



State of Washington  
DEPARTMENT OF GENERAL ADMINISTRATION  
Office of State Procurement  
210 11th Avenue SW, Rm. 201, • Olympia, Washington 98504-1017 • (360) 902-7400  
<http://www.ga.wa.gov>

INVITATION FOR BID (IFB)

**The State of Washington on behalf of  
The Western States Contracting Alliance (WSCA)  
A Multi-State Contract for:**

**Police Radar, Lidar, Parts and Equipment**

Solicitation Number  
**01611**

Pre-bid Conference Date & Time  
**August 31, 2011**

Bid due date and time  
**September 14, 2011**

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Procurement Coordinator  
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E-mail: [steve.jenkins@ga.wa.gov](mailto:steve.jenkins@ga.wa.gov)

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**Bids must be received & stamped on or before the Bid due date and time at this location:**

Department of General Administration  
Office of State Procurement  
1500 Jefferson Street SE  
Olympia WA 98501

For a site map to the Capitol Campus, click <http://www.ga.wa.gov/images/Campus-Map.pdf>

Driving directions and parking information <http://www.ga.wa.gov/park/visitor.htm>

# BIDDER'S AUTHORIZED OFFER

(*BID SIGNATURE PAGE*)

## Police Radar, Lidar, Parts and Accessories IFB #01611

Issued by the State of Washington on behalf of the Western States Contracting Alliance (WSCA)

### Certifications and Assurances

We make the following certifications and assurances as a required element of the Response, to which it is attached, affirming the truthfulness of the facts declared here and acknowledging that the continuing compliance with these statements and all requirements of the IFB are conditions precedent to the award or continuation of the resulting Contract.

1. The prices in this Response have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered. The prices in this Response have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before Contract award unless otherwise required by law. No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition. However, we may freely join with other persons or organizations for the purpose of presenting a single Bid or Proposal.
2. The attached Response is a firm offer for a period of 60 days following the Response Due Date specified in the IFB, and it may be accepted by the Purchasing Activity without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60 day period. In the case of protest, our Response will remain valid for 180 days or until the protest and any related court action is resolved, whichever is later.
3. In preparing this Response, we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to the State's solicitation, or prospective Contract, and who was assisting in other than his or her official, public capacity. Neither does such a person nor any member of his or her immediate family have any financial interest in the outcome of this Response. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
4. We understand that the State will not reimburse us for any costs incurred in the preparation of this Response. All Responses become the property of the State, and we claim no proprietary right to the ideas, writings, items or samples unless so stated in the Response. Submission of the attached Response constitutes an acceptance of the evaluation criteria and an agreement to abide by the procedures and all other administrative requirements described in the solicitation document.
5. We understand that any Contract awarded, as a result of this Response will incorporate all the solicitation requirements. Submission of a Response and execution of this Certifications and Assurances document certify our willingness to comply with the Contract terms and conditions appearing in [Part II](#), if selected as a contractor. It is further understood that our standard contract will not be considered as a replacement for the terms and conditions appearing in [Part II](#) of this solicitation.
6. We **are not** submitting proposed Contract exceptions (see Subsection 1.5, *Contract Requirements*).
7. The authorized signatory below acknowledges having read and understood the entire solicitation and agrees to comply with the terms and conditions of the solicitation in submitting and fulfilling the offer made in its Bid.
8. By submitting this Bid, Bidder hereby offers to furnish materials, supplies, services and/or equipment in compliance with all terms, conditions, and specifications contained in this solicitation.

The signatory below represents that he/she has the authority to bind the company named below to the Bid submitted and any contract awarded as a result of this solicitation.

\_\_\_\_\_  
Bidder Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## CHECKLIST

This checklist is provided for Bidder's convenience only and identifies the documents to be submitted with each Response. Any Response received without any one or more of these documents may be rejected as being non-responsive/non-responsible.

*(MINIMUM REQUIRED SUBMITTALS)*

- |   |                          |
|---|--------------------------|
| Signed Bidder's Authorized Offer            | <input type="checkbox"/> |
| Signed Part II Model Contract               | <input type="checkbox"/> |
| Bid Amendment(s) <i>(if applicable)</i>     | <input type="checkbox"/> |
| Appendix D - Bidder Profile                 | <input type="checkbox"/> |
| Appendix E - Price Worksheets               | <input type="checkbox"/> |
| Appendix F – Technical Requirements         | <input type="checkbox"/> |
| Dealer Authorization <i>(if applicable)</i> | <input type="checkbox"/> |
| Warranty Information                        | <input type="checkbox"/> |

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## **1 SOLICITATION OVERVIEW**

### **1.1 ACQUISITION AUTHORITY**

The Washington State Department of General Administration (GA or Purchasing Activity) issues this Invitation for Bid (IFB) acting under the authority of its enabling legislation Revised Code of Washington (RCW) [43.19](#) and RCW [39.34](#). RCW [43.19](#) establishes GA and regulates the manner in which state agencies may acquire general goods and services. RCW [39.34](#) permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities.

### **1.2 ASSIGNMENT TO SUCESOR WASHINGTON STATE GOVERNMENT ENTITY DUE TO TRANSFER OF AUTHORITY**

In the event that the authority of GA is withdrawn by operation of law or otherwise, and that authority is transferred and vested in a successor Washington State government entity, with written notice from an authorized agency of the State of Washington, this Agreement may be assigned to such successor Washington State government entity. The assignment of this Agreement under the aforementioned conditions shall not operate to relieve the parties of their duties and/or obligations hereunder.

### **1.3 STANDARD DEFINITIONS**

See section [Appendix C Standard Definitions](#)

### **1.4 CONTRACT FORMATION**

A Bid submitted in response to the Solicitation is an offer to contract with the Purchasing Activity. A Bid becomes a contract only when legally awarded and accepted in writing by the Purchasing Activity.

### **1.5 MODEL CONTRACT**

A Model Contract has been included as [Part II](#)

To be Responsive, Bidders must indicate a willingness to enter into a Contract substantially the same as the Contract in [Part II](#) by signing the [BIDDER'S AUTHORIZED OFFER](#).

Under no circumstances is a Bidder to submit their own standard contract terms and conditions as a Response to this solicitation. The Purchasing Activity expects the final Contract signed by the Successful Bidder to be substantially the same as the contract located in [Part II](#).

The Successful Bidder will be expected to execute the Contract within ten (10) Business Days of its receipt of the final Contract. If the selected Bidder fails to sign the Contract within the allotted ten (10) Business Days time frame, the Purchasing Activity may consider the Successful Bidder to be non-responsive and elect to cancel the award, and award the Contract to the next ranked Bidder, or cancel or reissue this solicitation ([see Subsection 1.7, Right to Cancel](#)). Bidder's submission of a Response to this solicitation constitutes acceptance of these contract requirements.

### **1.6 SOLICITATION AMENDMENTS**

Prior to submittal due date and time, the Purchasing Activity reserves the right to change portions of this IFB. Any changes or corrections will be by one or more written amendment(s), dated, attached to or incorporated in and made a part of this solicitation

document. All changes must be authorized and issued in writing by the Procurement Coordinator. If there is any conflict between amendments, or between an amendment and the IFB, whichever document was issued last in time shall be controlling. Only Bidders who have properly registered and downloaded the original solicitation directly via WEBS system will receive notification of amendments and other correspondence pertinent to the procurement.

### **1.7 INCORPORATION OF DOCUMENTS INTO CONTRACT**

This Solicitation document, any subsequent amendments and the Bidder's Response will be incorporated into the resulting Contract.

The WSCA Standard Terms and Conditions are attached as [Appendix B](#) and incorporated by this reference. In the event of any inconsistencies, the State of Washington's terms and conditions shall take precedence.

Participating Entities may utilize the resulting Contract(s) by signing a Participating Addendum with the awarded Bidder(s). A Participating Addendum:

- Must be executed by any Participating Entity that decides to adopt a WSCA contract.
- Shall be executed for each contractor by the Participating Entity desiring to use their contract.
- Allows for each Participating Entity to add terms and conditions that may be unique to their State.

The Participating Entity and the Contractor shall negotiate and agree upon any additional terms and conditions prior to the signing and execution of the Participating Addendum. Participating Entities are not mandated to sign a Participating Addendum with all awarded vendors. Additional Participating Entities may be added through execution of Participating Addendums.

### **1.8 RIGHT TO CANCEL**

The Purchasing Activity reserves the right to cancel or reissue all or part of this Solicitation at any time as allowed by law without obligation or liability.

### **1.9 IN-STATE PREFERENCE/RECIPROCITY**

Pursuant to [RCW 43.19.700](#), [RCW 43.19.702](#), [RCW 43.19.704](#) and [WAC 236-48-085](#), the Department of General Administration has established a schedule of percentage increases to be added to Bids from Bidders in states that grant a preference to Contractors located in their state or for goods manufactured in their state. The percentages related to each respective state are provided in the Reciprocity List located at <http://www.ga.wa.gov/pca/recip.htm> and apply only to Bids received from those states listed.

The appropriate percentage will be added to each Bid bearing the address from a state with in-state preferences rather than subtracting a like amount from Washington State Bidders.

This action will be used only for analysis and award purposes. In no instances shall the increase be paid to a Bidder whose Bid is accepted and awarded a Contract.

### **1.10 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 either self-identified or 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.

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

Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the original Solicitation will apply. Bidders may contact Office of Minority and Woman Owned Business Enterprise (OMWBE) to obtain information on certified firms for potential sub-contracting arrangements. Nothing in this section is intended to prevent or discourage Bidders from inviting others from participation from non MWBE firms as well as MWBE firms.

Bidders who are MWBE or intend to use MWBE Subcontractors are encouraged to identify the participating firm on [Appendix D Bidder Profile](#). See also section 6.5 of the Model Contract.

## **2 SUMMARY OF OPPORTUNITY**

### **2.1 PURPOSE**

The purpose of this Solicitation is to establish a Contract(s) for the purchase of Police Radar, Lidar, Parts and Accessories for the Western States Contracting Alliance (WSCA), the State of Washington, and other Participating Entities. The awarded Contract(s) will replace Washington State Contract # 11504 Radar, Traffic and Parts which is due to expire on October 30, 2011.

### **2.2 CONTRACT SCOPE**

The State of Washington, on behalf of the Western States Contracting Alliance (WSCA) is bidding a contract to support the current installation of Police Radar, Lidar, Parts and Accessories that conform to the National Highway Traffic Safety Administration (NHTSA) "Model Performance Specification for Police Traffic Radar Devices."

This contract is intended to support the needs of state and local law enforcement for Police Radar, Lidar, Parts and Accessories. This contract will provide new equipment as well as replacement parts and accessories for existing embedded devices, already owned and in operation by various departments throughout the United States.

We anticipate making an award for each brand/manufacturer listed in the price sheets and below.

CATEGORY	MANUFACTURERS
1	Applied Concepts
2	Decatur Electronics
3	DragonEye Technology, LLC
4	Kustom Signals
5	MPH Industries
6	Municipal Electronics
7	U. S. Radar
8	Laser Atlanta, LLC
9	Laser Technology, Inc.

*See section 1.1 CONTRACT SCOPE of the Model Contract.*

**2.3 PARTICIPATING ENTITIES**

*See section 1.4 PARTICIPATING ENTITIES of the Model Contract*

**2.4 CONTRACT TERM**

*See section 1.6 CONTRACT TERM of the Model Contract*

**2.5 ESTIMATED USAGE**

*See section 1.5 ESTIMATED USAGE of the Model Contract*

**2.6 EXPECTED RESULT**

The State of Washington and WSCA seek to establish a multi-state Contract(s) for the as needed purchase of Police Radar, Lidar, Parts and Accessories for use by Participating Entities.

A main objective of this solicitation is to obtain reduced pricing by combining the purchasing volume of multiple states. Awarded Contractors should realize significant administrative savings that will result from the maintenance of a single, comprehensive contract.

**2.7 AWARD**

On behalf of WSCA, the State of Washington intends to award one or more contracts as a result of this solicitation. An award shall be made to the responsive, responsible Bidder(s) offering the lowest aggregate total per category, in accordance with the evaluation criteria set forth in Section 8 *Evaluation and Award*. Participating Entities may form contracts with any of the awarded contractors in conformity with their respective state laws, through the execution of a Participating Addendum.

**3 TIMELINE**

**3.1 PROCUREMENT SCHEDULE**

The dates listed below represent the projected procurement schedule. The Purchasing Activity reserves the right to change the schedule. Notification of amendments to the procurement schedule prior to bid opening, will be sent electronically to all properly registered users of the Department of General Administration’s Washington Electronic Business Solution (WEBS) who downloaded this IFB from WEBS.

Changes to the Procurement Schedule after Bid Opening may be communicated to all bidders reflecting the change.

#### Projected Schedule of Events

Date	Time	Event
8/10/11		Issue Solicitation document (Available for download from <a href="http://www.ga.wa.gov/webs">www.ga.wa.gov/webs</a> )
8/24/11		Notify Procurement Coordinator if you wish to participate in the Pre-Bid conference via webinar.
8/31/11	10:00 AM	Bidder Pre-Bid Conference see section 3.2 for location/directions, etc.
If Applicable		Amendment issued, if applicable (bidders should begin checking the website for any amendments)
9/14/11	2:00 PM	Bids Due
		Evaluation begins
10/15/11		Anticipated award date

NOTE: Bid information, including price sheets, will not be available for public disclosure until after award of the contract consistent with [RCW 43.19.1911\(8\)](#). At bid due date and time, only the name of the Bidder and time of Bid receipt will be read aloud. After award, information regarding results of the solicitation may be obtained by contacting the Procurement Coordinator.

