

**STATE OF WASHINGTON DEPARTMENT OF HEALTH
OLYMPIA, WASHINGTON**

**REQUEST FOR QUALIFICATIONS AND QUOTATIONS
RFQQ N21382**

PROJECT TITLE: Educational Videos about Prenatal Screening and Diagnosis Options

BID DUE DATE: May 21, 2015

BIDDER ELIGIBILITY: This solicitation is open to organizations, Bidders/teams licensed or capable of becoming licensed to do business in the state of Washington, who are available for work, and who satisfy the minimum qualifications stated in Section 1.4.

Solicitation Schedule:

Solicitation Release Date	May 6, 2015
Questions Due from Bidders	May 11, 2015
DOH Response to Questions	May 13, 2015
Complaint/Suggestion Deadline	May 20, 2015
Bid Due	May 21, 2015
Evaluation Period (approximate time frame – includes optional Best and Final Offer period)	May 22, 2015 through May 26, 2015
Projected Announcement of Apparently Successful Bidder (ASB), posted to WEBS	May 27, 2015
Request for Debriefing Deadline	June 1, 2015
Hold debriefing conferences (if requested)	June 2, 2015 through June 4, 2015
Award Protest Deadline	June 11, 2015
Response to Protest (if protests are received)	June 12, 2015 through June 25, 2015
Projected Contract Start Date	July 1, 2015

All times shown above are Pacific Daylight Time.

The DOH reserves the right to revise the above schedule. Revisions (if any) will be made via amendment and posted to the same location as the posting of the original solicitation.

SOLICITATION COORDINATOR

The Solicitation Coordinator is the sole point of contact in the DOH for this solicitation. Upon release, all communications in regard to this solicitation shall be directed, via email, to the Solicitation Coordinator or their designee as follows:

Name	Betty Brickl
Mailing Address	Department of Health P.O. Box 47905 Olympia, WA 98504-7905
Street Address	Department of Health 101 Israel Road SE Town Center 1 Tumwater, WA 98501
Phone Number	360-236-3924
E-Mail Address	betty.brickl@doh.wa.gov

Any other communication will be considered unofficial and non-binding on the DOH. Bidders are to rely on written statements issued by the Solicitation Coordinator or their designee. Communication directed to parties other than the Solicitation Coordinator may result in disqualification of the Bidder.

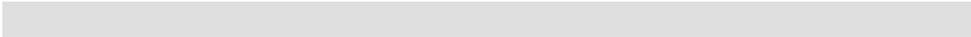


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1 INTRODUCTION

1.1 PURPOSE AND BACKGROUND

The purpose of this Solicitation is to select one contractor to produce four animated or whiteboard animation videos. These videos will describe current prenatal screening and diagnosis options including the potential benefits and limitations of each. There will be one video for each topic below:

1. Non-invasive prenatal screening, also known as cell free fetal DNA
2. First trimester screening, including:
 - Ultrasound for nuchal translucency
 - Maternal serum marker screening.
3. Amniocentesis (Diagnostic)
4. Chorionic villus sampling (Diagnostic)

DOH estimates that the running time for the videos will be no more than 30 minutes total.

DOH will provide scripts for each video. The contractor may suggest alterations, but must receive DOH approval before changing a script.

Non-invasive prenatal screening was introduced in 2013. It offers new and more sensitive methods for prenatal screening. Over the past two years five companies have entered into this billion dollar a year business. There is confusion, however, about when these tests should be offered, what the results mean, and when confirmation of the results through a more invasive method is recommended.

The purpose of these videos is to allow prospective parents, and health care providers offering pregnancy related services, free access to unbiased information about prenatal screening and diagnostic testing options.

1.2 OBJECTIVE

Educate pregnant women, their partner's, and health care providers about available prenatal screening and diagnostic technologies to identify birth defects and/or genetic disorders along with the potential advantages and disadvantages of each procedure.

Decrease unwanted or unnecessary testing, and decrease pregnancy terminations of potentially wanted and healthy babies.

1.3 STATEMENT OF WORK

The contractor will perform the work as a result of this Solicitation per the attached Exhibit A – Statement of Work, which represents the anticipated work to be done at this time. After announcement of the apparently successful

bidder, negotiations for a final statement of work may result in minor changes to the activities, tasks, deliverables or due dates as described in Exhibit A.

