SOLE SOURCE NOTICE

DOH CONTRACT N22308
Genetic Support Foundation

The Washington State Department of Health (DOH), Screening and Genetics Unit contemplates awarding a sole source contract to the Genetic Support Foundation for approximately September 15, 2016 through June 30, 2017 to re-produce seven white board animated prenatal diagnosis videos into Spanish. The estimated value of the contract is $15,000.

Required knowledge and experience:
To fulfill the work requirements of this contract, entities must have a working knowledge of white board animation, and be able to re-produce each of the seven videos in Spanish at a total cost not to exceed $15,000.

Offerors contemplating the above work requirements are required to submit capability statements detailing their ability to meet these requirements **by 5:00 pm, Wednesday, September 7, 2016** Pacific Daylight Savings Time, with the following information:

- Entity/Individual name(s) and title(s) of staff who will work on this contract
- Education and training (level and nature) as it relates to the work in this contract
- Capability statements and detail in support of how the entity can meet the work requirements and how it can be achieved within the available budget.

In the absence of other qualified sources, it is the state's intent to make a sole source award of this contract to the above-mentioned contractor. DOH reserves the right to amend the contract in whatever increments it deems necessary in order to complete this work.

Send Responses to:
Brad Halstead
Email: Brad.Halstead@doh.wa.gov
Department of Health, Contracts Office
Re: N22308

CONTRACT NUMBER:	SUBRECIPIENT
N22308	☐YES ☒NO
	FFATA FORM REQUIRED
	☐YES ☒NO

THIS AGREEMENT is made by and between the state of Washington Department of Health, hereinafter referred to as DOH, and the party whose name appears below, hereinafter referred to as Contractor.

CONTRACTOR NAME and ADDRESS:
GENETIC SUPPORT FOUNDATION
PMB 120 1910 EAST 4TH AVE.
OLYMPIA, WA 98506-4632

UBI #: 603-490-558

PURPOSE: To re-produce seven whiteboard animated videos that describe current prenatal screening and diagnosis options including the potential benefits and limitations of each. These videos will educate pregnant women, their partner's, and health care providers about available prenatal screening and diagnostic technologies to identify birth defects and genetic disorders along with the potential advantages and disadvantages of each. They will also decrease unwanted or unnecessary testing, and decrease pregnancy terminations of potentially wanted and healthy babies.

IT IS MUTUALLY AGREED THAT:

STATEMENT OF WORK: The Contractor shall provide all the necessary personnel, equipment, materials, goods and services and otherwise do all things necessary for or incidental to the performance of the work as described in Exhibit A, attached hereto and incorporated herein.

PERIOD OF PERFORMANCE: Subject to its other provisions, the period of performance under this contract shall be from **Date of Execution** through **June 30, 2017** unless sooner terminated as provided herein. Any work done outside of the period of performance shall be provided at no cost to DOH.

DEPARTMENT OF ENTERPRISE SERVICES APPROVAL: This contract may be required to be filed with the Department of Enterprise Services (DES) for approval under the provisions of Chapter 39.26 RCW. No contract or amendment required to be so filed is effective and no work thereunder shall be commenced nor payment made therefore until ten (10) working days following the date of filing, and, if required, until approved by DES. In the event DES fails to approve the contract or amendment, the contract shall be null and void.

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA): If checked above, this contract is supported by federal funds that require compliance with the Federal Funding Accountability and Transparency Act (FFATA or the Transparency Act). The purpose of the Transparency Act is to make information available online so the public can see how federal funds are spent.

To comply with the act and be eligible to enter into this contract, your organization must have a Data Universal Numbering System (DUNS®) number. A DUNS® number provides a method to verify data about your organization. If you do not already have one, you may receive a DUNS® number free of charge by contacting Dun and Bradstreet at www.dnb.com.

Information about your organization and this contract will be made available on www.USASpending.gov by DOH as required by P.L. 109-282. DOH's form, Federal Funding Accountability and Transparency Act Data Collection Form, is considered part of this contract and must be completed and returned along with the contract.