### 3.2 PRE-BID CONFERENCE

An optional pre-bid conference to address solicitation requirements will be held at the time and location indicated below. The pre-bid conference will also be made available by webinar. If you are interested in participating via webinar, you must notify the Procurement Coordinator listed on the front page of this solicitation on or before 8/24/11. While attendance is not mandatory, Vendors are encouraged to attend and actively participate. If interpretations, specifications, or other changes to the solicitation are required as a result of the conference, the Procurement Coordinator will make amendments to the solicitation and provide those amendments by posting them on WEBS at [www.ga.wa.gov/webs](http://www.ga.wa.gov/webs).

Assistance for disabled, blind or hearing-impaired persons who wish to attend is available with prior arrangement with the Office of State Procurement (OSP). Contact the Procurement Coordinator identified on the face page of this Invitation For Bid.

<b>Pre Bid Date:</b>	August 31, 2011
<b>Pre Bid Time:</b>	10:00 AM to Noon
<b>Pre Bid Location:</b>	Department of General Administration Office of State Procurement 1500 Jefferson Street SE Olympia, WA 98501 <b>MEET IN THE LOBY</b>

For a site map to the Capitol Campus, click <http://www.ga.wa.gov/images/Campus-Map.pdf>

Driving directions and parking information <http://www.ga.wa.gov/park/visitor.htm>

### **3.3 BID OPENING PROTOCOL**

Only the name of the Bidder and the time of receipt are read aloud at the time of the Bid opening. The reading does not determine award of the contract, responsibility of the Bidder, or responsiveness of the Bid. Bidder attendance at Bid openings is not required.

### **3.4 CONTRACT INFORMATION AVAILABILITY AFTER AWARD**

Upon award, written notification will be sent to all bidders. After award, information regarding results of the solicitation may be obtained by contacting the Procurement Coordinator.

Bidders may submit a public disclosure request to either schedule an appointment to review the procurement file or obtain specific documents.

### **3.5 PROTEST PROCEDURES**

Protests shall be filed and resolved in accordance with [Appendix A Protest Procedure](#).

## **4 INSTRUCTIONS TO BIDDERS**

This section contains instructions for bidders regarding the preparation and submission of a bid.

### **4.1 AUTHORIZED COMMUNICATION**

Upon release of this IFB, all Bidder communications concerning this solicitation must be directed to the Procurement Coordinator listed on the front page. Unauthorized contact regarding this solicitation with other government employees involved with the solicitation may result in disqualification. All oral and written communications will be considered unofficial and non-binding on the Purchasing Activity. Bidders should rely only on the solicitation document and written amendments issued by the Procurement Coordinator.

### **4.2 BIDDER COMMUNICATION RESPONSIBILITIES**

Bidders will be responsible for communicating to the Procurement Coordinator any issues, exceptions, additions or omissions concerning the solicitation on or before the Bid due date and time. Where requirements appear to prohibit or restrict your firm's participation, an explanation of the issue with suggested alternative language should be submitted in writing to the Procurement Coordinator by the deadline for Bidder Questions, Comments, and Complaints consistent with section [3.1 Procurement Schedule](#). The solicitation process may continue. If changes result, written amendments will be made by the Procurement Coordinator and provided by posting them on WEBS as indicated above.

### **4.3 BIDDER AUTHORIZED REPRESENTATIVE**

Bidder must designate an Authorized Representative who will be the principal point of contact for the Purchasing Activities Procurement Coordinator for the duration of this IFB process. Bidder shall complete this section of [Appendix D Bidder Profile](#).

### **4.4 WASHINGTON ELECTRONIC BUSINESS SOLUTION (WEBS)**

Bidders are solely responsible for:

1. Properly registering with the Department of General Administration's WEBS at <http://www.ga.wa.gov/webs> .
2. Maintaining an accurate Vendor profile in WEBS

3. Downloading the solicitation consisting of the IFB with all attachments and exhibits related to the solicitation for which you are interested in bidding; downloading all current and subsequent amendments to the solicitation

To ensure receipt of all solicitation documents, the IFB for this solicitation must be downloaded from WEBS. Notification of amendments to the solicitation will only be provided to those Vendors who have registered with WEBS and have downloaded the IFB from WEBS. Failure to do so may result in a potential Bidder having incomplete, inaccurate, or otherwise inadequate information, or a Bidder submitting an incomplete, inaccurate, or otherwise inadequate Bid. Bidders and potential bidders accept full responsibility and liability for failing to receive any amendments resulting from their failure to register with WEBS and download the IFB from WEBS, and hold the State of Washington harmless from all claims of injury or loss resulting from such failure.

#### 4.5 PREPARATION OF BIDS

**Due date and time:**

Original, signed (in ink), sealed Bids must be received as set forth in section 3.1 *PROCUREMENT SCHEDULE* at the specified location identified below on or before the specified date and time. **An electronic copy of the bid should be submitted in addition to the hard copy.** Electronic copies should be in Microsoft Word format. In the event that the hard copy of the price worksheets and the electronic copy of the price worksheets do not agree, the hard copy will prevail. Time of receipt will be determined by the official time stamp located at the Purchasing Activity. If a Bid is late or received at a location other than that specified it shall be rejected. In the event the official time clock is unavailable, the bid clerk may establish the official time and take reasonable steps to ensure the integrity of the Bid receipt is preserved.

**Format:**

The submittals for this solicitation shall consist of: **One (1) hard copy. One (1) electronic copy may also be submitted.** Hard copy Bids must be legible and completed in ink or with electronic printer or other similar office equipment, and properly signed by an authorized representative of the Bidder. Electronic copies should be submitted on a CD or thumb drive and be in Microsoft Word format. All changes and/or erasures shall be initialed in ink. Unsigned Bids will be rejected on opening unless satisfactory evidence was submitted clearly establishing the Bidder’s desire and intent to be bound by the Bid, such as a signed cover letter. Incomplete or illegible Bids may be rejected.

**Note:** In a joint effort to save costs, reduce waste and produce energy savings, bidders are encouraged to use double-sided printing and recyclable materials. Bidders are highly encouraged to refrain from submitting Bids in 3-ring binders, spiral bindings, and/or other non-recyclable presentation folders.

**Identification and Delivery:**

To facilitate proper delivery and processing, Responses must be delivered in sealed envelopes, boxes or other method of containment. Sealed Bids should be clearly identified on the outside of the package with the following information to the Purchasing Activity at the address below:

<p><i>[Bidder’s Address]</i> Solicitation Number 01611 <i>[Bid Due Date]</i> ATTN: Scott Edwards (Bid Clerk)</p>	<p>Department of General Administration Office of State Procurement 1500 Jefferson St. SE Olympia, WA 98501</p>
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#### **4.6 BIDDER RESPONSIVENESS**

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

The Purchasing Activity reserves the right to consider the actual level of Bidder's compliance with the requirements specified in this solicitation and to waive informalities in a Bid. An informality is an immaterial variation from the exact requirements of the competitive solicitation, having no effect or merely a minor or negligible effect on quality, quantity, or delivery of the supplies or performance of the services being procured, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial to bidders.

#### **4.7 BIDDER PROFILE**

Bidder shall complete the Bidder Profile Information in [Appendix D Bidder Profile](#).

#### **4.8 PAYMENT TERMS**

Bidders must indicate which Prompt Payment Terms will be offered in [Appendix D Bidder Profile](#).

#### **4.9 BID PRICING**

Bid prices must include all cost components needed for the delivery of the product described in this Solicitation document. All costs associated with the product must be incorporated into the price of the Response to this IFB in [Appendix E Price Worksheet](#).

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

#### **4.10 REFERENCES**

References may be used to evaluate the bidder's history of performance and may be an award consideration on a pass fail basis. Bidder shall furnish minimum of three (3) references from different entities for which Bidder has performed or provided comparable, service, materials, supplies, or equipment similar in scope (i.e. size, volume, type) to this IFB, including entity [name, authorized individual, telephone, email, and facsimile]: Bidder shall complete the References portion of [Appendix D Bidder Profile](#).

The Purchasing Activity will only attempt to make contact with a Bidder's provided references a maximum of three (3) times. If such contact cannot be established with any of the references provided, then those references with which contact cannot be established may be deemed non-responsive and no further attempts will be made to contact that particular reference. References giving negative feedback towards the bidder and states an unwillingness to work with the bidder again, may be rejected and therefore cause the bidder to fail the responsibility requirement.

The State reserves the right to solicit and substitute other references to determine the sufficiency of the Bidder's level of responsibility.

#### **4.11 EQUIPMENT/PRODUCT DEMONSTRATION**

Prior to a Contract award, and during the bid evaluation process, Bidder(s) may be required to demonstrate the performance capabilities of the equipment offered in their bid.

Performance demonstration(s) must be conducted within fourteen (14) calendar days after notification that such demonstration(s) is required. Bidder(s) shall conduct all demonstration(s) within Washington State and are responsible for their costs associated with the demonstration(s).

#### **4.12 WITHDRAWAL OR MODIFICATION OF BID**

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

**After Bid submittal but prior to Bid opening:** The Bidder may modify or withdraw his/her Bid at any time prior to the due date and time set for Bid opening by providing a written request to the Procurement Coordinator from an authorized representative of the Bidder.

**After Bid opening:** No Bid shall be altered or amended. The Purchasing Activity may allow a Bid to be withdrawn if the Bidder demonstrates that the prices were miscalculated. A low Bidder, who claims error and fails to enter into a contract with the State of Washington, may not participate in bidding on the same commodity or service if the solicitation is subsequently reissued by the Purchasing Activity.

The Purchasing Activity reserves the right to contact Bidder for clarification of Response contents.

#### **4.13 PROPRIETARY OR CONFIDENTIAL INFORMATION**

All Bids submitted become the property of the State of Washington and a matter of public record, after the contract has been executed.

Any information contained in the Response that is proprietary or confidential must be clearly designated. Marking of the entire Response or entire sections of the Response as proprietary or confidential will not be accepted nor honored. The Purchasing Activity will not honor designations by the Bidder where pricing is marked proprietary or confidential. *See section 8.3 PROPRIETARY OR CONFIDENTIAL INFORMATION of the Model Contract.*

### **5 BIDDER QUALIFICATIONS**

#### **5.1 DEALER AUTHORIZATION**

The Bidder, if other than the manufacturer, shall provide a current, dated, and signed authorization from the manufacturer that the Bidder is an authorized distributor, dealer or service representative and is authorized to sell the manufacturer's products. Failure to comply with this requirement may result in Bid rejection. *See section 4.2 DEALER AUTHORIZATION of the Model Contract.*

#### **5.2 FEDERAL FUNDING**

*See related section 10.7 FEDERAL FUNDING of the Model Contract.*

#### **5.3 FEDERAL RESTRICTIONS ON LOBBYING**

The Bidder must certify by signing and submitting the Bidder Authorized Offer page of this IFB with submission of its Bid, that under the requirements of Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq., no Federal appropriated funds have been paid or will be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or

employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. *See related section 10.8 FEDERAL RESTRICTIONS ON LOBBYING of the Model Contract.*

#### **5.4 FEDERAL DEBARMENT AND SUSPENSION**

The Bidder certifies, by submission of this Bid, that neither it nor its “principals” (as defined in 49 CFR. 29.105 (p)) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. *See related section 10.9 FEDERAL DEBARMENT AND SUSPENSION of the Model Contract.*

#### **5.5 USE OF SUBCONTRACTORS**

The Purchasing Activity will accept Responses that include third party involvement only if the Bidder submitting the Response agrees to take complete responsibility for all actions of such Subcontractors. Bidder must state whether Subcontractors are/are not being used.

If applicable, Bidder shall identify all subcontractors who will perform services in fulfillment of contract requirements, including their name, the nature of services to be performed, address, telephone, facsimile, email, federal tax identification number (TIN), and anticipated dollar value of each subcontract: Bidder shall complete this section of [Appendix D Bidder Profile](#).

The Purchasing Activity reserves the right to approve or reject any and all Subcontractors that Bidder proposes.

Specific restrictions apply to contracting with current or former state employees pursuant to [Chapter 42.52 RCW](#). Bidders should familiarize themselves with the requirements identified in *section 4.3 USE OF SUBCONTRACTORS of the Model Contract* prior to submitting a Response.

#### **5.6 BIDDER TECHNICAL REQUIREMENTS**

Respond to the following requirements per the instructions in [Appendix F Technical Requirements](#).

#### **5.7 WARRANTY REQUIREMENTS**

Bidder will submit a copy of warranty as an attachment to bid and items delivered under this contract will also be accompanied by a copy of the warranty. Unless otherwise specified, full parts and labor warranty period shall be for a minimum period of one (1) year after receipt of materials or equipment by the Purchaser. All materials or equipment provided shall be new, unused, of the latest model or design and of recent manufacture.

##### Equipment Service Life

All equipment covered by these specifications and any resultant contracts shall have a minimum service life of ten (10) years from date of delivery to the purchaser. The supplier shall guarantee replacement parts availability from the supplier and/or authorized distributor for this service life period.

### Equipment & Parts Warranty

The supplier shall guarantee repair or replacement of any equipment or part thereof that fails in operation during normal and proper use within one (1) year from date of purchaser's receipt due to defects in design, material or workmanship, consummation of final acceptance and payment notwithstanding. These replacements shall be of no cost to the purchaser. The cost of installation of these replacements, including shipping and delivery, shall be borne by the supplier for the period of warranty.