1.4 MINIMUM QUALIFICATIONS

The Bidder must:

1. Be licensed or capable of becoming licensed to do business in the state of Washington.
2. Have experience producing health education materials for the public.
3. Be able to produce animated or whiteboard animation videos as WMV or MP4 files.

Once the contract is awarded, the successful bidder must be able to communicate during DOH regular business hours, between 8:00 am and 5:00 pm Pacific Daylight Time.

DOH will provide the contractor the scripts. The contractor may suggest alterations, but will not be expected to develop the scripts.

Bidders, who do not meet these qualifications may be rejected as non-responsive and will not receive further consideration. Any bid that is rejected as non-responsive will not be evaluated or scored.

1.5 FUNDING

Bids in excess of **\$50,000** will be rejected as non-responsive and will not be evaluated. In the event additional funding becomes available, any contract awarded may be renegotiated and amended to provide funding for additional related services.

Any contract awarded as a result of this solicitation is contingent upon the availability of funding.

1.6 PERIOD OF PERFORMANCE

The period of performance of any contract(s) resulting from this Solicitation is tentatively scheduled to begin on or about July 1, 2015 and to end on September 30, 2015. The DOH reserves the option at its sole discretion to extend the contract period of performance for up to six months should additional funds be identified.

1.7 DEFINITIONS

Definitions for the purposes of this Solicitation include:

Bid: A formal offer submitted in response to this solicitation.

Bidder: Individual, company, or firm submitting a bid in order to attain a contract with the DOH.

Contractor: Individual or company whose bid has been accepted by the DOH and is awarded a fully executed, written contract.

DOH: The Washington State Department of Health (DOH).

Solicitation: This Request for Qualifications and Quotations (RFQQ) – N21382. This formal solicitation document in which services needed are identified and individuals and firms are invited to provide their qualifications to provide the services and their cost associated with providing these services.

2 GENERAL INFORMATION FOR BIDDERS

2.1 QUESTION AND ANSWER PERIOD

Questions regarding this Solicitation will be allowed consistent with the dates specified in the solicitation schedule on the cover page. All questions must be submitted via email to the Solicitation Coordinator.

The DOH will provide written answers for questions received by the question and answer period's deadline. Answers will be posted to the same location as the posting of the original solicitation.

Verbal responses to questions will not be provided. Only written answers will be considered official and binding. Bidders will not be identified in answers.

If interpretations or other changes to this Solicitation are required as a result of inquiries made during the question and answer period, the Solicitation may be amended. Amendments are posted to the same location as the posting of the original solicitation.

2.2 COMPLAINT PROCESS

Issues or concerns not resolved to a Bidder's satisfaction during the question and answer period may be addressed through a complaint only on the following grounds:

1. the Solicitation unnecessarily restricts competition;
2. the evaluation or scoring process is unfair or flawed; or
3. the Solicitation requirements are inadequate or insufficient to prepare a response.

A complaint must:

1. be received by the DOH by the date specified in the Solicitation Schedule. Otherwise, an untimely complaint may be rejected without further consideration at the discretion of the DOH; and
2. be sent by email to the Solicitation Coordinator
3. include the Solicitation number and be clearly labeled as "Complaint".

A complaint should:

1. clearly articulate the basis of the complaint consistent with the compliant criteria; and
2. include a proposed remedy.

Upon receipt of a timely complaint, the DOH will consider all the facts available and respond in writing prior to the Response due date and time.

The Solicitation Coordinator shall promptly post the response to a timely complaint on WEBS.

The DOH response to the complaint is final and not subject to appeal. Issues raised in a complaint may not be raised again during the protest period.

2.3 SUBMISSION OF BIDS

Bidders are required to submit their bid electronically in PDF format. The bid must be received by the Solicitation Coordinator as specified in the Solicitation Schedule.

Bidders assume the risk for the method of delivery chosen. The DOH assumes no responsibility for delays caused by any delivery service. Bids may not be transmitted using facsimile transmission.

Late bids will not be accepted and will be automatically disqualified from further consideration. All bids and any accompanying documentation become the property of the DOH and will not be returned.

2.4 PUBLIC DISCLOSURE PROPRIETARY/CONFIDENTIAL INFORMATION

All records related to procurements under RCW 39.26 are subject to disclosure; except that bid submissions and evaluations are exempted until the apparent successful bidder (ASB) is announced. Upon announcement of the ASB, all bid submissions and evaluation information will be available via email request at FSPublicDisclosureRequests@doh.wa.gov.