CONSIDERATION: The maximum consideration available under this contract shall not exceed **$15,000** without a properly executed written amendment signed by representatives of both parties authorized to do so. Consideration includes but is not limited to all taxes, fees, surcharges, etc.

Source of Funds:

Federal	$0	**State**	**$15,000**	Other	$0	**TOTAL**	**$15,000**

Contractor agrees to comply with all applicable rules and regulations associated with these funds.

Unless otherwise indicated in this contract, any state funds which are unexpended as of June 30th will not be available for carry over into the next state fiscal year (July – June).

INVOICES AND PAYMENT: Contractor will submit invoices to the DOH Project Manager for all amounts to be paid. Invoices must reference this contract number and provide detailed information as requested. All invoices must be approved by DOH prior to payment; approval will not be unreasonably withheld. DOH will authorize payment only upon satisfactory completion and acceptance of deliverables and for allowable costs as outlined in the statement of work and/or budget. DOH will return all incorrect or incomplete invoices and will not pay for services that occur outside the period of performance. The Contractor will not invoice for services if they are entitled to payment, have been, or will be paid by any other source for that service.

DOH will issue payment within 30 days of receiving a correct and complete invoice and approving the deliverable(s). DOH must receive correct and complete invoices within 60 days of the contract expiration date. Late invoices will be paid at the discretion of DOH and are contingent upon the availability of funds. Failure to submit a properly completed IRS form W-9 may result in delayed payments.

GOVERNANCE: In the event of an inconsistency in this contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

A. Federal statutes and regulations
B. State statutes and regulations
C. Contract amendments
D. The contract (in this order)
    1. Special Terms and Conditions (Exhibit C if used)
    2 Federal compliance and Standard Federal Certifications and Assurances (Attachment 1) – *if applicable*
    3. Primary document (document that includes the signature page)
    4. Standard/General Terms and Conditions (Exhibit B)
    5. Statement of Work (Exhibit A)

UNDERSTANDING: This contract, including referenced exhibits, attachments and documents included herein by reference, contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this contract shall exist or bind any of the parties hereto.

APPROVAL: This contract shall be subject to the written approval of DOH Contracting Officer and shall not be binding until so approved. Only the Contracting Officer or his/her designee, by written delegation made prior to action, shall have the expressed, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this contract is not effective or binding unless made in writing and signed by the Contracting Officer.

IN WITNESS WHEREOF: DOH and the Contractor have signed this contract.

CONTRACTOR SIGNATURE	DATE
PRINT OR TYPE NAME AND TITLE	
DOH CONTRACTING OFFICER SIGNATURE	DATE

This contract has been approved as to form by the attorney general.

EXHIBIT A - Statement of Work

DOH Contract N22308
Genetic Support Foundation
DOE to 06/30/2017

Purpose: To re-produce seven whiteboard animated videos that describe current prenatal screening and diagnosis options including the potential benefits and limitations of each.

These videos will educate pregnant women, their partner's, and health care providers about available prenatal screening and diagnostic technologies to identify birth defects and genetic disorders along with the potential advantages and disadvantages of each. They will also decrease unwanted or unnecessary testing, and decrease pregnancy terminations of potentially wanted and healthy babies.

Task	Deliverable	Due	Price
1. Reproduce, in Spanish, educational videos using whiteboard animation. Each video will describe a current prenatal screening or diagnosis option and describe its potential benefits and limitations. Videos will be WMV or MP4 files There will be seven videos: 1) How to Decide About Prenatal Genetic Testing, 2) Conditions Commonly Tested for During Pregnancy, 3) Prenatal Cell Free DNA Screening, 4) Traditional Maternal Serum Screening, 5) Prenatal Ultrasound, 6) Chorionic Villus Sampling, and 7) Amniocentesis. GSF may subcontract with TruScribe for this work.	WMV or MP4 files for each of the seven reproduced Spanish videos	June 30, 2017	$15,000
		Maximum Price	**Not to exceed $15,000**

Special Considerations:

Timeline:

- All work must be complete by 06-30-17 if not sooner.

Video specifics:

- Video quality must be comparable to DVD quality
- Video must be delivered as a WMV or MP4 file.