Any equipment or part replaced under the provisions of this warranty becomes the property of the supplier. If the supplier desires the defective equipment or part returned, the supplier shall pay all transportation charges for the return. If the supplier does not specifically request return of such replaced parts within thirty (30) days from date of replacement, the equipment or parts become the property of the purchaser.

Replacement parts shall be regularly stocked by the supplier and/or authorized distributor. Delay in purchaser's receipt of replacement parts shall not exceed ten (10) consecutive days from supplier or distributor's receipt of order.

The supplier shall supply the purchaser, free of charge for the service life of the equipment, with all data, drawings and specifications of modifications, plans or experiments by which the equipment may be improved or modernized.

## **5.8 MERCURY CONTENT AND PREFERENCE**

In accordance with [Chapter 70.95M](#), the State of Washington gives priority and preference to the purchase of equipment, supplies, and other products that contain no mercury compounds or components, unless: (a) There is no economically feasible non mercury-added alternative that performs a similar function; or (b) the product containing mercury is designed to reduce electricity consumption by at least forty percent and there is no non mercury or lower mercury alternative available that saves the same or a greater amount of electricity as the exempted product. In circumstances where a product without mercury is not available, preference must be given to the purchase of products that contain the least amount of mercury added to the product necessary for the required performance.

Bidders shall offer mercury-free products when available. Should mercury-free products not exist, bidders shall offer products with the lowest mercury content available. Bidders shall disclose products that contain added mercury and attach an explanation that includes the amount or concentration of mercury, and justification as to why added mercury is necessary for the function or performance of the offered product.

The Bidder is to provide any existing technical data pertaining to mercury or a mercury compound intentionally added to the product. If the product does not contain mercury or a mercury compound, submit a written statement to that effect attached to bid.

## **6 SUCCESSFUL BIDDER RESPONSIBILITIES**

### **6.1 NO COSTS OR CHARGES**

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

## **6.2 POST AWARD CONFERENCE**

*See section 2.5 POST AWARD CONFERENCE of the Model Contract.*

## **6.3 CONTRACT MANAGEMENT**

*See section 2.6 CONTRACT MANAGEMENT of the Model Contract*

## **6.4 INSURANCE**

The Successful Bidder is required to obtain insurance to protect the State should there be any claims, suits, actions, costs, or damages or expenses arising from any negligent or intentional act or omission of the Bidder or its Subcontractor(s), or their agents, while performing work under the terms of any Contract resulting from this solicitation. *See section 9.8 INSURANCE of the Model Contract for a complete description of the specific insurance requirements.*

## **6.5 STATEWIDE VENDOR PAYMENT REGISTRATION**

*See section 2.9 of the Model Contract*

## **6.6 SALES & SUBCONTRACTOR REPORTS**

*See section 2.10 SALES & SUBCONTRACTOR REPORTS of the Model Contract.*

## **6.7 OTHER REQUIRED REPORT(S)**

*See section 2.11 OTHER REQUIRED REPORT(S) of the Model Contract.*

## **7 PRICING (COST FACTORS)**

Respond to the following requirements per the instructions in [Appendix E Price Worksheet](#).

### **7.1 PRICING**

All pricing shall include the costs of bid preparation, servicing of accounts, and complying with all contractual requirements. See [Appendix E Price Worksheet](#).

During contract period pricing shall remain firm and fixed for the initial 365 days of the contract commencing on the effective date of contract award.

### **7.2 NO BEST AND FINAL OFFER**

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

### **7.3 PRICE SHEET**

Bidder(s) may offer pricing on more than one category however it is not required. Bidders shall provide pricing for all line items within a given category. Bidder shall add the unit prices together to achieve the Total Cost for each category near the bottom of the price sheet. In the event of an error in the Price Sheet Total, the unit price shall prevail. Prices shall include all associated costs (e.g. customs duties and brokerage or import fees, FOB destination shipping fees, WSCA administrative fees, etc.).

Bidders must also complete the portion of the price sheet regarding the Parts and Accessories discount. This information will be evaluated for price reasonableness only. If found to be reasonable, the percentage discount offered will be used for the as needed purchase of replacement parts and accessories for existing equipment.

Pricing specified shall be in U.S. Dollars and does not include sales tax. ***Do not add sales tax into the unit price.***

Bidder must complete [Appendix E Price Worksheet](#).

#### **7.4 PRICE ADJUSTMENTS**

Contractor requests for adjustments in pricing will be considered at sole discretion of the Purchasing Activity and in accordance with *section 3.3 PRICE ADJUSTMENTS of the Model Contract*.

#### **7.5 SHIPPING TERMS**

Shipping shall be FOB Destination. Seller pays the cost of shipping, owns the goods in transit and files any claims if necessary.

#### **7.6 CONTRACT ADMINISTRATION FEE**

The Contract(s) will be subject to a WSCA Administration Fee. Bidder(s) will include this fee in its Bid pricing and not as a separate line item to Participating Entities. The Contractor(s) will collect the fees and distribute the fees to WSCA as outlined below:

##### WSCA Administration Fee

The WSCA Administration Fee will be one half of one percent (0.5%) on all purchases made under authority of the Contract. Purchases are defined as total invoice price less sales tax.

The WSCA Administrative fee shall be paid within thirty (60) days after the end of the calendar quarter. It is the Contractor's responsibility to calculate and remit the Administrative Fee since WSCA does not issue an invoice for this fee. Contractor shall indicate the Contract Number #01661 and include with the remittance, a quarterly sales report by WSCA contract participant. The administrative fee shall be paid to:

WESTERN STATES CONTRACTING ALLIANCE (WSCA)  
C/O AMR MANAGEMENT SERVICES  
201 EAST MAIN STREET, SUITE 1450  
LEXINGTON, KY 40507

In addition to the WSCA Administration Fee as stated above, some Participating Entities may also require an administrative fee, and will be incorporated into the Participating Entity's Participating Addendum. Participating Entity Administrative Fees may be added to the price of each item or as a separate line item as agreed in each individual Participating Addendum.

#### **7.7 PRESENTATION OF ALL COST COMPONENTS**

All elements of recurring and non-recurring costs must be identified and included in [Appendix E Price Worksheet](#). This must include, but is not limited to, all administrative fees, maintenance, manuals, documentation, shipping charges, labor, travel, training, consultation services, wiring and supplies needed for the installation (including cost of all uncrating, disposal of shipping materials), set-up, testing and initial instruction to agency personnel, warranty work and maintenance.

## 8 EVALUATION AND AWARD

### 8.1 AWARD CRITERIA

All radar/lidar units shall be listed on the most current Conforming Products List (CPL), of the International Association of Chiefs of Police (IACP) and be listed in the price sheets of this bid package. Only bids meeting these specifications will be considered for the award of this bid.

Bidders whose bids are determined to be non-responsive will be rejected and will be notified of the reasons for such rejection.

Awards will be made to the bidder(s) that have been determined to be Responsive, Responsible and bid the lowest total cost per category based on the evaluation and award criteria established herein and subject to consideration of all factors identified in [RCW 43.19.1911](#). For evaluation purposes, the lowest total cost will be determined after the application of Prompt Payment Discount (if offered) and applicable preferences and penalties required by law.

Preferences and penalties that are required by law will be applied to the pricing of the Solicitation evaluation. Some preferences and penalties are added by contract language and could be applied to the pricing of the Solicitation evaluation. A preference reduces the Bidder's stated price by the amount of the preference and is an advantage to the Bidder. A penalty increases the Bidder's stated price by the amount of the penalty and is a disadvantage to the Bidder. Preferences and penalties are applied to the pricing for evaluation purposes only but are not applied for purchasing purposes if awarded the contract.

The Bid evaluation shall consider Bidder Responsiveness, Responsibility and Cost Factors in determining the awarded bidder(s). Responsiveness, Responsibility and Cost Factors will be evaluated independently of each other, based on the Evaluation Process described in section 8.2 of this solicitation.

Subject to the provisions of [RCW 43.19.1911](#) and [Chapter 236-48 WAC](#), the purchasing activity reserves the right to: (1) Waive any informality; (2) Reject any or all Bids, or portions thereof; (3) Accept any portion of the items bid unless the Bidder stipulates all or nothing in their Bid; (4) Cancel a solicitation and re-solicit Bids; (5) Negotiate with the lowest Responsive and Responsible Bidder to determine if that Bid can be improved for the Purchaser; (6) Award on an all or none consolidated basis taking into consideration "lifecycle costs"; and (7) Award in aggregate when in the best interest of the state.

### 8.2 SUBMITTAL AND EVALUATION PROCESS

Evaluation of the bid responses will be as follows:

<b>Category</b>	<b>Evaluation Method</b>
<b><u>Responsiveness</u></b>	Pass/Fail
<b><u>Responsibility</u></b> <i>Experience/Capability of Bidder</i>	<u>Pass/Fail</u>
<b><u>Cost Factors</u></b> <i>Price Sheet</i>	<u>Lowest total cost per category</u>

**Pass/Fail Submittals Evaluation**

The Procurement Coordinator or other suitable individual will perform the pass/fail Submittal evaluation. If a Pass/Fail Submittal is determined to be a Fail, the Bid is disqualified.

The failure by the Bidder to provide required Submittal(s) may cause the Bid to be rejected as non-responsive or non-responsible. Failure to meet the material requirements of the Submittal (substance, spirit, intent, material aspects, etc.) may cause your Bid to be rejected for lack of responsibility. It is important that you submit all Submittals in the form requested and complete the Submittals as instructed by the Solicitation or Amendment.

**Responsiveness Evaluation (Pass/Fail)**

Bids will be initially reviewed for responsiveness. This includes but is not limited to; 1) did the bid response arrive before the deadline (sometimes called the Bid Opening), in a sealed container or envelope, 2) with all submittals needed for evaluation substantively completed, and 3) signed with an original signature on the Bidders Authorized Offer page and Contract Signature page which is the Bidder's acknowledgement of firm offer and obligation of contract if awarded the contract.

**COMPLETE AND RETURN THE FOLLOWING:**

- a. **Signatures** (Bidder's Authorized Offer & Contract Signatures): The purchasing activity treats bid responses as firm offer commitments for the purchasing activity's review and evaluation that will result in an award if accepted and awarded by the purchasing activity in full or part.

State law and this Solicitation require the bid response to have an original signature(s) (preferably in blue ink) that demonstrates the Bidder's firm offer commitment and acknowledgement and acceptance of the resulting contract's terms and conditions as written by the state.

Bidders failing to sign their bid response as indicated below may be disqualified from receiving an award.

**The Bidder needs to sign the bid response in two locations.**

- **Return a complete Solicitation/Contract (the entire document), and**
- **Sign the Bidder's Authorized Offer located on or about page 2, and**
- **Sign the Contract (Contract Signatures) located on or about page 59.**

- b. **Bidder Profile** ([Appendix D Bidder Profile](#)): The Profile aids the state in its responsibility analysis and contains other information important in the evaluation, such as Prompt Payment Discounts.
- c. **Price Sheet** ([Appendix E Price Worksheet](#)): Bidders must record their firm offer pricing in the appropriate cells on the Price Sheet. Bidders must submit pricing for all line items within a given category; failure to do so may result in disqualification from receiving an award.

**Responsibility Evaluation (Pass/Fail)**

In addition to the above referenced submittal and pursuant to [RCW 43.19.1911 \(9\)](#), in determining Bidder responsibility, the following elements shall be given consideration:

- a) The ability, capacity, and skill of the Bidder to perform the contract or provide the service required;
- b) The character, integrity, reputation, judgment, experience, and efficiency of the Bidder;
- c) Whether the Bidder can perform the contract within the time specified;
- d) The quality of performance of previous contracts or services;
- e) The previous and existing compliance by the Bidder with laws relating to the contract or services;
- f) Such other information as may be secured having a bearing on the decision to award the contract:

During Response evaluation, the purchasing activity reserves the right to make reasonable inquiry to determine the responsibility of any Bidder. Requests may include, but are not limited to, financial statements, review of invoices, references, record of past performance, clarification of Bidder's offer, and on-site inspection of Bidder's facilities. Failure to respond to said request(s) may result in the Response being rejected as non-responsive.

**Cost Evaluation:**

Only Responses that have been determined to be both Responsive and Responsible will have costs evaluated.

Costs will be evaluated as follows:

Price sheets for each category will be evaluated to verify that all line items have been completed and to verify that the Total Cost per category is correct. In the event of a mathematical error in the calculation of the Total Cost per category, unit prices shall prevail. The Total Cost for each category will then have Prompt Payment Discounts (if offered), applicable Preferences and Penalties as described in section 8.1 applied to the totals.

The bidder offering the lowest Total Cost per category, after the application of Prompt Payment Discounts and applicable Preferences and Penalties will be determined to be the lowest bidder for that given category. [\*See section 7.3 PRICE SHEET of the IFB\*](#)

**8.3 SELECTION OF APPARENTLY SUCCESSFUL BIDDER**

The Bidder whose bid is the most advantageous to the State, for a given category, will be declared the Apparent Successful Bidder for that category. The Purchasing Activity may enter into Contract negotiations with the Apparent Successful Bidder.

Should Contract negotiations fail to be completed within 30 days after initiation, the Purchasing Activity may immediately cease Contract negotiations and declare the second lowest Bidder the new Successful Bidder and enter into Contract negotiations with that Bidder. This process may continue until a contract is signed or no qualified Bidders remain.

