to pursue the same remedies against Contractor as it could pursue in the event that the Contractor breaches this Contract.

h. Termination by Mutual Agreement

DES and the Contractor may terminate this Contract in whole or in part, at any time, by mutual agreement.

i. Termination Procedure

In addition to the procedures set forth below, if DES terminates this Contract, Contractor shall follow any procedures DES specifies in the termination notice.

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

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

The rights and remedies of DES and/or the Purchaser provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a termination notice, and except as otherwise expressly directed in writing by DES, the Contractor shall:

- Stop all work, order fulfillment, shipments, and deliveries under the Contract on the date, and to the extent specified, in the notice;

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- Place no further orders or subcontracts for materials, services, supplies, equipment and/or facilities in relation to the Contract except as is necessary to complete or fulfill such portion of the Contract that is not terminated;
- Complete or fulfill such portion of the Contract that is not terminated in compliance with all contractual requirements;
- Assign to the Purchaser, in the manner, at the times, and to the extent directed by DES on behalf of the Purchaser, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Purchaser has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of DES and/or the Purchaser to the extent DES and/or the Purchaser may require, which approval or ratification shall be final for all the purposes of this clause;
- Transfer title to the Purchaser and deliver in the manner, at the times, and to the extent directed by DES on behalf of the Purchaser any property which, if the contract had been completed, would have been required to be furnished to the Purchaser;
- Take such action as may be necessary, or as DES and/or the Purchaser may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which DES and/or the Purchaser has or may acquire an interest.

Appendix G – Complaint, Debrief, and Protest Procedures

RFQ #02413 – Analytical Laboratory Services

The following guidelines reflect revisions in state law from recent procurement-reform legislation in Washington. New policies for procurement protests and appeals were adopted by the Department of Enterprise Services (DES) in January 2013, by authority of Revised Code of Washington (RCW) 39.26.170.

COMPLAINT – PRE-SUBMISSION

1.1 Criteria for a complaint

A formal complaint may be based only on one or more of the following grounds:

- A. The solicitation unnecessarily restricts competition;
- B. The solicitation evaluation or scoring process is unfair or flawed; or
- C. The solicitation requirements are inadequate or insufficient to prepare a response.

1.2 Initiating a complaint

A complaint must:

- A. Be submitted to and received by the procurement coordinator within five business days prior to the deadline for bid submission; and
- B. Be in writing (see *Form and Substance, and Other* below).

A complaint should:

- A. Clearly articulate the basis of the complaint; and
- B. Include a proposed remedy.

1.3 Response

When a complaint is received, the procurement coordinator or his or her designee will consider all the facts available and respond in writing prior to the deadline for bid submissions, unless more time is needed.

DES is required to promptly post the response to a complaint on WEBS.

1.4 Response is final

The procurement coordinator's response to the complaint is final and not subject to administrative appeal, although the procurement coordinator may issue further clarification if needed. Issues raised in a complaint may not be raised again during the protest period.

2 DEBRIEF CONFERENCE (PRE-CONDITION OF PROTEST)

Following announcement of the Apparent Successful Bidder:

2.1 Purpose of a debrief conference

Any bidder who has submitted a timely bid response may request a debrief conference (see *Form and Substance, and Other* below). A debrief conference provides an opportunity for the bidder to meet with DES to discuss its bid and evaluation.

2.2 Requesting a debrief conference

The request for a debrief conference must be made in writing via email to the procurement coordinator and received within three business days after the announcement of the Apparent Successful Bidder.

Debrief conferences may be conducted either in person at the DES facility in Olympia, Wash., or by telephone, as determined by DES, and may be limited by DES to a specified period of time.

The failure of a bidder to request a debrief conference within the specified time and attend a debrief conference constitutes a waiver of the right to submit a protest.

3 PROTEST

Following a debrief conference:

3.1 Criteria for a protest

A protest may be based only on one or more of the following:

- A. Bias, discrimination or conflict of interest on the part of an evaluator;
- B. Error in computing evaluation scores; or
- C. Non-compliance with any procedures described in the solicitation document.

3.2 Initiating a protest

Any bidder may protest an award to the Apparent Successful Bidder. A protest must:

- A. Be submitted to and received by the DES assigned investigator (if known), otherwise the procurement coordinator, within five business days after the protesting bidder's debriefing conference (see *Form and Substance, and Other* below);
- B. Be in writing;
- C. Include a specific and complete statement of facts forming the basis of the protest; and
- D. Include a description of the relief or corrective action requested.

3.3 Protest response

After reviewing the protest and available facts, the DES-assigned investigator will issue a written response within 10 business days from receipt of the protest, unless additional time is needed, and in such event DES should notify the protesting bidder the length of the additional time needed.

3.4 Decision is final

The protest decision is final and not subject to administrative appeal, although the DES-assigned investigator may issue further clarification if needed.

If the protesting bidder does not accept the agency protest response, the bidder may seek relief from the Superior Court. Any such action must be brought in the Superior Court of Thurston County, Wash.

4 COMMUNICATION DURING COMPLAINTS, DEBRIEFS AND PROTESTS

All communications about a solicitation that is subject to a complaint or debrief must be addressed to the procurement coordinator. All communications about a solicitation that is being protested must be coordinated through the DES assigned investigator, if known; otherwise, to the procurement coordinator.

5 FORM AND SUBSTANCE, AND OTHER

All complaints, requests for a debrief, and protest must:

- A. Be in writing;
- B. Be signed by the complaining or protesting bidder or an authorized agent, unless sent by email;
- C. Be delivered within the time frame(s) outlined herein;
- D. Be sent to the appropriate individual within DES (see contact information below);
- E. Identify the solicitation by DES number;
- F. Conspicuously state "Complaint," "Debrief" or "Protest" in any subject line of any correspondence or email;
- G. Be sent to the address identified in the table below;

In addition, all complaints and protests must:

- H. State all facts and arguments on which the complaining or protesting bidder is relying as the basis for its action; and
- I. Include any relevant documentation or other supporting evidence.

How to contact DES:

COMPLAINT:

E-Mail To: The procurement coordinator listed on the cover page of the Solicitation document.

Subject line must include "Complaint."

Other

(Name of procurement coordinator)
Contracts and Legal Services Division
Department of Enterprise Services,
1500 Jefferson Street
P. O. Box 41411
Olympia, WA 98504-1411

DEBRIEF:

E-mail To: The procurement coordinator listed on the cover page of the Solicitation document.

Subject line must include "Debrief."

PROTEST:

Email

To: The DES-assigned investigator (if known). If not known, send to the procurement coordinator listed on the cover page of the Solicitation document.

Subject line must include "Protest."

Other

(Name of DES-assigned investigator, if known, otherwise the procurement coordinator)
Department of Enterprise Services
1500 Jefferson Street
P. O. Box 41411
Olympia, WA 98504-1411