Any information in the bid that the Bidder desires to claim as proprietary or confidential and exempt from disclosure must be specifically referenced in your bid and included as a separate document and clearly identified as "Proprietary/Confidential Information" at the top of the document. References in your bid documents to proprietary/confidential information must clearly show which part of the "Proprietary/Confidential Information" document you are referring to (for example: "see section A of the Proprietary/Confidential Information section"). Each page of the bid containing the proprietary/confidential information must be clearly identified by the words "Proprietary/Confidential Information" on the lower right hand corner of the page. Marking the entire bid proprietary/confidential and exempt from disclosure will not be honored and the bid will be rejected as non-responsive.

All information that is appropriately marked as proprietary or confidential will be redacted or removed from the bid documents prior to public inspection or disclosure.

2.5 REVISIONS TO THE SOLICITATION

In the event it becomes necessary to revise any part of this Solicitation, an amendment will be made available to all potential bidders at the same location as the posting of the original solicitation.

The DOH also reserves the right to cancel or to reissue the Solicitation in whole or in part, prior to execution of a contract.

2.6 MINORITY & WOMEN-OWNED BUSINESS ENTERPRISES AND VETERAN-OWNED BUSINESS ENTERPRISE PARTICIPATION

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 Solicitation or as a subcontractor to a Contractor. However, unless required by federal statutes, regulations, grants, or Contract terms referenced in the competitive procurement 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.

Veteran-Owned Business Enterprise

The DOH strongly encourages participation of businesses owned by veterans. No minimum level of veteran-owned business participation is required as a condition of receiving an Award and no preference will be included in the evaluation of Responses in accordance with chapter 43.60A RCW.

2.7 RESPONSIVENESS

All bids will be reviewed by the Solicitation Coordinator to determine compliance with administrative requirements and instructions specified in this Solicitation. The Bidder is specifically notified that failure to comply with any part of the Solicitation may result in rejection of the bid as non-responsive.

The DOH also reserves the right, however, at its sole discretion to waive minor administrative irregularities.

2.8 MOST FAVORABLE TERMS/ BEST AND FINAL OFFER

The DOH reserves the right to make an award on the original bid submitted or, at its sole discretion, to request a best and final offer from the top contending bidders, as defined by the DOH. The initial bid should be submitted on the most favorable terms which the Bidder can propose. The DOH reserves the right to contact a Bidder for clarification of its bid.

The Bidder should be prepared to accept this Solicitation for incorporation into a contract resulting from this Solicitation. Contract negotiations may incorporate some or all of the Bidder's entire bid. It is understood that the bid will become a part of the official contract file on this matter without obligation to the DOH.

2.9 CONTRACT AND GENERAL TERMS & CONDITIONS

The apparent successful bidder will be expected to enter into a contract, which is substantially the same as the sample contract and its general terms and conditions attached as Exhibit C. In no event is a Bidder to submit its own standard contract terms and conditions in response to this solicitation. The Bidder may submit exceptions as allowed in the Certifications and Assurances section, Exhibit B to this solicitation. The DOH will review requested exceptions and accept or reject the same at its sole discretion.

2.10 COSTS TO PROPOSE

The DOH will not be liable for any costs incurred by the Bidder in preparation of a bid submitted in response to this Solicitation, in conduct of a presentation, or any other activities related to responding to this Solicitation.

2.11 NO OBLIGATION TO CONTRACT

This Solicitation does not obligate the state of Washington or the DOH to contract for services specified herein. The DOH reserves the right at its sole discretion to reject any and all bids received without penalty and not to issue a contract as a result of this Solicitation.

3 BID CONTENTS

Bids must be submitted via email. The four major sections of the bid are to be submitted in the order noted below:

1. Letter of Submittal, including signed Bid Certifications and Assurances (Exhibit B to this Solicitation)
2. Business Information
3. Qualifications
4. Quotation

Bids must provide information in the same order as presented in this document with the same headings. This will not only be helpful to the evaluators of the bid, but should assist the Bidder in preparing a thorough response.

Items in this section marked “mandatory” must be included as part of the bid for the bid to be considered responsive, however, these items are not scored. Items marked “scored” are those that are awarded points as part of the evaluation conducted by the evaluation team.