**8.4 NOTIFICATION OF APPARENTLY SUCCESSFUL BIDDER**

All Bidders responding to this solicitation will be notified when the Purchasing Activity has determined the Successful Bidder(s). The date of announcement of the Successful Bidder will be the date of the notification from the Purchasing Activity.

## **PART II THE MODEL CONTRACT**

State of Washington  
Department of General Administration  
Office of State Procurement (OSP)



**Contract 01611**  
**The State of Washington on behalf of**  
**The Western States Contracting Alliance (WSCA)**  
**A Multi-State Contract for:**

**Police Radar, Lidar, Parts and Accessories**

For Purchases of Materials, Supplies, Services, and Equipment  
Under the Authority of  
[Chapter 43.19 RCW](#)

## 1 OVERVIEW

### 1.1 CONTRACT SCOPE

This contract is intended to support the needs of state and local law enforcement for Police Radar, Lidar, Parts and Accessories. This contract will provide new equipment as well as replacement parts and accessories for existing embedded devices, already owned and in operation by various departments throughout the United States.

This Contract is to facilitate the as-needed purchase of Police Radar, Lidar, Parts and Accessories for participating members of the Western States Contracting Alliance (WSCA).

This Contract was bid under the statutory authority of [RCW 43.19](#) for the purchase of goods and services as stated herein and [RCW 39.34](#) which permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities.

### 1.2 CONTRACT MODIFICATIONS

The Purchasing Activity reserves the right to modify this Contract by mutual agreement between the Purchasing Activity and the Contractor, so long as such modification is substantially within the scope of the original Contract. Such modifications will be evidenced by issuance of a written authorized amendment by the Contract Administrator.

### 1.3 RECITALS

The state of Washington, acting by and through the Department of General Administration (GA), Office of State Procurement (OSP) issued an Invitation for Bid (IFB) for the purpose of purchasing goods and services in accordance with its authority under [Chapter 43.19 RCW](#).

*The Awarded Contractor* submitted a timely Response to OSP's SOLICITATION #01611.

OSP evaluated all properly submitted Responses to the above-referenced SOLICITATION and has identified *the Awarded Contractor* as the apparently successful Contractor.

OSP has determined that entering into a Contract with *Awarded Contractor* will meet Purchaser's needs and will be in Purchaser's best interest.

NOW THEREFORE, OSP awards to *the Awarded Contractor* this Contract, the terms and conditions of which shall govern Contractor's furnishing to Purchasers the goods and services as described herein. This Contract is not for personal use.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

#### **1.4 PARTICIPATING ENTITIES**

Potential Participating Entities include members of the Western States Contracting Alliance. The Western States Contracting Alliance (WSCA) is a cooperative group-contracting consortium for state government departments, institutions, institutions of higher education, agencies and political subdivisions (e.g., school districts, counties, cities, etc.) for the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming. WSCA is a cooperative purchasing arm of the National Association of State Procurement Officials (NASPO). This contract may also be used by other NASPO states with the authorization of the WSCA directors and subject to approval of the individual State Procurement Director and local statutory provisions.

In addition to the State of Washington, the following entities have signified their intent to participate in this contract: Alaska, Arizona, Colorado, Delaware, Hawaii, Idaho, Louisiana, Minnesota, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Utah and Vermont.

This Intent to Participate is not binding. Other states and public entities may use awards based on this solicitation at any time during the contract period.

All members of the Washington State Purchasing Cooperative (WSPC) including where applicable: State Agencies, Institutions of Higher Education, Political Subdivisions, and Non-Profit Corporations are eligible to use this Contract.

While use of the Contract by Political Subdivisions and Non-Profit Corporations that are members of the WSPC is optional, the Office of State Procurement encourages them to use state contracts. Their use of the contracts may significantly increase the purchase volume. Their orders are subject to the same contract terms, conditions and pricing as state agencies. The Office of State Procurement accepts no responsibility for orders or payment by WSPC members.

A list of WSPC members is available at <http://www.ga.wa.gov/PCA/SPC.htm>.

#### **Purchases by Nonprofit Corporations**

Legislation allows nonprofit corporations to participate in State Contracts for purchases administered by the Office of State Procurement (OSP). By mutual agreement with OSP, the contractor may sell goods or services at contract pricing awarded under this SOLICITATION and resulting contract to self certified nonprofit corporations. Such organizations purchasing under the State Contract shall do so only to the extent they retain eligibility and comply with other contract and statutory provisions. The contractor may make reasonable inquiry of credit worthiness prior to accepting orders or delivering goods or services on contract. The State accepts no responsibility for payments by nonprofit corporations. Their use of the contracts may significantly increase the purchase volume. Their orders are subject to the same contract terms, conditions and pricing as state agencies.

**1.5 ESTIMATED USAGE**

Based on past and/or projected usage, it is estimated that purchases over the initial term of the Contract may approximate \$4,700,000 as follows:

<b>State</b>	<b>Annual estimated volume</b>
Alaska	\$200,000.00
Arizona	Not provided
Colorado	Not provided
Delaware	\$200,000.00
Hawaii	not provided
Idaho	\$100,000.00
Louisiana	Not provided
Minnesota	\$200,000.00
Montana	\$75,000.00
Nevada	\$150,000.00
New Mexico	\$500,000.00
North Dakota	\$50,000.00
Oklahoma	\$320,000.00
Utah	\$100,000.00
Vermont	\$100,000.00
Washington	\$675,000.00
	<b>sub-total: \$2,670,000</b>
<b>16 states</b>	<b>1st term Total: \$5,340,000</b>

This estimate is provided solely for the purpose of assisting Bidders in preparing their Response. Orders will be placed only on an as needed basis.

**The State of Washington does not represent or guarantee any minimum purchase.**

**1.6 CONTRACT TERM**

The initial term of this contract is Two (2) years from the effective date of award with the option to extend for additional term(s) or portions thereof. Extension for each additional term shall be offered at the sole discretion of the Purchasing Activity and are subject to written mutual agreement. The total contract term, including the initial term and all subsequent extensions, shall not exceed Seven (7) years unless an emergency exists and/or special circumstances require a partial term extension. The state reserves the right to extend with all or some of the contractors, solely determined by the state.

**2 CONTRACT ADMINISTRATION**

**2.1 PURCHASING ACTIVITY CONTRACT ADMINISTRATOR**

The Purchasing Activity shall appoint a single point of contact that will be the Contract Administrator for this Contract and will provide oversight of the activities conducted hereunder. The Contract Administrator will be the principal contact for Contractor concerning business activities under this Contract. The Purchasing Activity will notify

Contractor, in writing, when there is a new Contract Administrator assigned to this Contract.

## **2.2 ADMINISTRATION OF CONTRACT**

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

## **2.3 CONTRACT PRODUCT CHANGES**

A Contractor may propose a revision to its offerings to reflect changed Products appropriate to the scope of the Contract, and may propose such new Products with associated prices to the GA Contract Administrator for approval. Contract Administrator has the sole discretion in approval of addition of revised offerings and pricing. New or changed Products proposed by Contractor must meet the requirements established in this solicitation document or subsequent revisions. If approved by GA, the new Products will be added to the Contract by written amendment.

## **2.4 CONTRACTOR SUPERVISION AND COORDINATION**

Contractor shall:

1. Competently and efficiently, supervise and coordinate the implementation and completion of all Contract requirements specified herein;
2. Identify the Contractor's Representative, who will be the principal point of contact for the Purchasing Activity Contract Administrator concerning Contractor's performance under this Contract.
3. Immediately notify the Contract Administrator in writing of any change of the designated Contractor's Representative assigned to this Contract; and
4. Violation of any provision of this paragraph may be considered a material breach establishing grounds for Contract termination.

Be bound by all written communications given to or received from the Contractor's Representative.

## **2.5 POST AWARD CONFERENCE**

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

## **2.6 CONTRACT MANAGEMENT**

Upon award of this contract, the contractor shall:

1. Review the impact of the award and take the necessary steps needed to ensure that contractual obligations will be fulfilled.
2. Promote and market the use of this contract to all authorized contract Purchasers.
3. Ensure that those who endeavor to utilize this contract are authorized Purchasers under this Contract.

4. At no additional charge, assist Purchasers in the following manner to make the most cost effective, value based, purchases including, but not limited to:
  - a) Visiting the Purchaser site and providing Purchaser with materials/supplies/equipment recommendations.
  - b) Providing Purchasers with a detailed list of contract items including current contract pricing and part numbers.
5. The contractor shall designate a customer service representative who will be responsible for addressing Purchaser issues including, but not limited to:
  - a) Logging requests for service, ensuring repairs are completed in a timely manner, dispatching service technicians, and processing warranty claim documentation.
  - b) Providing Purchasers with regular and timely status updates in the event of an order or repair fulfillment delay.
6. Acting as the lead and liaison between the manufacturer and Purchaser in resolving warranty claims for contract items purchased.

## **2.7 CHANGES**

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

## **2.8 CONTRACT ADMINISTRATION FEE**

The Contract(s) will be subject to a WSCA Administration Fee. Bidder(s) will include this fee in its Contract pricing and not as a separate line item to Participating Entities. The Contractor(s) will collect the fees and distribute the fees to WSCA as outlined below:

### WSCA Administration Fee

The WSCA Administration Fee will be one half of one percent (0.5%) on all purchases made under authority of the Contract. Purchases are defined as total invoice price less sales tax.

The WSCA Administrative fee shall be paid within thirty (60) days after the end of the calendar quarter. It is the Contractor's responsibility to calculate and remit the Administrative Fee since WSCA does not issue an invoice for this fee. Contractor shall indicate the Contract Number #01611 and include with the remittance, a quarterly sales report by WSCA contract participant. The administrative fee shall be paid to:

WESTERN STATES CONTRACTING ALLIANCE (WSCA)  
C/O AMR MANAGEMENT SERVICES  
201 EAST MAIN STREET, SUITE 1450  
LEXINGTON, KY 40507

In addition to the WSCA Administration Fee as stated above, some Participating Entities may also require an administrative fee, and will be incorporated into the Participating Entity's Participating Addendum. Participating Entity Administrative Fees may be added to the price of each item or as a separate line item as agreed in each individual Participating Addendum.

## **2.9 WASHINGTON STATEWIDE VENDOR PAYMENT REGISTRATION**

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

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

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

## **2.10 SALES & SUBCONTRACTOR REPORTS**

The Contractor shall provide a Sales and Subcontractor Report to the Office of State Procurement on a quarterly basis in the electronic format provided by the Office of State Procurement at: <https://fortress.wa.gov/ga/apps/CSR/Login.aspx>.

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

## **2.11 OTHER REQUIRED REPORT(S)**

All reports required under this contract must be delivered to the Contract Administrator. Contractor may be required to provide a detailed annual contract sales history report that may include but is not limited to products description, part number, per unit quantities sold, contract price in an electronic format that can be read by MS Excel. Other required reports will be designed and approved by the parties by mutual agreement.

## **2.12 WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS)**

Contractor shall be registered in the Contractor registration system, Washington's Electronic Business Solution (WEBS) [www.ga.wa.gov/webs](http://www.ga.wa.gov/webs), maintained by the Washington State Department of General Administration. Contractors already registered need not re-register. It is the sole responsibility of Contractor to properly register with WEBS and maintain an accurate Contractor profile in WEBS.

# **3 PRICING**

## **3.1 PRICE PROTECTION**

During the contract period, any price declines at the manufacturer's level or cost reductions to contractor shall be reflected in a reduction of the contract price retroactive to the date the price decline or cost reduction was available to the contractor.

## **3.2 NO ADDITIONAL CHARGES**

Unless otherwise specified in the Solicitation, no additional charges by the Contractor will be allowed including, but not limited to: handling charges such as packing, wrapping, bags, containers, reels; or the processing fees associated with the use of credit cards. Notwithstanding the foregoing, in the event that market conditions, laws, regulations or

other unforeseen factors dictate, at the Contract Administrators sole discretion, additional charges may be allowed.

### **3.3 PRICE ADJUSTMENTS**

Contractor requests for adjustments in pricing will be considered at the sole discretion of the Purchasing Activity. **During Contract period pricing shall remain firm and fixed for the initial 365 days of the Contract** and then on a pass through basis only that does not produce a higher profit margin for Contractor than that established by the original Contract pricing.

**Contractors shall not make extensions contingent on price adjustments.**

Price increases will not be considered without supporting documentation sufficient to justify the requested increase. Documentation must be based on published indices such as the Producer Price Index or other acceptable indices, and/or the result of increases at the manufacturer's level, other supportable pricing increases, and incurred after Contract commencement date. Contractor shall provide a detailed breakdown of their costs upon request. A minimum of 60 calendar days advance written notice of price increase is required.

The granting of any price adjustment will be at the sole discretion of the Contract Administrator. The Contractor shall be notified in writing by the Contract Administrator of any price adjustment granted, and such price adjustment shall be set forth in a written amendment to the Contract. Price adjustments granted shall remain unchanged for at least 365 calendar days thereafter, and no request for adjustments in price will be considered during that time period.

## **4 CONTRACTOR QUALIFICATIONS AND REQUIREMENTS**

### **4.1 ESTABLISHED BUSINESS**

Prior to commencing performance, or prior to that time if required by the Purchasing Activity, law or regulation, Contractor must be an established business firm with all required licenses, fees, bonding, facilities, equipment and trained personnel necessary to meet all requirements and perform the work as specified in the Solicitation. Contractor shall maintain compliance with these requirements throughout the life of this contract.