- Video produced by the contractor must follow all applicable DOH policies and guidelines. The approval process may include division and office procedures.

Billing:

- Contractor will bill on A19 form provided by DOH.
- DOH will authorize payment on satisfactory completion and acceptance of deliverables.
- Contractor will deliver entire product for the amount specified regardless of time spent and resources used.

GENERAL TERMS AND CONDITIONS

I. DEFINITIONS

As used throughout this contract, the following terms shall have the meanings set forth below:

1. “Allowable Cost” shall mean an expenditure which meets the test of the Uniform Guidance (2CFR 200) (see “I. Federal Compliance”). The most significant factors affecting allowability of cost are; 1) they must be necessary and reasonable, 2) they must be allocable, 3) they must be authorized or not prohibited under state or local laws and regulations, and 4) they must be adequately documented. For more specifics see Selected Items of Cost 2 CFR 200.420).

2. "Client" shall mean an agency, firm, organization, individual or other entity applying for or receiving services under this contract.

3. "Cognizant State Agency" shall mean the state agency from whom the sub-recipient receives federal financial assistance. If funds are received from more than one state agency, the cognizant state agency shall be the agency who contributes the largest portion of federal financial assistance to the sub-recipient, unless a cognizant state agency has been designated by OFM.

4. “Confidential Information " shall mean information that is exempt from disclosure under chapter 42.56 RCW, and other state or federal statutes and regulations.

5. "Contractor" shall mean that agency, firm, provider, organization, individual or other entity performing services under this contract. It shall include any subcontractor retained by the prime contractor as permitted under the terms of this contract.

   A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the Contractor. See §200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a Contractor are when the non-Federal entity receiving the Federal funds:

   A. Provides the goods and services within normal business operations;

   B. Provides similar goods or services to many different purchasers;

   C. Normally operates in a competitive environment;

   D. Provides goods or services that are ancillary to the operation of the Federal program; and

   E. Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

6. “Contracting Officer" shall mean that individual(s) of the Contracts and Procurement Office of DOH and his/her delegates within that office authorized to execute this contract on behalf of DOH.

7. "Department" shall mean the Department of Health (DOH) of the state of Washington, any division, section, office, unit or other entity of the department, or any of the officers or other officials lawfully representing DOH.

8. “Equipment” shall mean an article of non-expendable, tangible property having a useful life of more than one year and an acquisition cost of $5,000 or more.

9. “Noncompliance” shall mean if a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in §200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

   A. Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.

   B. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

   C. Wholly or partly suspend or terminate the Federal award.

   D. Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).

   E. Withhold further Federal awards for the project or program.

   F. Take other remedies that may be legally available.

10. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers. Personal information includes “protected health information” as set forth in 45 CFR § 164.50 as currently drafted and subsequently amended or revised and any other information that may be exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other state and federal statutes.

11. "Reimbursement" shall mean that DOH will repay the Contractor for allowable costs incurred under the terms of this contract.

12. “Sensitive Data” shall mean data that is held confidentially, and if compromised may cause harm to individual citizens or create a liability for the State.

13. “Specific Conditions”

    A. The Federal awarding agency or pass-through entity may impose additional specific award conditions as needed, in accordance with paragraphs (b) and (c) of this section, under the following circumstances:

       1) Based on the criteria set forth in §200.205 Federal awarding agency review of risk posed by applicants;

2) When an applicant or recipient has a history of failure to comply with the general or specific terms and conditions of a Federal award;
3) When an applicant or recipient fails to meet expected performance goals as described in §200.210 Information contained in a Federal award; or
4) When an applicant or recipient is not otherwise responsible.

B. These additional Federal award conditions may include items such as the following:

1) Requiring payments as reimbursements rather than advance payments;
2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
3) Requiring additional, more detailed financial reports;
4) Requiring additional project monitoring;
5) Requiring the non-Federal entity to obtain technical or management assistance; or
6) Establishing additional prior approvals.