Information provided in bid documents is subject to public disclosure per section 2.4 of this solicitation. Do not include information in your response that you do not want disclosed to the public.

3.1 LETTER OF SUBMITTAL AND BID CERTIFICATIONS AND ASSURANCES (MANDATORY)

The Letter of Submittal and the attached Bid Certifications and Assurances form (Exhibit B to this Solicitation) must **both** be signed and dated by a person authorized to legally bind the Bidder to a contractual relationship, e.g., the president or executive director of a corporation, the managing partner of a partnership, or the proprietor of a sole proprietorship.

3.2 BUSINESS INFORMATION (MANDATORY)

- 3.2.1 State the name of the Bidder or company, address, phone number, email address of the primary contact, and legal status of entity (ownership).
- 3.2.2 Provide the firm’s Federal Employer Tax Identification number and the Washington Uniform Business Identification (UBI) number issued by the state of Washington Department of Revenue, or affirm that it will be provided prior to contract signing.
- 3.2.3 Indicate how many employees are with the firm/organization. Name the firm/organization principals and their roles.
- 3.2.4 If applicable, include proof of certification issued by the Washington State Office of Minority and Women’s Business Enterprises if certified minority-owned firm and/or women-owned firm(s) will be participating on this project.
- 3.2.5 Identify any state employees or former state employees employed by the Bidder or on the Bidder’s governing board as of the date of the bid. Include the individual’s name, the agency previously or currently employed by, job title or position held, and separation date (if applicable). If, following a review of this information, it is determined by the DOH that a conflict of interest exists, the Bidder may be disqualified from further consideration for the award of a contract.

3.2.6 If the Bidder has had a contract terminated for default in the last five years, describe such incident including full details of the terms for default, including the other party's name, address, and phone number. Present the Bidder's position on the matter. Termination for default is defined as notice to stop performance due to the Bidder's non-performance or poor performance and the issue of performance was either

1. not litigated due to inaction on the part of the Bidder, or
2. litigated and such litigation determined that the Bidder was in default.

The DOH will evaluate the facts and may, at its sole discretion, reject the bid on the grounds of the past experience. If no such termination for default has been experienced by the Bidder in the past five years, so indicate.

3.3 QUALIFICATIONS SECTION (MANDATORY)

The services to be provided under this project are described in Section 1.4, Minimum Qualifications, and in the attached Statement of Work.

The qualifications section of the bid must contain information that will demonstrate to the evaluation committee the Bidder's understanding of the types of services proposed, the firm's ability to accomplish them, and the ability to meet tight timeframes.

The qualifications response is to be submitted in three sections: Experience, Staffing, and Timeline.

3.3.1 EXPERIENCE (SCORED) 30 points

Describe your organization's experience producing educational animation or whiteboard animation videos. Include:

1. Relevant healthcare educational video production experience
2. URL of your company's website that provides examples of educational videos your organization has produced.
3. Description of your ability to develop educational videos within tight timeframes.
4. Recommendations or acknowledgements from former clients and customers. These may be letters or email.

3.3.2 STAFFING (SCORED) 25 points

Describe the staff in your organization who will implement this proposal including their:

1. Role in implementing the project.
2. Experience that qualifies them for that role.

List any sub-contractors you plan to use to implement this proposal. Describe the services each will provide, and their qualifications (experience and staffing). Also provide the information in Section 3.2.1 above about each.

3.3.3 TIMELINE (SCORED)

30 points

Describe how you will accomplish your project by September 30, 2015. Include a description of the activities involved and your estimate of when each will be finished.

DOH will provide scripts on the contract start date. The contractor may suggest alterations, but must receive DOH approval before changing the script.

Describe how you will audience test the videos.

Make sure your timeline shows how and when you will work with DOH to finalize scripts in a way that allows enough time for producing and audience testing the videos before finalizing them by September 30, 2015. DOH estimates of review times are listed in the sample statement of work.

3.4 QUOTATIONS SECTION (MANDATORY)

3.4.1 IDENTIFICATION OF COSTS (SCORED)

15 points

Bids submitted for a total cost over \$50,000 will be considered non-responsive and will not be evaluated.

Bidders are required to collect and pay Washington State taxes as applicable.