The Purchasing Activity reserves the right to require receipt of proof of compliance with said requirements within ten (10) calendar days from the date of request, and to terminate this Contract as a material breach for noncompliance with any requirement of this paragraph.

### **4.2 DEALER AUTHORIZATION**

The Contractor, if other than the manufacturer, shall provide upon request from a customer, a current, dated, and signed authorization from the manufacturer that the Contractor is an authorized distributor, dealer or service representative and is authorized to sell the manufacturer's products. Failure to provide manufacturer's authorization may result in Contract cancellation.

#### **4.3 USE OF SUBCONTRACTORS**

In accordance with IFB requirements, Contractor agrees to take complete responsibility for all actions of such Subcontractors.

Prior to performance, Contractor shall identify all subcontractors who will perform services in fulfillment of contract requirements, including their name, the nature of services to be performed, address, telephone, facsimile, email, federal tax identification number (TIN), and anticipated dollar value of each subcontract:

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

Specific restrictions apply to contracting with current or former state employees pursuant to [Chapter 42.52 RCW](#).

#### **4.4 SUBCONTRACTS AND ASSIGNMENT**

Contractor shall not Subcontract, assign, or otherwise transfer its obligations under this Contract without the prior written consent of the Contract Administrator. Contractor shall provide a minimum of thirty (30) calendar days advance notification of intent to Subcontract, assign, or otherwise transfer its obligations under this Contract. Violation of this condition may be considered a material breach establishing grounds for Contract termination. The Contractor shall be responsible to ensure that all requirements of the Contract shall flow down to any and all Subcontractors. In no event shall the existence of a Subcontract operate to release or reduce the liability of Contractor to the state for any breach in the performance of the Contractor's duties.

#### **4.5 CONTRACTOR AUTHORITY AND INFRINGEMENT**

Contractor is authorized to sell under this Contract, only those materials, supplies, services and/or equipment as stated herein and allowed for by the provisions of this Contract. Contractor shall not represent to any Purchasers that they have the contract authority to sell any other materials, supplies, services and/or equipment. Further, Contractor may not intentionally infringe on other established State Contracts.

#### **4.6 MATERIALS AND WORKMANSHIP**

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

#### **4.7 MERCURY CONTENT AND PREFERENCE**

Contractor shall provide mercury-free products when available. Should mercury-free products not exist, contractors shall provide products with the lowest mercury content available. Contractor shall disclose products that contain added mercury and provide an

explanation that includes the amount or concentration of mercury, and justification as to why added mercury is necessary for the function or performance of the product.

The Contractor is to provide any existing technical data pertaining to the addition of mercury or a mercury compound intentionally added to the product. If the product does not contain mercury or a mercury compound, Contractor shall submit a written statement to that effect. Contractor shall maintain compliance with these requirements throughout the life of this contract.

The Purchasing Activity reserves the right to require receipt of proof of compliance with said requirements within ten (10) calendar days from the date of request, and to terminate this Contract as a material breach for noncompliance with any requirement of this paragraph.

## **5 DELIVERY REQUIREMENTS**

### **5.1 STANDARD OF QUALITY/CONSISTENCY OVER TERM OF CONTRACT**

If, in the sole judgment of the Purchasing Activity or the Purchaser, any item is determined not to be as specified, the Purchaser may take any or all of the following actions:

1. the product may be returned at Contractor's expense;
2. the contract may be terminated without any liability to the State of Washington or Purchaser

### **5.2 SHIPPING AND RISK OF LOSS**

Shipping shall be FOB Destination. Seller pays the cost of shipping, owns the goods in transit and files any claims if necessary.

### **5.3 DELIVERY**

- a) Standard products shall be delivered within ten (10) business days. Non-standard or custom product orders shall be delivered within twenty (20) business days; if delivery is not possible because of specialized materials or product specifications then Contractor shall provide a mutually acceptable firm delivery date.
- b) Deliveries will be made during the normal work hours (Monday through Friday from 8 AM to 5 PM). The contractor is responsible for coordinating with customers and carrier(s) the delivery schedule, shipping instructions and location delivery details. The state reserves the right to refuse shipment when delivered outside of normal working hours.
- c) If order fulfillment is anticipated to exceed the typical order fulfillment lead time, the contractor shall advise the purchaser within 24 hours of receipt of the purchase order.

### **5.4 TECHNICAL MANUALS**

The supplier shall furnish the following equipment documentation. These manuals shall accompany ordered equipment at time of delivery; the ordering agency may request CDROM, or hard copy form.

**A. OPERATORS MANUAL**

One Operators Manual shall be included without charge with each equipment unit. This manual shall provide an operational description of the equipment and all other pertinent operational details. This manual must include illustrations or photographs displaying the location and details of the various devices and controls. This manual may be a volume separated from other manuals.

**B. INSTALLATION MANUAL**

One Installation Manual shall be included without charge with each unit supplied. The installation manual shall consist of printed and illustrated sections that describe the mechanical, electrical and electronic details of installation sufficient to assure proper operation at completion. This manual may be a section of the operator's manual.

**C. SERVICE MANUAL**

The Service Manual shall be included without charge with each unit supplied. The Service Manual shall contain circuit descriptions in written and illustrative form which are concise and all inclusive. Sections of the manual shall include theory of operations to the component level, parts lists, troubleshooting flow diagrams and charts, instructions for alignment, programming, adjustment and/or setup, schematics with normal operating voltages, plus wiring, interface, interconnection and printed circuit layout and assembly. Quantities of Service Manual issuance shall be as requested by the purchaser.

**5.5 CATALOGS AND PRICE LISTS**

Bidder or Contractor shall furnish all necessary catalogs and latest dated published manufacturer's price lists upon the request of a purchaser.

**5.6 SITE SECURITY**

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

**5.7 INSPECTION AND REJECTION**

The Purchaser's inspection of all materials, supplies and equipment upon delivery is for the purpose of forming a judgment as to whether such delivered items are what was ordered, were properly delivered and ready for Acceptance. Such inspection shall not be construed as final acceptance, or as acceptance of the materials, supplies or equipment, if the materials, supplies or equipment does not conform to contractual requirements. If there are any apparent defects in the materials, supplies, or equipment at the time of delivery, the Purchaser will promptly notify the Contractor. Without limiting any other rights, the Purchaser may require the Contractor to: (1) repair or replace, at Contractor's expense, any or all of the damaged goods; (2) refund the price of any or all of the damaged goods; or (3) accept the return of any or all of the damaged goods.

## **5.8 STANDARDS**

The equipment described herein shall meet or exceed applicable EIA, FCC, IEEE, NHTSA, NIST and NEMA requirements, standards, specifications, practices and/or procedures current at the time of contract bid opening.

Unless specifically excepted by the terms of the attached specifications, any and all parts or accessories ordinarily furnished or required to produce the equipment herein specified as a complete, operating unit shall be furnished by the supplier whether identified in the specifications or not.

The unit shall be delivered to the purchaser with any and all equipment modifications intact and intact and installed. All ordered options shall be factory installed and tested in the unit prior to delivery. The unit shall be delivered to the purchaser fully assembled and ready for operation.

## **5.9 TREATMENT OF ASSETS**

1. Title to all property furnished by the Purchasing Activity and/or Purchaser shall remain in the Purchasing Activity and/or Purchaser, as appropriate. Title to all property furnished by the Contractor, the cost for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Purchaser upon delivery of such property by the Contractor and Acceptance by the Purchaser. Title to other property, the cost of which is reimbursable to the Contractor under this Contract, shall pass to and vest in the Purchaser upon (i) issuance for use of such property in the performance of this Contract, or (ii) commencement of use of such property in the performance of this Contract, or (iii) reimbursement of the cost thereof by the Purchaser in whole or in part, whichever first occurs.
2. Any property of the Purchasing Activity and/or Purchaser furnished to the Contractor shall, unless otherwise provided herein or approved by the Purchasing Activity and/or Purchaser, be used only for the performance of this Contract.
3. The Contractor shall be responsible for damages as a result of any loss or damage to property of the Purchasing Activity and/or Purchaser which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain, administer and protect that property in a reasonable manner and to the extent practicable in all instances.
4. If any Purchasing Activity and/or Purchaser property is lost, destroyed, or damaged, the Contractor shall immediately notify the Purchasing Activity and/or Purchaser and shall take all reasonable steps to protect the property from further damage.
5. The Contractor shall surrender to the Purchasing Activity and/or Purchaser all property of the Purchasing Activity and/or Purchaser prior to settlement upon completion, termination, or cancellation of this contract.
6. All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

## **5.10 HAZARDOUS MATERIALS**

“Right to know” legislation requires the Department of Labor and Industries to establish a program to make employers and employees more aware of hazardous substances in their work environment. Implementing [Chapter 296-839 WAC](#) requires that all manufacturers and distributors of hazardous substances, including any of the items listed in this Contract, must include a complete material safety data sheet (MSDS) for each hazardous material. Additionally, each container of hazardous materials must be appropriately labeled with:

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

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

## **6 PAYMENT**

### **6.1 ADVANCE PAYMENT PROHIBITED**

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

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

### **6.2 IDENTIFICATION**

All invoices, packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written materials associated with this Contract shall be identified by the Contract number and the applicable Purchaser’s order number. Packing lists shall be enclosed with each shipment and clearly identify all contents and any backorders.

### **6.3 PAYMENT, INVOICING AND DISCOUNTS**

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

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

Each invoice shall be identified by the associated Contract Number; the Contractor’s Statewide Vendor registration number assigned by Washington State Office of Financial Management (OFM), the applicable Purchaser’s order number, and shall be in U.S. dollars. Invoices shall be prominently annotated by the Contractor with all applicable prompt payment and/or volume discount(s) and shipping charges unless otherwise specified in the Solicitation. Hard copy credit memos are to be issued when the state has been overcharged.

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

Under [Chapter 39.76 RCW](#) , if Purchaser fails to make timely payment(s), Contractor may invoice for 1% per month on the amount overdue or a minimum of \$1.00. Payment will not be considered late if a check or warrant is mailed within the time specified. If no terms are specified, net 30 days will automatically apply. Payment(s) made in accordance with Contract terms shall fully compensate the Contractor for all risk, loss, damages or expense of whatever nature and acceptance of payment shall constitute a waiver of all claims submitted by Contractor. If the Contractor fails to make timely payment(s) or issuance of credit memos, the Purchaser may impose a 1% per month on the amount overdue.

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

#### **6.4 TAXES, FEES AND LICENSES**

##### **Taxes:**

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

##### **Collection of Retail Sales and Use Taxes:**

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

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

5. Other factors identified in [WAC 458-20](#).

**Department of Revenue Registration for Out-of-State Contractors:**

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

**Fees/Licenses:**

After award of Contract, and prior to commencing performance under the Contract, the Contractor shall pay for and maintain in a current status any licenses, fees, assessments, permit charges, etc., which are necessary for Contract performance. It is the Contractor's sole responsibility to maintain licenses and to monitor and determine any changes or the enactment of any subsequent regulations for said fees, assessments, or charges and to immediately comply with said changes or regulations during the entire term of this Contract.

**Customs/Brokerage Fees:**

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

**Taxes on Invoice:**

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

**6.5 MINORITY AND WOMEN'S BUSINESS ENTERPRISE (MWBE) PARTICIPATION**

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

**6.6 OVERPAYMENTS TO CONTRACTOR**

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

## **6.7 AUDITS**

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

## **7 QUALITY ASSURANCE**

### **7.1 RIGHT OF INSPECTION**

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

### **7.2 CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS**

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

### **7.3 MANUFACTURER AUTHORIZED WARRANTY REPAIR PROOF OF CERTIFICATION/AUTHORIZATION**

Contractor shall also provide documentation demonstrating the qualification of each facility to perform service and repairs including at least the following:

A letter signed by an authorized representative of the manufacturer certifying that each facility listed is an authorized service and repair facility for materials, supplies, or equipment; and

Manufacturer authorized service must be available in to any geographic area covered in this solicitation

### **7.4 WARRANTIES**

Items delivered under this contract will be accompanied by a copy of the warranty. Unless otherwise specified, full parts and labor warranty period shall be for a minimum period of one (1) year after receipt of materials or equipment by the Purchaser. All materials or equipment provided shall be new, unused, of the latest model or design and of recent manufacture.

Equipment Service Life

All equipment covered by these specifications and any resultant contracts shall have a minimum service life of ten (10) years from date of delivery to the purchaser. The supplier shall guarantee replacement parts availability from the supplier and/or authorized distributor for this service life period.

Equipment & Parts Warranty

The supplier shall guarantee repair or replacement of any equipment or part thereof that fails in operation during normal and proper use within one (1) year from date of purchaser's receipt due to defects in design, material or workmanship, consummation of final acceptance and payment notwithstanding. These replacements shall be of no cost to the purchaser. The cost of installation of these replacements, including shipping and delivery, shall be borne by the supplier for the period of warranty.

Any equipment or part replaced under the provisions of this warranty becomes the property of the supplier. If the supplier desires the defective equipment or part returned, the supplier shall pay all transportation charges for the return. If the supplier does not specifically request return of such replaced parts within thirty (30) days from date of replacement, the equipment or parts become the property of the purchaser.

Replacement parts shall be regularly stocked by the supplier and/or authorized distributor. Delay in purchaser's receipt of replacement parts shall not exceed ten (10) consecutive days from supplier or distributor's receipt of order.