C. The Federal awarding agency or pass-through entity must notify the applicant or non-Federal entity as to:

1) The nature of the additional requirements;
2) The reason why the additional requirements are being imposed;
3) The nature of the action needed to remove the additional requirement, if applicable;
4) The time allowed for completing the actions if applicable, and
5) The method for requesting reconsideration of the additional requirements imposed.

D. Any specific conditions must be promptly removed once the conditions that prompted them have been corrected.

14. "Subcontractor" shall mean a person, partnership, or company, not in the employ of or owned by the Contractor, who is performing all or part of those services under a separate contract with or on behalf of the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier

15. "Subrecipient" shall mean a non-Federal entity that received a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. (2 CFR 200.93)

Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

A. Determines who is eligible to receive what Federal assistance;
B. Has its performance measured in relation to whether objectives of a Federal program were met;
C. Has responsibility for programmatic decision making;
D. Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
E. In accordance with its contract, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of a pass-through entity.

16. "Successor" shall mean any entity which, through amalgamation, consolidation, or other legal succession becomes invested with rights and assumes burdens of the first contractor/ vendor.

II. GENERAL CONDITIONS

1. **ACCESS TO DATA** – In compliance with chapter 39.26 RCW, the Contractor shall provide access to data generated under this contract to DOH, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those models. The Contractor agrees to make personal information covered under this contract available to DOH for inspection or to amend the personal information, as directed by DOH. Contractor shall, as directed by DOH, incorporate any amendments to the personal information into all copies of such personal information maintained by the Contractor or its subcontractors.

2. **ADVANCE PAYMENTS PROHIBITED** – No payment in advance or in anticipation of services or supplies to be provided under this contract shall be made by DOH.

3. **AMENDMENTS** – This contract may be amended by mutual written contract of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

4. **AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35** – The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

5. **ASSIGNABILITY** – Neither this contract nor any claim arising under this contract shall be transferred or assigned by the Contractor without prior written consent of DOH.

6. **ATTORNEYS' FEES** – In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney's fees and costs.

7. **CHANGE IN STATUS** - In the event of substantive change in the legal status, organizational structure, or fiscal reporting responsibility of the Contractor, Contractor agrees to notify DOH of the change. Contractor shall provide notice as soon as practicable, but no later than thirty days after such a change takes effect.

8. **CONFIDENTIALITY/SAFEGUARDING OF INFORMATION** – The use or disclosure by any party, either verbally or in writing, of any Confidential Information shall be subject to Chapter 42.56 RCW and Chapter 70.02 RCW, as well as other applicable federal and state laws and administrative rules governing confidentiality. Specifically, the Contractor agrees to limit access to Confidential Information to the minimum amount of information necessary, to the fewest number of people, for the least amount of time required to do the work. The obligations set forth in this clause shall survive completion, cancellation, expiration, or termination of this contract.

A. Notification of Confidentiality Breach

Upon a breach or suspected breach of confidentiality, the Contractor shall immediately notify the DOH Privacy Officer at dohprivacyofficer@doh.wa.gov. For the purposes of this contract, "immediately" shall mean within two calendar days.

The Contractor will take steps necessary to mitigate any known harmful effects of such unauthorized access including, but not limited to sanctioning employees, notifying subjects, and taking steps necessary to stop further unauthorized access. The Contractor agrees to indemnify and hold harmless DOH for any damages related to unauthorized use or disclosure by the Contractor, its officers, directors, employees, subcontractors, or agents.

Any breach of this clause may result in termination of the contract and the demand for return of all Information.

B. Subsequent Disclosure

The Contractor will not release, divulge, publish, transfer, sell, disclose, or otherwise make the Confidential Information known to any other entity or person without the express prior written consent of the Secretary of Health, or as required by law.

If responding to public record disclosure requests under RCW 42.56, the Contractor agrees to notify and discuss with the DOH Privacy Officer requests for all information that are part of this contract, prior to disclosing the information. The Contractor further agrees to provide DOH a minimum of two calendar weeks to initiate legal action to secure a protective order under RCW 42.56.540.