Bidders are required to submit a detailed budget that includes justification of the included costs. The justification should demonstrate both that included items are necessary and that costs are reasonable. The justification should demonstrate that the total price is adequate to produce a quality product.

At the end of the Quotations Section, show the total cost associated with this bid, not to exceed \$50,000.

The evaluation process is designed to award this solicitation not necessarily to the Bidder of least cost, but rather to the Bidder whose bid best meets the requirements of this Solicitation. Bidders are encouraged, however, to submit bids which are consistent with state government efforts to conserve state resources.

4 EVALUATION AND CONTRACT AWARD

4.1 EVALUATION PROCEDURE

Responsive bids will be evaluated strictly in accordance with the requirements stated in this solicitation and any amendments issued. Examples of past educational materials will be evaluated based on Suitability Assessment of Materials of health-related information for adults. The evaluation of bids shall

be accomplished by an evaluation team to be designated by the DOH, which will determine the ranking of the bids.

4.2 CLARIFICATION OF BID

The Solicitation Coordinator may contact the Bidder for clarification of any portion of the Bidder's bid.

4.3 EVALUATION WEIGHTING AND SCORING

The following weighting and points will be assigned to the bid for evaluation purposes:

4.3.1 Experience: - 30 possible points

4.3.2 Staffing: - 25 possible points

4.3.3 Timeline: - 30 possible points

4.3.4 Identification of costs - 15 possible points

Total: 100 possible points

4.4 NOTIFICATION TO BIDDERS

The Bidder(s) with the highest total score(s) will be declared the Apparent Successful Bidder(s). This does not guarantee that the State will enter into a contract with the Bidder. Designation as an Apparently Successful Bidder allows the State to enter into contract negotiations with the Apparent Successful Bidder. Bidders that act or fail to act in reliance on this notification do so at their own risk and expense.

Bidders that were not selected for further negotiation or award will be notified by email.

4.5 DEBRIEFING OF UNSUCCESSFUL BIDDERS

The request for a debriefing conference must be received by the Solicitation Coordinator within three (3) business days after the announcement of the apparent successful bidder. The request should include a list of bidder attendees including their titles. Debriefing may be conducted either in person, by telephone, or by electronic means, as determined by the Solicitation Coordinator. **The failure of a Bidder to make a timely request and/or attend a debriefing conference shall constitute a waiver of the right to submit a protest.**

Discussion will be limited to a critique of the requesting Bidder's bid. Comparisons between bids or evaluations of the other bids will not be allowed. Debriefing conferences will be scheduled for a maximum of one hour.

4.6 PROTEST PROCEDURE

Bidders protesting this solicitation shall follow the procedures described below. Protests that do not follow these procedures shall not be considered.

This procedure is available to Bidders who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Bidder is allowed five (5) business days to file a protest with the Solicitation Coordinator. The protest must be via email, include the solicitation number, be clearly labeled as "Protest", include a specific and complete statement of facts forming the basis of the protest, and include a description of the relief or corrective action requested.

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

- bias, discrimination or conflict of interest on the part of the evaluator
- errors in computing the scores; or
- non-compliance with procedures described in the solicitation document

Protests not based on the above procedural matters will not be considered.

Upon receipt of a protest, a protest review will be held by a DOH agency representative. This representative will be a neutral party who was not involved in the solicitation evaluation and award process. The agency representative will review the protest and all available facts and issue a response within ten (10) business days of receipt of the protest. If additional time is required, the protesting party will be notified of the estimated additional time needed to respond.

The final determination of the protest shall:

- Find the protest lacking in merit and uphold the DOH's action; or
- Find only technical or harmless errors in the DOH's acquisition process and determine the DOH to be in substantial compliance and reject the protest; or.
- Find merit in the protest and provide the DOH options which may include:
 - Correct the errors and re-evaluate all bids, and/or
 - Reissue the solicitation document and begin a new process, or
 - Make other findings and determine other courses of action as appropriate

If the DOH determines that the protest is without merit, the DOH will enter into a contract with the apparently successful bidder. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

The protest decision is final and not subject to administrative appeal. If the protesting bidder does not accept the DOH protest decision, the bidder may seek relief from the Superior Court in Washington State.