The supplier shall supply the purchaser, free of charge for the service life of the equipment, with all data, drawings and specifications of modifications, plans or experiments by which the equipment may be improved or modernized.

**7.5 COST OF REMEDY**

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

**8 INFORMATION AND COMMUNICATIONS**

**8.1 ADVERTISING**

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

**8.2 RETENTION OF RECORDS**

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and the provision of materials, supplies, services and/or equipment described herein, including, but not limited to, accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the

performance of this Contract. Contractor shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review, or audit by the Purchasing Activity, personnel duly authorized by the Purchasing Activity, the Washington State Auditor's Office, and federal and state officials so authorized by law, regulation or agreement.

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

### **8.3 PROPRIETARY OR CONFIDENTIAL INFORMATION**

To the extent consistent with [Chapter 42.56 RCW](#), the Public Disclosure Act, the Purchasing Activity shall maintain the confidentiality of Contractor's information marked confidential or proprietary. If a request is made to view Contractor's proprietary information, the Purchasing Activity will notify Contractor of the request and of the date that the records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, the Purchasing Activity will release the requested information on the date specified.

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

### **8.4 NON-ENDORSEMENT AND PUBLICITY**

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

### **8.5 OWNERSHIP/RIGHTS IN DATA**

Purchaser and Contractor agree that all data and work products (collectively called "Work Product") produced pursuant to this Contract shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 *et seq.*, and shall be owned by Purchaser.

Contractor is hereby commissioned to create the Work Product. Work Product includes, but is not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product.

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

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

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

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

## **8.6 PROTECTION OF CONFIDENTIAL AND PERSONAL INFORMATION**

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

“Personal information” including, but not limited to, “Protected Health Information” (PHI) under Health Insurance Portability And Accountability Act (HIPAA), individuals’ names, addresses, phone numbers, birth dates, and social security numbers collected, used, or acquired in connection with this Contract shall be protected against unauthorized use, disclosure, modification or loss.

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

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

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

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

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

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

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

## **9 GENERAL PROVISIONS**

### **9.1 GOVERNING LAW/VENUE**

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

## **9.2 SEVERABILITY**

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

## **9.3 SURVIVORSHIP**

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

## **9.4 INDEPENDENT STATUS OF CONTRACTOR**

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

## **9.5 GIFTS AND GRATUITIES**

Contractor shall comply with all state laws regarding gifts and gratuities, including but not limited to: [RCW 43.19.1937](#) , [RCW 43.19.1939](#), [RCW 42.52.150](#), [RCW 42.52.160](#), and [RCW 42.52.170](#) under which it is unlawful for any person to directly or indirectly offer, give or accept gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with state business or contract activities.

Under [RCW 43.19.1937](#) and the Ethics in Public Service Law, [Chapter 42.52 RCW](#) state officers and employees are prohibited from receiving, accepting, taking or seeking gifts (except as permitted by [RCW 42.52.150](#)) if the officer or employee participates in contractual matters relating to the purchase of goods or services.

## **9.6 IMMUNITY AND HOLD HARMLESS**

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

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

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

## **9.7 PERSONAL LIABILITY**

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

## **9.8 INSURANCE**

### **General Requirements:**

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

Contractor shall include all Subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each Subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

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

### **Specific Requirements:**

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

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

The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the Contractor's premises/operations, independent

Contractors, products/completed operations, personal injury and advertising injury, and contractual liability (including the tort liability of another assumed in a business Contract), and contain separation of insured's (cross liability) conditions.

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

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

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

**Business Auto Policy (BAP):**

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

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

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

Additional Insurance Provisions:

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

Additional Insured:

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

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

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

Surplus Lines:

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

**Cancellation for Non-payment to Premium:**

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

**Identification:**

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

**Insurance Carrier Rating:**

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

**Excess Coverage:**

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

**Limit Adjustments:**

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

**9.9 INDUSTRIAL INSURANCE COVERAGE**

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

**9.10 NONDISCRIMINATION**

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

### **9.11 OSHA AND WISHA REQUIREMENTS**

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

### **9.12 ANTITRUST**

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

### **9.13 WAIVER**

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

## **10 DISPUTES AND REMEDIES**

### **10.1 PROBLEM RESOLUTION AND DISPUTES**

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

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

out all their respective responsibilities under this Contract that are not affected by the dispute.

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

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

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

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

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

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

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

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

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

## **10.2 ADMINISTRATIVE SUSPENSION**

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

### **10.3 FORCE MAJEURE**

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

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

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

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

### **10.4 ALTERNATIVE DISPUTE RESOLUTION FEES AND COSTS**

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

### **10.5 NON-EXCLUSIVE REMEDIES**

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

### **10.6 LIMITATION OF LIABILITY**

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

Neither the Contractor, the Purchasing Activity nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of the Contractor, the Purchasing Activity or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than the Purchasing Activity or the Purchaser acting in either its sovereign or contractual

capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of the Contractor, the Purchasing Activity or the Purchaser, or their respective Subcontractors.

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

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

## **10.7 FEDERAL FUNDING**

In the event that a federally funded acquisition results from this procurement, the contractor may be required to provide additional information (free of charge) at the request of the Purchasing Activity or purchaser: Further, the contractor may be subject to those federal requirements specific to the commodity.

## **10.8 FEDERAL RESTRICTIONS ON LOBBYING**

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

## **10.9 FEDERAL DEBARMENT AND SUSPENSION**

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

## **11 CONTRACT TERMINATION**

### **11.1 MATERIAL BREACH**

A Contractor may be Terminated for Cause by the Purchasing Activity, at the sole discretion of the Contract Administrator, for failing to perform a contractual requirement or for a material breach of any term or condition. Material breach of a term or condition of the Contract may include but is not limited to:

1. Contractor failure to perform services or deliver materials, supplies, or equipment by the date required or by an alternate date as mutually agreed in a written amendment to the Contract;
2. Contractor failure to carry out any warranty or fails to perform or comply with any mandatory provision of the contract;

3. Contractor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder;
4. Contractor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors that endangers the Contractor's proper performance hereunder;
5. Appointment of any receiver, trustee, or similar official for Contractor or any of the Contractor's property and such appointment endangers the Contractor's proper performance hereunder;
6. A determination that the Contractor is in violation of federal, state, or local laws or regulations and that such determination renders the Contractor unable to perform any aspect of the Contract.

### **11.2 OPPORTUNITY TO CURE:**

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

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

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

### **11.3 TERMINATION FOR CAUSE**

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

corrective action by the Contractor or a decision by the Contract Administrator to terminate the Contract.

In the event of termination, the Purchasing Activity shall have the right to procure for all Purchasers any replacement materials, supplies, services and/or equipment that are the subject of this Contract on the open market. In addition, the Contractor shall be liable for damages as authorized by law including, but not limited to, any price difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

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

#### **11.4 TERMINATION FOR CONVENIENCE**

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

#### **11.5 TERMINATION FOR WITHDRAWAL OF AUTHORITY**

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

#### **11.6 TERMINATION FOR NON-ALLOCATION OF FUNDS**

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

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

### **11.7 TERMINATION FOR CONFLICT OF INTEREST**

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

### **11.8 TERMINATION BY MUTUAL AGREEMENT**

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

### **11.9 TERMINATION PROCEDURE**

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

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

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

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

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

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

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

## 12 CONTRACT EXECUTION

### 12.1 PARTIES

This Contract (“Contract”) is entered into by and between the state of Washington, acting by and through the Department of General Administration, Office of State Procurement, an agency of Washington State government (“Purchasing Activity” or “State”) located at 1500 Jefferson St SE, Olympia, WA 98501, and *[Contractor]* a *[corporation/sole proprietor or other business form]* licensed to conduct business in the state of Washington (“Contractor”), located at *[Contractor address]* for the purpose of providing Police Radar, Lidar Parts and Accessories.

### 12.2 ENTIRE AGREEMENT

This Contract document and all subsequently issued amendments comprise the entire agreement between the Purchasing Activity and the Contractor. No other statements or representations, written or oral, shall be deemed a part of the Contract.

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and except as provided in the section titled **Contractor Commitments, Warranties and Representations**, understandings, agreements, representations, or warranties not contained in this Contract or a written amendment hereto shall not be binding on either party. Except as provided herein, no alteration of any of the terms,

conditions, delivery, Price, quality, or Specifications of this Contract will be effective without the written consent of both parties.

### **12.3 ORDER OF PRECEDENCE, INCORPORATED DOCUMENTS, CONFLICT AND CONFORMITY**

#### **Incorporated Documents:**

Each of the documents listed below is, by this reference, incorporated into this Contract as though fully set forth herein.

1. The Purchasing Activity's Solicitation document 01611 with all attachments and appendices, and all amendments thereto
2. Contractor's response to the Solicitation 01611 dated [date];
3. Award Letter.

The terms and conditions contained on Purchaser's Order Documents, if used; and

All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Contractor made available to Purchaser and used to affect the sale of the Product to the Purchaser.

#### **Order of Precedence**

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

1. Applicable Federal and State of Washington statutes and regulations
2. Mutually agreed written amendments to this Contract
3. This Contract, Number 01611
4. The Purchasing Activity's Solicitation document with all attachments and appendices, and all amendments thereto
5. Contractor's response to the Solicitation
6. Any other provision, term, or materials incorporated into the Contract by reference.

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

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

### **12.4 LEGAL NOTICES**

Any notice or demand or other communication required or permitted to be given under this Contract or applicable law (except notice of malfunctioning Equipment) shall be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid certified mail, return receipt requested, via facsimile or by electronic mail, to the parties at the addresses and fax numbers, e-mail addresses provided in this section. For purposes of complying with any provision in this Contract or applicable law that requires a "writing," such communication, when digitally

signed with a Washington State Licensed Certificate, shall be considered to be “in writing” or “written” to an extent no less than if it were in paper form.

<b>To Contractor at:</b> <i>[Contractor]</i>	<b>To Purchasing Activity at:</b> State of Washington Department of General Administration Office of State Procurement
<b>Attn:</b> <i>[Contractor's Representative]</i>	<b>Attn:</b> Chief Procurement Officer
<i>[Contractor address]</i>	1500 Jefferson Street SE Olympia, WA 98501
Phone:	Phone: 360-902-7317
Fax:	Fax: 360-586-2426
E-mail:	E-mail: <a href="mailto:Steve.jenkins@ga.wa.gov">Steve.jenkins@ga.wa.gov</a>

Notices shall be effective upon receipt or four (4) Business Days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Equipment or Services provided pursuant to this Contract is served upon Contractor or Purchasing Activity, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and Purchasing Activity further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

**12.5 LIENS, CLAIMS AND ENCUMBRANCES**

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

**12.6 AUTHORITY TO BIND**

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract.

**12.7 COUNTERPARTS**

This Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Contract signed by each party, for all purposes.

## SIGNATURES

*In Witness Whereof*, the parties hereto, having read this Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

**This Contract is effective this \_\_\_\_\_ day of \_\_\_\_\_, 2011.**

<b>Approved</b>		<b>Approved</b>
State of Washington Department of General Administration Office of State Procurement		[Contractor]
Signature		Signature
Print or Type Name                      Date		Print or Type Name                      Date
Title		Title

Office of State Procurement  
Unit Manager Approval

Signature
Print or Type Name                      Date

## **APPENDIX A PROTEST PROCEDURE**

### **PROTEST PRIOR TO AWARD:**

#### **PROTEST PRIOR TO AWARD CRITERIA:**

Protests prior to Award will be considered only if the protest concerns:

1. the bid of another Bidder,
2. the specifications or
3. the manner in which the solicitation process has been conducted.

#### **INITIATING THE PROTEST PROCESS:**

The protesting Bidder must notify the State Procurement Coordinator in charge of the solicitation of his/her intent to file a protest as soon as possible after he/she becomes aware of the reason(s) for the protest. The protest(s) must be received in writing by the State Procurement Coordinator not later than five (5) business days after the Bidder's notification to the State Procurement Coordinator of the intent to protest.

If an Intent to Award is announced, any protest must be received in writing by the State Procurement Coordinator not later than five (5) business days after the announcement or as otherwise specified in the Solicitation document.

If a protest is not received within these time frames it will be untimely and the State Procurement Coordinator may proceed with the award without further obligation.

The Procurement Coordinator will consider all the facts available and issue a decision in writing within ten (10) business days after receipt of the protest, unless more time is needed.

If additional time is necessary the State Procurement Coordinator will notify the protesting Bidder and, where applicable, the Bidder(s) against whom the protest is made.

#### **APPEAL OF PROTEST PRIOR TO AWARD DECISION:**

The protesting Bidder or the Bidder against whom the protest is made has the right to appeal the decision of the State Procurement Coordinator to the GA Assistant Director in charge of the Office of State Procurement.

The appeal must be received by the GA Assistant Director within five (5) business days after notification of the State Procurement Coordinator's decision.

The GA Assistant Director will consider all of the facts available and issue a decision in writing within ten (10) business days after receipt of the appeal, unless more time is needed. The appealing Bidder will be notified if additional time is necessary.

Award of the contract will be postponed until after the GA Assistant Director has issued a decision unless an emergency exists necessitating the award of the contract as determined by the GA Assistant Director.

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The decision of the GA Assistant Director on the protest appeal is final. The GA Assistant Director may issue further clarifications if determined necessary.