9. **CONFLICT OF INTEREST** – Notwithstanding any determination by the Executive Ethics Board or other tribunal, DOH may, in its sole discretion, by written notice to the Contractor, terminate this contract if it is found, after due notice and examination by DOH or it's agent that there is a violation of the ethics in public service act, chapter 42.52 RCW, or any similar statute involving the Contractor in the procurement of, or performance of this contract.

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

10. **COVENANT AGAINST CONTINGENT FEES** – The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for the purpose of securing business. DOH shall have the right, in the event of breach of this clause by the Contractor, to annul this contract without liability, or in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

11. **DEBARMENT** – The Contractor, by signature to this contract, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded in any Federal department or agency from participating in transactions. The Contractor agrees to include the above requirement in all subcontracts into which it enters to complete this contract.

12. **DISPUTES** – The parties shall use their best, good faith efforts to cooperatively resolve disputes and problems that arise in connection with this contract. Both parties will continue without delay to carry out their respective responsibilities under this contract while attempting to resolve the dispute under this section. When a genuine dispute arises between DOH and the Contractor regarding the terms of this contract or the responsibilities imposed herein which cannot be resolved at the project management level, either party may submit a request for a dispute resolution to the DOH Contracts Unit which shall oversee the following dispute resolution process: DOH shall appoint a representative to a dispute panel; the Contractor shall appoint a representative to the dispute panel; DOH's and Contractor's representatives shall mutually agree on a third person to chair the dispute panel. The dispute panel shall thereafter decide the dispute with the majority prevailing.

    A party's request for a dispute resolution must:

    - be in writing,
    - state the disputed issues,
    - state the relative positions of the parties,
    - state the Contractor's name, address, and his/her department contract number,
    - be mailed within thirty (30) calendar days after the party could reasonably be expected to have knowledge of the issue which he/she now disputes to:

    ATTN: Contracts and Procurement Manager
    DOH Contracts Unit
    PO Box 47905
    Olympia, WA 98504-7905

    This dispute resolution process constitutes the sole administrative remedy available under this contract. The parties agree that this resolution process shall precede any action in a judicial and quasi-judicial tribunal.

13. **EFFECTIVE DATE** – Unless otherwise specified under period of performance, the effective date of this contract and subsequent amendments, if any, is the date of execution. The date of execution is the last date of signature of the parties to the contract. Contractor assumes all liability for any expenses incurred prior to the date of execution or in the event the contract/amendment is not executed.

14. **GOVERNING LAW** – This contract shall be governed by the laws of the state of Washington and applicable federal laws and regulations. The venue of any legal action or suit concerning this contract shall be the Thurston County Superior Court and all actions or suits thereon shall be brought therein.

15. **INDEMNIFICATION** – To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless the state of Washington, DOH, agencies of the State and all officials, agents and employees of the State, from and against all claims arising out of or resulting from the performance of the contract. "Claim" as used in this contract means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease or death, or injury to or destruction of tangible property including loss of use resulting therefrom. 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's obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

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

16. **INDEPENDENT CAPACITY OF THE CONTRACTOR** – The parties intend that an independent contractor relationship will be created by this contract. The Contractor and his or her employees or agents performing under the contract are not employees or agents of DOH. The contractor shall not hold himself/herself out as nor claim to be an officer or employee of DOH or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Contractor.

17. **INDUSTRIAL INSURANCE COVERAGE** – The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. Prior to performing work under this contract, the Contractor shall provide or purchase industrial insurance coverage for the Contractor's employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51RCW during the course of this contract. 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, DOH may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. DOH may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by DOH under this contract, and transmit the deducted amount to the Department of Labor and Industries, Division of Insurance Services. This provision does not waive any of the Department of Labor and Industries rights to collect from the Contractor.

    Industrial insurance coverage through the Department of Labor & Industries is optional for sole proprietors, partners, corporate officers and others, per RCW 51.12.020.

18. **INSURANCE** – The Contractor shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the Contractor or subcontractor, or agents of either, while performing under the terms of this contract.