5 SOLICITATION EXHIBITS (Order and content of Exhibits may vary)

- Exhibit A – Statement of Work
- Exhibit B – Bid Certifications and Assurances
- Exhibit C - Professional Service Contract including General Terms and Conditions (GT&Cs)

**Exhibit A
Statement of Work**

Statement of Work
DOE to 09-30-15

Purpose: To produce four animated or whiteboard animation 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
<p>1. Develop educational videos using animation or whiteboard animation. Each video will describe a current prenatal screening or diagnosis option and describe its potential benefits and limitations.</p> <ul style="list-style-type: none"> • DOH will provide scripts for videos. • Contractor will suggest alterations to scripts, as appropriate. • Contractor must receive DOH approval before altering scripts. • DOH estimates that videos will be a total of 30 minutes long. • Videos will be WMV or MP4 files <p>There will be four videos:</p>	<p>Final draft story boards of videos for DOH review</p>	<p>As shown on timeline submitted with RFQQ N21382</p>	<p>As negotiated</p>

<p>A. Video on noninvasive prenatal screening, also known as cell free fetal DNA</p> <p>B. Video on first trimester screening, including</p> <ul style="list-style-type: none"> • Ultrasound for nuchal translucency • Maternal marker serum screening. <p>C. Video on amniocentesis (diagnostic)</p> <p>D. Video on chorionic villus sampling (diagnostic)</p>			
<p>2. Obtain DOH review and approval of videos</p> <ul style="list-style-type: none"> • DOH estimates this will take 5 to 7 working days. 	DOH email approving final draft of videos.		As negotiated
<p>3. Test final draft of videos with target audience.</p>	a. Audience testing plan		As negotiated
	<p>b. Documentation of testing, including:</p> <ul style="list-style-type: none"> • number and demographics of participants • Feedback gathered • Plan for revising videos 		As negotiated
<p>4. Obtain DOH approval of plans to revise videos based on audience testing</p> <ul style="list-style-type: none"> • DOH estimates that this will take 2 to 5 working days. 	DOH email approving plans to revise videos		As negotiated
<p>5. Obtain DOH review and approval of final videos</p> <ul style="list-style-type: none"> • DOH estimates this will take 2 to 5 working days. 	DOH email approving final videos.		As negotiated
<p>6. Finalize videos</p>	Final videos (WMV or MP4 files)	09-30-15	As negotiated
Maximum Price			Not to exceed total bid

Special Considerations:

Timeline:

- Work will be guided by timeline contractor submitted through RFQQ process.
- Contractor will keep DOH informed of any alterations to this timeline.
- All work must be complete by 09-30-15.

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.
- Any exceptions must follow the DOH Web exception process. If the agency approves an exception request, a representative from the agency's Communications Office will be included in the ongoing planning process. Submit public website content (new, changes, updates, or revisions) if you have an approved exception request to the agency's Public Awareness & Emergency Communications Office for approval.
- DOH Contract Manager will obtain the required DOH approvals prior to the start of this contract and will provide contractor with applicable policies and guidelines.
- DOH Contract Manager will facilitate DOH approval of any script changes.

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.

BID CERTIFICATIONS AND ASSURANCES

I/we make the following certifications and assurances as a required element of the bid to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):

1. I/we declare that all answers and statements made in the bid are true and correct.
2. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single bid.
3. The attached bid is a firm offer for a period of 60 days following receipt, and it may be accepted by the DOH without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
4. In preparing this bid, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this bid or prospective contract, and who was assisting in other than his or her official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
5. I/we understand that the DOH will not reimburse me/us for any costs incurred in the preparation of this bid. All bids become the property of the DOH, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
6. Unless otherwise required by law, the prices and/or cost data that have been submitted have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Bidder or to any competitor.
7. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
8. No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
9. Information that has been determined to be proprietary or confidential has been clearly marked and included in this bid as a separate document.
10. If any staff member(s) who will perform work on this contract has retired from the State of Washington under the provisions of the 2008 Early Retirement Factors legislation, his/her name(s) is noted on a separately attached page.
11. I/we declare that we are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded in any Federal department or agency from participating in transactions.

Signature of Bidder

Title

Date



CONTRACT NUMBER: N21382	SUBRECIPIENT * <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	FFATA FORM REQUIRED <input type="checkbox"/> YES <input checked="" type="checkbox"/> 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:

XXXXX
XXXXX
XXXXX

UBI #: XXX-XXX-XXX

IT IS MUTUALLY AGREED THAT:

PURPOSE: To produce four animated or whiteboard animation 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/or genetic disorders along with the potential advantages and disadvantages of each of these technologies. They will also decrease unwanted or unnecessary testing, and decrease pregnancy terminations of potentially wanted and healthy babies.