**PROTEST AFTER AWARD:**

**PROTEST AFTER AWARD CRITERIA:**

Protests after Award will be considered only if the protest concerns:

1. A matter which arises after the Award or
2. Could not reasonably have been known or discovered prior to Award.

**INITIATING THE PROTEST PROCESS AFTER AWARD:**

The protesting Bidder must notify both the State Procurement Coordinator in charge of the solicitation process and the Bidder that has received the Award that a protest of the Award is being made. This notification must be made as soon as possible after the Notice of Award is issued by an immediate communication method such as telephone or e-mail. The protesting Bidder must provide documentation demonstrating that they have notified the Bidder that has received the Award of their protest.

In addition to the above notification requirement, the written protest must be received by the GA Assistant Director in charge of the Office of State Procurement not later than five (5) business days after Notice of Award is issued by the Office of State Procurement.

The GA Assistant Director will:

Issue a decision on the protest within ten (10) business days after the protest was received, unless more time is needed.

The protesting Bidder and the Bidder who has received the Award shall be notified of any delay in issuing the GA Assistant Director's decision if more time is needed.

The decision of the GA Assistant Director is final if the award is upheld. The GA Assistant Director may subsequently issue further clarifications, if necessary.

If the GA Assistant Director finds that the protest should be upheld and the Award canceled, all Bidders, including the protesting Bidder and the Bidder who received the Award, will be notified of the intent to cancel the Award and the reasons therefore.

**AWARDED BIDDER APPEAL PROCESS**

The Bidder who has received the Award has five (5) business days after receipt of notification of the intent to cancel the award in which to appeal the decision to the Director of General Administration. Copies of the Bidder's appeal must also be sent to the GA Assistant Director and the State Procurement Coordinator responsible for the solicitation.

The Director of General Administration or designee will:

Issue a decision

- a. to both the appealing Bidder and the original protesting Bidder
- b. within ten (10) business days after receipt of the appeal, unless more time is needed
  - i. If more time is needed to issue a decision, all Bidders, including the appealing Bidder and the original protesting Bidder, will be notified.

#### DECISION FINAL

The appeal decision of the Director of General Administration is final. The Director of General Administration may subsequently issue further clarifications if necessary,

#### APPEAL UPHELD AND CONTRACT AWARD UPHELD

If the Director of General Administration upholds the appeal and upholds the contract as awarded, the State Procurement Coordinator will notify all Bidders of the decision.

#### APPEAL DENIED AND AWARD CANCELED

If the Director of General Administration upholds the decision of the GA Assistant Director the Office of State Procurement will proceed with cancellation of the award.

If the award is cancelled, the Assistant director of GA may reject all bids, quotes or proposals pursuant to [RCW 43.1911\(4\)](#) and solicit new bids, quotes or proposals.

If the Assistant director of GA does not decide to reject all bids, an award will be made to the next lowest responsive and responsible Bidder.

#### PROTEST AND APPEALS – FORM AND SUBSTANCE

All protests and appeals must:

1. be in writing,
2. signed by the protesting or appealing Bidder or an authorized agent
3. delivered within the time frame(s) outlined herein
4. addressed to that individual within the Office of State Procurement or General Administration assigned review responsibilities as specified above

The protesting or appealing Bidder must:

1. state all facts and arguments on which the protesting or appealing Bidder is relying as the basis for its action
2. attach any relevant exhibits related, or referred to in the written protest or appeal

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3. mail, fax or deliver copies of all protests, appeals, and exhibits to the Bidder or Bidders against whom the protest is made at the same time such protest, appeal, and exhibits are submitted to the Office of State Procurement or General Administration.

### COMMUNICATION DURING PROTESTS AND APPEALS

All communications relative to a solicitation that is being protested or appealed must be coordinated through that person conducting the official review for the Office of State Procurement or General Administration

## **APPENDIX B WSCA STANDARD TERMS AND CONDITIONS**

### **Western States Contracting Alliance Standard Contract Terms and Conditions**

**PARTICIPANTS:** The Western States Contracting Alliance (herein WSCA) is a cooperative group contracting consortium for state government departments, institutions, agencies and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington and Wyoming. Other states and their political subdivisions are also eligible to participate in WSCA contracts. Obligations under this contract are limited to those Participating States who have signed a Participating Addendum where contemplated by the solicitation. Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions. Unless otherwise specified in the solicitation, the resulting award(s) will be permissive.

**QUALITY ESTIMATES:** WSCA does not guarantee to purchase any amount under the contract to be awarded. Estimated quantities are for the purposes of submitting proposals only and are not to be construed as a guarantee to purchase any amount.

**SPECIFICATIONS:** Any deviation from specifications must be clearly indicated by offeror, otherwise, it will be considered that the proposal is in strict compliance. When BRAND NAMES or manufacturers' numbers are stated in the specifications they are intended to establish a standard only and are not restrictive unless the IFB states "No substitute". Proposals will be considered on other makes, models or brands having comparable quality, style, workmanship and performance characteristics. Alternate proposals offering lower quality or inferior performance will not be considered.

**ACCEPTANCE OR REJECTION OF PROPOSALS:** WSCA reserves the right to accept or reject any or all proposals or parts of proposals, and to waive informalities therein.

**SAMPLES:** Generally, when required, samples will be specifically requested in the Solicitation. Samples, when required, are to be furnished free of charge. Except for those samples destroyed or mutilated in testing, samples will be returned at offeror's request, transportation collect.

**CASH DISCOUNT TERMS:** Offeror may quote a cash discount based upon early payment; however, discounts offered for less than 30 days will not be considered in making the award. The date from which discount time is calculated shall be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date shall be the date of acceptance of the merchandise.

**TAXES:** Proposal prices shall be exclusive of state sales and federal excise taxes. Where the state government entities are not exempt from sales taxes on sales within their state, the contractor shall add the sales taxes on the billing invoice as a separate entry.

**PATENTS, COPYRIGHTS, ETC.:** The Contractor shall release, indemnify and hold the Buyer, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or uncopied composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract.

**AWARD:** WSCA may award multiple contracts as the result of this solicitation. Awards shall be made to the responsible offeror(s) whose proposal is determined to be the most advantageous to WSCA, taking into consideration price and the other evaluation factors set forth in the IFB.

**NON-COLLUSION:** By signing the proposal the offeror certifies that the proposal submitted, has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the Request for Proposal, designed to limit independent bidding or competition.

**CANCELLATION:** Unless otherwise stated in the special terms and conditions, any contract entered into as a result of this bid may be canceled by either party upon 60 days notice, in writing, prior to the effective date of the cancellation. Further, any Participating State may cancel its participation upon 30 days written notice, unless otherwise limited or stated in the special terms and conditions of this solicitation. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights and obligations attending orders outstanding at the time of cancellation, including any right of and Purchasing Entity to indemnification by the Contractor, rights of payment for goods/services delivered and accepted, and rights attending any warranty or default in performance in association with any order. Cancellation of the contract due to Contractor default may be immediate.

**DEFAULT AND REMEDIES:** Any of the following events shall constitute cause for WSCA to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract WSCA shall issue a written notice of default providing a period in which Contractor shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages. If the default remains, after Contractor has been provided the opportunity to cure, WSCA may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages; 4. Suspend contractor from receiving future proposal solicitations.

**LAWS AND REGULATIONS:** Any and all supplies, services and equipment offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

**CONFLICT OF TERMS:** In the event of any conflict between these standard terms and conditions and any special terms and conditions contained in the Solicitation, the special terms and conditions shall govern.

**REPORTS:** The contractor shall submit quarterly reports to the WSCA Contract Administrator showing the quantities and dollar volume of purchases by each agency.

**HOLD HARMLESS:** The contractor shall release, protect, indemnify and hold WSCA and the respective states and their officers, agencies, employees, harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the contractor, his employees or subcontractors or volunteers.

**ORDER NUMBERS:** Contract order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

**GOVERNING LAW:** This procurement and the resulting agreement shall be governed by and construed in accordance with the laws of the state sponsoring and administering the procurement. The construction and effect of any Participating Addendum or order against the contract(s) shall be governed by and construed in accordance with the laws of the Participating Entity's State. Venue for any claim, dispute or action concerning an order placed against the contract(s) or the effect of a Participating Addendum shall be in the Purchasing Entity's State.

**DELIVERY:** The prices offered shall be the delivered price to any Participating State agency or political subdivision. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the contractor. Responsibility and liability for loss or damage shall remain the Contractor until final inspection and acceptance when responsibility shall pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered shall be shipped without charge.

**WARRANTY:** As used herein "Buyer" refers to any Participating State agency or political subdivision. The contractor acknowledges that the Uniform Commercial Code applies to this contract. In general, the contractor warrants that: (a) the product will do what the salesperson said it would do, (b) the product will live up to all specific claims that the manufacturer makes in their advertisements, (c) the product will be suitable for the ordinary purposes for which such product is used, (d) the product will be suitable for any *special purposes* that the Buyer has relied on the contractor's skill or judgment to consider.

**AMENDMENTS:** The terms of this contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the WSCA Contract Administrator.

**ASSIGNMENT/SUBCONTRACT:** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the WSCA Contract Administrator.

**NONDISCRIMINATION:** The offeror agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. The offeror further agrees to furnish information and reports to requesting State(s), upon request, for the purpose of determining compliance with these statutes. Offeror agrees to comply with each individual state's certification requirements, if any, as stated in the special terms and conditions. This contract may be canceled if the offeror fails to comply with the provisions of these laws and regulations. The offeror must include this provision in every subcontract relating to purchases by the States to insure that subcontractors and vendors are bound by this provision.

**SEVERABILITY:** If any provision of this contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.

**INSPECTIONS:** Goods furnished under this contract shall be subject to inspection and test by the Buyer at times and places determined by the Buyer. If the Buyer finds goods furnished to be incomplete or in compliance with proposal specifications, the Buyer may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price, which is equitable under the circumstances. If Contractor is unable or refuses to correct such goods within a time deemed reasonable by the Buyer, the Buyer may cancel the order in whole or in part. Nothing in this paragraph shall adversely affect the Buyer's rights including the rights and remedies associated with revocation of acceptance under the Uniform Commercial Code.

**FORCE MAJEURE:** Neither party to this contract shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. WSCA may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

**HAZARDOUS CHEMICAL INFORMATION:** The contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to the user agency. All safety data sheets and labels will be in accordance with each participating state's requirements.

**FIRM PRICE:** Unless otherwise stated in the special terms and conditions, for the purpose of award, offers made in accordance with this solicitation must be good and firm for a period of ninety (90) days from the date of proposal opening. Prices must remain firm for the full term of the contract.

**EXTENSION OF PRICES:** In the case of error in the extension of prices in the proposal, the unit prices will govern.

**PROPOSAL PREPARATION COSTS:** WSCA is not liable for any costs incurred by the offeror in proposal preparation.

**CONFLICT OF INTEREST:** The contractor certifies that it has not offered or given any gift or compensation prohibited by the state laws of any WSCA participants to any officer or employee of WSCA or participating states to secure favorable treatment with respect to being awarded this contract.

**INDEPENDENT CONTRACTOR:** The contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind WSCA or the respective states to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for WSCA or the states, except as expressly set forth herein.

**POLITICAL SUBDIVISION PARTICIPATION:** Participation under this contract by political subdivisions (i.e., colleges, school districts, counties, cities, etc.) of the Participating States shall be voluntarily determined by the political subdivision. The contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.

**DEBARMENT:** The contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by WSCA.

**AUDIT OF RECORDS:** The contractor agrees to allow WSCA, State and Federal auditors, and state agency staff access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

**ENTITY PARTICIPATION:** Use of specific WSCA cooperative contracts by state agencies, political subdivisions and other entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.

## APPENDIX C STANDARD DEFINITIONS

This section contains definitions of terms commonly used in Solicitations conducted by the State of Washington, Office of State Procurement. Additional definitions may also be found in [Chapter 43.19 RCW](#) and [WAC 236-48-003](#), and all terms contained herein will be read consistently with those definitions.

<b>Acceptance</b>	The materials, supplies, services, and/or equipment have passed appropriate Inspection. In the event that there is a formal Acceptance Testing period required in the Solicitation document then acceptance is formalized in writing. If there is no Acceptance Testing, acceptance may occur when the Products are delivered and inspected.
<b>Acceptance Testing</b>	The process for ascertaining that the materials, supplies, services, and/or equipment meets the standards set forth in the Solicitation, prior to Acceptance by the Purchaser.
<b>Agency</b>	Includes State of Washington institutions, the offices of the elective state officers, the Supreme Court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. In addition, colleges, community colleges, and universities who choose to participate in State Contract(s) are included. "Agency" does not include the legislature.
<b>All or Nothing</b>	<p>The result of a competitive Solicitation that requires that a Contract be executed with a single Bidder for delivery of goods and/or services. In the event that suppliers are unable to deliver the entirety of the goods and/or services required, no Contract is executed. No partial fulfillment opportunities are available as a result of the Solicitation</p> <p>A method of award resulting from a competitive Solicitation by which the Purchasing Activity will award the resulting Contract to a single Bidder.</p> <p>Also, a designation the Bidder may use in its Bid or Response to indicate its offer is contingent upon full award and it will not accept a partial award.</p>

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<b>Alternate</b>	A substitute offer of materials, supplies, services and/or equipment that is not at least a functional Equal in features, performance and use and which materially deviates from one or more of the specifications in a competitive Solicitation.
<b>Amendment</b>	A change to a legal document. For the purposes of a Solicitation document, an amendment shall be a unilateral change issued by the Purchasing Activity, at its sole discretion.
<b>Authorized Representative</b>	An individual designated by the Bidder or Contractor to act on its behalf and with the authority to legally bind the Bidder or Contractor concerning the terms and conditions set forth in Solicitation, Bid and Contract documents.
<b>Bid</b>	A sealed written offer to perform a Contract to provide materials, supplies, services, and/or equipment in reply to an Invitation For Bid (IFB).
<b>Bidder</b>	A Vendor who submits a Bid or Proposal in reply to a Solicitation.
<b>Business Days</b>	Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.
<b>Calendar Days</b>	Consecutive days of the year including weekends and holidays, each of which commence at 12:00:01 a.m. and end at Midnight, Pacific Time. When “days” are not specified, Calendar Days shall prevail.
<b>Contract</b>	An agreement, or mutual assent, between two or more competent parties with the elements of the agreement being offer, acceptance, and consideration.
<b>Contract Administrator</b>	The person designated to manage the resultant Contract for the Purchasing Activity. The primary contact for the Purchasing Activity with Purchasers and Contractor on a specific Contract.
<b>Contractor</b>	Individual, company, corporation, firm, or combination thereof with whom the Purchasing Activity develops a Contract for the procurement of materials, supplies, services, and/or equipment. It shall also include any Subcontractor retained by Contractor as permitted under the terms of the Contract.
<b>Equal</b>	An offer of materials, supplies, services and/or equipment that meets or exceeds the quality, performance and use of the specifications identified in a Solicitation.
<b>Estimated Useful Life</b>	The estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner.