The Contractor shall provide insurance coverage which shall be maintained in full force and effect during the term of this Contract, as follows:

A. **Commercial General Liability Insurance Policy -** Provide a commercial general liability insurance policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than $1,000,000 per occurrence. Additionally, the Contractor is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

B. **Automobile Liability -** In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or unowned by the Contractor, automobile liability insurance shall be required. The minimum limit for automobile liability is:

   1) $1,000,000 per occurrence, using a combined single limit for bodily injury and property damage

C. The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insureds under the insurance policy/ies. All policies shall be primary to any other valid and collectable insurance. Contractor shall instruct the insurers to give DOH 30 days advance notice of any insurance cancellation.

Upon request, Contractor shall submit to DOH, a certificate of insurance which outlines the coverage and limits defined in the Insurance section. If a certificate of insurance is requested, Contractor shall submit renewal certificates as appropriate during the term of the contract.

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

20. **LIMITATION OF AUTHORITY** – Only the Contracting Officer or his/her delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract on behalf of DOH. No alteration, modification, or waiver of any clause or condition of this contract is effective or binding unless made in writing and signed by the Contracting Officer.

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

22. **NONDISCRIMINATION LAWS NONCOMPLIANCE** – In the event of the Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with DOH. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the disputes procedure set forth herein.

23. **OVERPAYMENTS AND ASSERTION OF LIEN** – In the event that DOH establishes overpayments or erroneous payments made to the Contractor under this contract, DOH may

secure repayment, plus interest, if any, through the filing of a lien against the Contractor's real property, or by requiring the posting of a bond, assignment or deposit, or some other form of security acceptable to DOH, or by doing both.

24. **PRIVACY** – Personal information including, but not limited to "protected health information" collected, used or acquired in connection with this contract shall be used solely for the purposes of this contract. 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 DOH or as provided by law. Contractor agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

    DOH reserves the right to monitor, audit, or investigate the use of personal information collected, used or acquired by the contractor through this contract. The monitoring, auditing, or investigating may include but is not limited to "salting" by DOH. Contractor shall certify the return or destruction of all personal information upon expiration of this contract. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

    Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The contractor agrees to indemnify and hold harmless DOH for any damages related to the contractor's unauthorized use of personal information.

    For the purposes of this provision, personal information includes but is not limited to information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, or other activities, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

25. **PUBLICITY** – The Contractor agrees to submit to DOH all advertising and publicity matters relating to this contract wherein DOH's name is mentioned or language used from which the connection of DOH's name may, in DOH's judgment, be inferred or implied. The Contractor agrees not to publish or use such advertising and publicity matters without the prior written consent of DOH.

26. **RECORDS, DOCUMENTS, AND REPORTS** –The Contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services 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 DOH, personnel duly authorized by DOH, the office of the state auditor, and federal and state officials so authorized by law, regulation or agreement.

    If the contract reimburses the Contractor for costs incurred in performance, the Contractor shall in addition maintain books, records, documents and other evidence of procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

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

27. **REGISTRATION WITH DEPARTMENT OF REVENUE** – The Contractor shall complete registration with the Washington State Department of Revenue, if applicable, and be responsible for payment of all taxes due on payments made under this contract.

28. **RIGHT OF INSPECTION** – The Contractor shall provide right of access to its facilities to DOH, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract. The Contractor shall make available information necessary for DOH to comply with the client's right to access, amend, and receive an accounting of disclosures of their Personal Information according to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or any regulations enacted or revised pursuant to the HIPAA provisions and applicable provisions of Washington State law. The Contractor's internal policies and procedures, books, and records relating to the safeguarding, use, and disclosure of personal information obtained or used as a result of this contract shall be made available to DOH and the U.S. Secretary of the Department of Health & Human Services, upon request.

29. **RIGHTS IN DATA/COPYRIGHT** – Unless otherwise provided, all materials produced exclusively under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by DOH. DOH shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, Contractor hereby irrevocably assigns all right, title, and interest in Materials, including all intellectual property rights, to DOH effective from the moment of creation of such materials.

    Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions that derive exclusively from the Contractor's work under this contract. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

    For materials that are delivered under the contract, but that incorporate pre-existing materials not produced under the contract, Contractor hereby grants to DOH a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to DOH.