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 ____ through September 30, 2015 unless sooner terminated as provided herein. No billable activity may take place until this contract has been signed by both parties.

DEPARTMENT OF ENTERPRISE SERVICES APPROVAL: This agreement 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 .

Information about your organization and this contract will be made available on 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 \$____.00 without a properly executed written amendment signed by representatives of both parties authorized to do so.

Source of funds: Federal: \$-0- State: \$-0- Other: \$-0- Total: \$0.00

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:

- Applicable Federal and State statutes and regulations
- Special Terms and Conditions
- Attachment 1, General Terms and Conditions, and Attachment 2, Federal Compliance, and Standard Federal Certifications and Assurances
- Exhibit A, Statement of Work
- Any other provision of the contract whether incorporated by reference or otherwise.

UNDERSTANDING: This contract, including referenced exhibits, attachments & 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 agreement.

CONTRACTOR SIGNATURE	DATE
print or type name & title below:	
DOH CONTRACTING OFFICER SIGNATURE	DATE

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

GENERAL TERMS AND CONDITIONS

I. GENERAL TERMS (DEFINITIONS)

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

- a) "Client" shall mean an agency, firm, organization, individual or other entity applying for or receiving services under this contract.
- b) "Confidential Information " shall mean information that is exempt from disclosure under chapter 42.56 RCW, and other state or federal statutes and regulations
- c) "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 agreement.
- d) "Contracting Officer" shall mean that individual(s) of the Office of Contract Services of DOH and his/her delegates within that office authorized to execute this agreement on behalf of the Department.
- e) "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 the department.
- f) "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.
- g) "Personal Information" means 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.
- h) "Reimbursement" shall mean that the Department of Health will repay the Contractor for allowable costs incurred under the terms of this contract. "Sensitive Data" means data that is held confidentially, and if compromised may cause harm to individual citizens or create a liability for the State
- i) "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. See OMB Circular A-133 for additional detail.

- j) A “Subrecipient” is a contractor operating a federal or state assistance program receiving federal funds and having the authority to determine both the services rendered and disposition of program. See OMB Circular A-133 for additional detail.
- k) “Successor” is defined as any entity which, through amalgamation, consolidation, or other legal succession becomes invested with rights and assumes burdens of the first contractor/ vendor.
- l) A “Vendor” is an entity that agrees to provide the amount and kind of services requested by DOH; provides services under the contract only to those beneficiaries individually determined to be eligible by DOH; and, provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standards. See OMB Circular A-133 for additional detail.

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 agreement 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 agreement shall be made by DOH.
3. **AMENDMENTS** – This contract may be amended by mutual written agreement 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 Agreement.

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 Agreement, “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 Agency 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 Agreement, 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 its 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 agreement 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 to ATTN: Contracts and Procurement Manager, DOH Contracts Unit, PO Box 47905, Olympia, WA 98504-7905 within thirty (30) calendar days after the party could reasonably be expected to have knowledge of the issue which he/she now disputes.

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 agreement 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 agreement. No billable activity may take place prior to the date of execution. Contractor assumes all liability for any expenses incurred prior to the date of execution or in the event the agreement/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 agreement 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 agreement 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.

The 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 agreement.

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 Agreement.
- 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 agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this agreement which can be given effect without the invalid provision, and to this end the provisions of this agreement 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 agreement 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 agreement 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, including but not limited to clauses 1, 8, 13, 14, 23, 24 and 29.

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 agreement DOH may require the Contractor to deliver to DOH any property specifically produced or acquired for the performance of such part of this agreement 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 agreement.

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

- Stop work under the agreement 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 agreement 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 agreement which is in the possession of the Contractor and in which DOH has or may acquire an interest.

40. TREATMENT OF ASSETS – Equipment purchases, title, and treatment of assets are determined by fund source. OMB Circular A-102 and/or the Washington State Office of Financial Management’s “OFM Directive A95-05” (effective July 1, 1995) regulate treatment of assets. Equipment acquisitions must be included in the official contract budget.

41. 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.