    The Contractor shall exert all reasonable effort to advise DOH, at the time of delivery of materials furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this contract. DOH shall receive prompt written notice of each notice or claim of copyright infringement received by the Contractor with respect to any data delivered under this contract.

DOH shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

30. **SECURITY OF INFORMATION** – Unless otherwise specifically authorized by the DOH IT Security Officer, Contractor receiving confidential information under this contract assures that:

- It is compliant with the applicable provisions of the Washington State Office of the Chief Information Officer's policy, Securing Information Technology Assets, available at http://ofm.wa.gov/ocio.
- It will provide DOH copies of its IT security policies, practices and procedures upon the request of the DOH IT Security Officer.
- DOH may at any time conduct an audit of the Contractor's security practices and/or infrastructure to assure compliance with the security requirements of this contract.
- It has implemented physical, electronic and administrative safeguards that are consistent with ISB IT security standards and guidelines to prevent unauthorized access, use, modification or disclosure of DOH Confidential Information in any form. This includes, but is not limited to, restricting access to specifically authorized individuals and services through the use of:
- Documented access authorization and change control procedures;
- Card key systems that restrict, monitor and log access;
- Locked racks for the storage of servers that contain Confidential Information or AES encryption (128bit or stronger) to protect confidential data at rest;
- Documented patch management practices that assure all network systems are running critical security updates within 6 days of release when the exploit is in the wild, and within 30 days of release for all others;
- Documented anti-virus strategies that assure all systems are running the most current anti-virus signatures within 1 day of release;
- Complex passwords that are systematically enforced and expire at least every 180 days;
- Strong (Two Factor) authentication mechanisms that assure the identity of individuals who access Confidential Information;
- Account lock-out after 5 failed authentication attempts for a minimum of 20 minutes, or for Confidential Information, until administrator reset;
- AES encrypted (128bit or stronger) sessions for all data transmissions.
- Firewall rules and network address translation that isolate database servers from web servers and public networks;
- Regular review of firewall rules and configurations to assure compliance with authorization and change control procedures;
- Log management and intrusion detection/prevention systems;
- A documented and tested incident response plan

Any breach of this clause may result in termination of the contract and the demand for return of all personal information.

31. **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 which can be given effect without the invalid provision, and to this end the provisions of this contract are declared to be severable.

32. **SITE SECURITY** – While on DOH premises, Contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or

regulations. Failure to comply with these regulations may be grounds for revoking or suspending security access to these facilities. DOH reserves the right and authority to immediately revoke security access to Contractor staff for any real or threatened breach of this provision. Upon reassignment or termination of any Contractor staff, Contractor agrees to promptly notify DOH.

33. **SUBCONTRACTING** – Neither the Contractor, nor any subcontractors, shall enter into subcontracts for any of the work contemplated under this contract without prior written approval of DOH. In no event shall the existence of the subcontract operate to release or reduce the liability of the Contractor to DOH for any breach in the performance of the Contractor's duties. This clause does not apply to Hospitals and/or Medical Clinics that must contract with specialty physicians (e.g. anesthesiologists, radiologists, physicians groups, independent practitioners, etc) nor does it include contracts of employment between the contractor and personnel assigned to work under this contract.

    Additionally, the Contractor is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this contract are carried forward to any subcontracts. 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 DOH or as provided by law.

    If, at any time during the progress of the work, DOH determines in its sole judgment that any subcontractor is incompetent or undesirable, DOH shall notify the Contractor, and the Contractor shall take immediate steps to terminate the subcontractor's involvement in the work.

    The rejection or approval by DOH of any subcontractor or the termination of a subcontractor shall not relieve the Contractor of any of its responsibilities under the contract, nor be the basis for additional charges to DOH.

    DOH has no contractual obligations to any subcontractor or vendor under contract to the Contractor. The Contractor is fully responsible for all contractual obligations, financial or otherwise, to their subcontractors.

34. **SURVIVABILITY** – The terms and conditions contained in this contract which by their sense and context, are intended to survive the completion, cancellation, termination, or expiration of the contract shall survive,

35. **SUSPENSION OF PERFORMANCE AND RESUMPTION OF PERFORMANCE** – In the event contract funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, DOH may give notice to Contractor to suspend performance as an alternative to termination. DOH may elect to give written notice to Contractor to suspend performance when DOH determines that there is a reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow performance to be resumed prior to the end date of this contract. Notice may include notice by facsimile or email to Contractor's representative. Contractor shall suspend performance on the date stated in the written notice to suspend. During the period of suspension of performance each party may inform the other of any conditions that may reasonably affect the potential for resumption of performance.

When DOH determines that the funding insufficiency is resolved, DOH may give Contractor written notice to resume performance and a proposed date to resume performance. Upon receipt of written notice to resume performance, Contractor will give written notice to DOH as to whether it can resume performance, and, if so, the date upon which it agrees to resume performance. If Contractor gives notice to DOH that it cannot resume performance, the parties agree that the contract will be terminated retroactive to the original date of termination. If the date Contractor gives notice it can resume performance is not acceptable to DOH, the parties agree to discuss an alternative acceptable date. If an alternative date is not acceptable to DOH, the parties agree that the contract will be terminated retroactive to the original date of termination.

36. **TAXES** – All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

37. **TERMINATION FOR CONVENIENCE** – Except as otherwise provided in this contract, the Contracting Officer may, by TEN (10) calendar days written notice, beginning on the second day after the mailing, terminate this contract in whole or in part when it is in the best interests of DOH.

    If this contract is so terminated, DOH shall be liable only for payment in accordance with the terms of this contract for services rendered prior to the effective date of termination.

38. **TERMINATION FOR DEFAULT** – In the event DOH determines the contractor has failed to comply with the conditions of this contract in a timely manner, DOH has the right to suspend or terminate this contract. Further, DOH may terminate this contract for default, in whole or in part, if DOH has a reasonable basis to believe that the contractor has:

    A. Failed to meet or maintain any requirement for contracting with DOH;
    B. Failed to ensure the health or safety of any client for whom services are being provided under this contract;
    C. Failed to perform under, or otherwise breached, any term or condition of this contract; and/or
    D. Violated any applicable law or regulation.

    Before suspending or terminating the contract, DOH shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within fourteen (14) days, the contract may be terminated or suspended. In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time. DOH 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 compliance breach and pending corrective action by the Contractor or a decision by DOH to terminate the contract. A termination shall be deemed to be a "termination for convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of DOH provided in this contract are not exclusive and are in addition to any other rights and remedies provided by law.

39. **TERMINATION PROCEDURE** – Upon termination of this contract DOH may require the Contractor to deliver to DOH 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.

    DOH shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by DOH. In addition DOH shall pay the amount agreed upon by the Contractor and the Contracting Officer for (a) completed work and services for which no separate price is stated, (b) partially completed work and services, (c) other property or services which are accepted by DOH, and (d) the protection and preservation of the property. If the termination is for default, the Contracting Officer shall determine the extent of the liability of DOH. Failure to agree with such determination shall be a dispute within the meaning of the Disputes clause of this contract.

    DOH may withhold from any amounts due the Contractor for such completed work or services such sum as the Contracting Officer determines to be necessary to protect DOH against potential loss or liability.

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

    After receipt of a notice of termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:

    - Stop work under the contract on the date and to the extent specified in the notice;
    - Place no further orders or subcontracts for materials, services, facilities except as necessary to complete such portion of the work not terminated;
    - Assign to DOH, to the extent directed by the Contracting Officer, all of the rights, titles, and interest of the Contractor under the orders and subcontracts in which case DOH 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 orders or subcontracts, with the approval or ratification of the Contracting Officer to the extent he/she may require, which approval or ratification shall be final for all the purposes of this clause;
    - Transfer title to DOH and deliver, as directed by the Contracting Officer, any property which, if the contract had been completed, would have been required to be furnished to DOH;
    - Complete performance of such part of the work not terminated by the Contracting Officer; and,
    - Take such action as may be necessary, or as the Contracting Officer 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 DOH has or may acquire an interest.

40. **WAIVER OF DEFAULT** – Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing and signed by authorized representative of DOH.