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<b>Inspection</b>	An examination of delivered material, supplies, services, and/or equipment prior to Acceptance aimed at forming a judgment as to whether such delivered items are what was ordered, were properly delivered and ready for Acceptance. Inspection may include a high level visual examination or a more thorough detailed examination as is customary to the type of purchase, as set forth in the solicitation document and/or as agreed between the parties. Inspection shall be acknowledged by an authorized signature of the Purchaser.
<b>Invitation For Bid (IFB)</b>	The form utilized to solicit Bids in the formal, sealed Bid procedure and any amendments thereto issued in writing by the Purchasing Activity. Specifications and qualifications are clearly defined.
<b>Lead Time/After Receipt Of Order (ARO)</b>	The period of time between when the Contractor receives the order and the Purchaser receives the materials, supplies, equipment, or services order.
<b>Life Cycle Cost</b>	The total cost of an item to the state over its Estimated Useful Life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life.
<b>Office Of State Procurement</b>	The Purchasing Activity within the Washington Department of General Administration, Services Division authorized under Chapter 43.19 RCW to develop and administer contracts for goods and services on behalf of state agencies, colleges and universities, non-profit organizations and local governments.
<b>Order Document</b>	A written communication, submitted by a Purchaser to the Contractor, which details the specific transactional elements required by the Purchaser within the scope of the Contract such as delivery date, size, color, capacity, etc. An Order Document may include, but is not limited to field orders, purchase orders, work order or other writings as may be designated by the parties hereto. No additional or alternate terms and conditions on such written communication shall apply unless authorized by the Contract and expressly agreed between the Purchaser and the Contractor.
<b>Procurement Coordinator</b>	The individual authorized by the Purchasing Activity who is responsible for conducting a specific Solicitation.
<b>Product</b>	Materials, supplies, services, and/or equipment provided under the terms and conditions of this Contract.
<b>Proposal</b>	A sealed written offer to perform a Contract to supply materials, supplies, services, and/or equipment in reply to a Request For Proposal (RFP).
<b>Purchaser</b>	The authorized user of the Contract, as identified in the Solicitation, who may or actually does make purchases of material, supplies, services, and/or equipment under the resulting Contract.

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<b>Purchasing Activity</b>	The Office of State Procurement or an Agency authorized by law to conduct acquisition of materials, supplies, services, and/or equipment or delegated that authority by the Office of State Procurement.
<b>Recycled Material</b>	Waste materials and by-products that have been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product and consists of materials derived from post-consumer waste, manufacturing waste, industrial scrap, agricultural wastes and other items, all of which can be used in the manufacture of new or recycled products.
<b>Recycled Content Product</b>	A product containing recycled material.
<b>Request For Proposal (RFP)</b>	The form utilized to solicit Proposals in the formal, sealed Bid procedure and any amendments thereto issued in writing by the Purchasing Activity. The specifications and qualification requirements are written in an outcome based form allowing for consideration of a broad range of different solutions to meet the procurement need.
<b>Responsible</b>	The ability, capacity, and skill to perform the Contract or provide the service required , including, but not limited to the character, integrity, reputation, judgment, experience, and efficiency of the Bidder; Further considerations may include, but are not limited to whether the Bidder can perform the contract within the time specified, the quality of performance of previous contracts or services, the previous and existing compliance by the Bidder with laws relating to the contract or services and such other information as may be secured having a bearing on the decision to award the contract:
<b>Responsive</b>	A Bid or Proposal that meets all material terms of the Solicitation document.
<b>Response</b>	A Bid or Proposal
<b>Solicitation</b>	The process of notifying prospective Bidders that the Purchasing Activity desires to receive competitive Bids or Proposals for furnishing specified materials, supplies, services, and/or equipment. Also includes reference to the actual documents used for that process, including: the Invitation For Bids (IFB) or Request For Proposals (RFP), along with all attachments and exhibits thereto.
<b>State</b>	The State of Washington acting by and through the Purchasing Activity.

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<p><b>State Contract</b></p>	<p>The written document memorializing the agreement between the successful Bidder and the Purchasing Activity for materials, supplies, services, and/or equipment and/or administered by the Office of State Procurement on behalf of the State of Washington.</p> <p>“State Contract” does not include the following:</p> <ul style="list-style-type: none"> <li>• Colleges and universities that choose to purchase under <a href="#">RCW 28B.10.029</a></li> <li>• Purchases made in accordance with state purchasing policy under <a href="#">Washington Purchasing Manual Part 6.11 Best Buy Program</a>;</li> <li>• Purchases made pursuant to authority granted or delegated under <a href="#">RCW 43.19.190(2) or (3)</a></li> <li>• Purchases authorized as an emergency purchase under <a href="#">RCW 43.19.200(2)</a>; or</li> <li>• Purchases made pursuant to other statutes granting the Agency authority to independently conduct purchases of materials, supplies, services, or equipment.</li> </ul>
<p><b>Subcontractor</b></p>	<p>A person or business that is, or will be, providing or performing an essential aspect of the Contract under the direction and responsibility of the Contractor and with the agreement of the Purchasing Activity.</p>
<p><b>Vendor</b></p>	<p>A provider of materials, supplies, services, and/or equipment.</p>
<p><b>Washington’s Electronic Business Solution (WEBS)</b></p>	<p>The Vendor registration and Bidder notification system maintained by the Washington State Department of General Administration located at: <a href="http://www.ga.wa.gov/webs">www.ga.wa.gov/webs</a>.</p>

## APPENDIX D BIDDER PROFILE

### COMPANY INFORMATION

Bidder to provide the following information:

1. Federal Tax Identification number: \_\_\_\_\_

2. WA State Department of Revenue Registration Tax number \_\_\_\_\_

3. Company Internet URL Address (if available): \_\_\_\_\_

4. Company Mailing Addresses 

--

5. Orders to be sent to: 

--

6. Billing will be from 

--

7. Payment to be sent to 

--

### RECIPROCITY

Firms bidding from California only: Is your firm currently certified as a small business under California Code, Title 2, Section 1896.12? Yes  No

**REFERENCES**

Provide a minimum of three (3) public sector or private references for which Bidder has delivered goods and/or services similar in scope as describe in the IFB.

1) Agency/Company Name:	
Address:	
Contact Person:	
Telephone:	
Product Provided /Approx. Dollar Cost	

2) Agency/Company Name:	
Address:	
Contact Person:	
Telephone:	
Product Provided /Approx. Dollar Cost	

3) Agency/Company Name:	
Address:	
Contact Person:	
Telephone:	
Product Provided /Approx. Dollar Cost	

**SUBCONTRACTORS:**

Identify any Subcontractors who will perform services in fulfillment of Contract requirements; the nature of services to be performed including the dollar value of percentage of business, and include federal tax identification (TIN) number for each Subcontractor.

Name/Address/Contact/Phone:	T.I.N.:	Brief description of the nature of Service Provided (e.g. testing, sampling, pick-up, etc) including dollar value or percentage of business:

**SALES & ORDERING INFORMATION**

Bidder shall complete the following information and return with bid response.

1. Sales Representative

Sales Representative(s): Indicate below the contact information and specific territories covered:			
Name:	_____	Name:	_____
Telephone:	_____	Telephone:	_____
Toll Free No.	_____	Toll Free No.	_____
Mobile Phone	_____	Mobile Phone	_____
Territory	_____	Territory	_____
Fax:	_____	Fax:	_____
Email:	_____	Email:	_____

2. Usage Contact if different from above: Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

3. Payment Term: Prompt Payment Discount \_\_\_\_\_% 30 days or NET 30 days.  
 Note: Prompt payment discount periods equal to (or greater than) 30 calendar days will receive consideration and bid pricing will be reduced (for evaluation purposes only) by the amount of that discount(s).

4. Purchasing (Credit) Cards accepted: Yes  No   
 (Washington State Purchasing card is VISA) If yes, please list cards accepted:  
 Visa  Master Card  American Express  Discover  Other \_\_\_\_\_

Does the Prompt Payment Discount apply if the Purchasing Card is used? Yes  No

5. Volume Discount: Identify volume discount(s), please indicate the discount \_\_\_\_\_% or \$\_\_\_\_\_ and when it applies:

6. Pricing Components: To better estimate market fluctuations and influences with regard to the product(s) being bid, bidders are to identify the percent breakdown for the following:

Contracted Products: \_\_\_\_\_%  
 Delivery Costs: \_\_\_\_\_%  
 Overhead: \_\_\_\_\_%  
**Total: 100%**

Note: The Successful Bidder(s) may be required to provide a more detailed breakdown and supporting documentation to validate.

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7. For Cost analysis purposes, please indicate the percent savings that your bid pricing represents compared the price other entities would pay without the benefit of a Multi-State Contract:

Bid pricing offered by your firm average \_\_\_\_\_% lower than (please check all that apply):

- a. \_\_\_\_\_ Price that would be obtained through a single state contract.
- b. \_\_\_\_\_ Price that would be obtained through a city or county contract.
- c. \_\_\_\_\_ Price that would be obtained through a GSA Contract
- d. \_\_\_\_\_ Manufacturer's current suggested retail price

Other, please specify \_\_\_\_\_

### APPENDIX E PRICE WORKSHEETS

**Category 1 – Applied Concepts**

Req. Item	MANUFACTURER	MODEL	Band	Qty	Unit	Unit Price
1.	Applied Concepts	Stalker Basic	K	1	EA	\$
2.	Applied Concepts	Stalker Dual SL	K, Ka	1	EA	\$
3.	Applied Concepts	Stalker Dual DSR	Ka	1	EA	\$
4.	Applied Concepts	Stalker DSR 2X	Ka	1	EA	\$
5.	Applied Concepts	Stalker II SDR	Ka	1	EA	\$
6.	Applied Concepts	Stalker II MDR	Ka	1	EA	\$
7.	Applied Concepts	Stalker Patrol	K	1	EA	\$
8.	Applied Concepts	Stalker (LIDAR)		1	EA	\$
9.	Applied Concepts	Stalker LR (LIDAR)		1	EA	\$
10.	<b>Total Cost</b> Applied Concepts (will be used to determine lowest cost for Applied Concepts products)					\$
<b>PARTS &amp; ACCESSORIES DISCOUNTS</b>						
<b>Manufacturer's <u>Parts Discount</u></b>						
Applied Concepts Parts catalog/price list dated: _____					_____ %	
<b>Manufacturer's <u>Accessories Discount</u></b>						
Applied Concepts Accessories catalog/price list dated: _____					_____ %	

**Category 2 – Decatur Electronics**

<b>Req. Item</b>	<b>MANUFACTURER</b>	<b>MODEL</b>	<b>Band</b>	<b>Qty</b>	<b>Unit</b>	<b>Unit Price</b>
1.	Decatur Electronics	Genesis GHD	K	1	EA	\$
2.	Decatur Electronics	Genesis II Select	K, Ka	1	EA	\$
3.	Decatur Electronics	Genesis II Select Harley Davidson	Ka	1	EA	\$
4.	Decatur Electronics	Genesis II Directional	K	1	EA	\$
5.	Decatur Electronics	Genesis-VP Directional	K	1	EA	\$
6.	Decatur Electronics	Harley-Davidson Genesis VP Directional	K	1	EA	\$
7.	Decatur Electronics	Scout	K	1	EA	\$
8.	<b>Total Cost</b> Decatur Electronics (will be used to determine lowest cost for Decatur Products)					\$
<b>PARTS &amp; ACCESSORIES DISCOUNTS</b>						
	<b>Manufacturer's <u>Parts Discount</u></b>					
	Decatur Electronics _____ Parts catalog/price list dated: _____					_____ %
	<b>Manufacturer's <u>Accessories Discount</u></b>					
	Decatur Electronics _____ Accessories catalog/price list dated: _____					_____ %

**Category 3 – DragonEye Technology**

<b>Req. Item</b>	<b>MANUFACTURER</b>	<b>MODEL</b>	<b>Band</b>	<b>Qty</b>	<b>Unit</b>	<b>Unit Price</b>
1.	DragonEye Tech.	LaserAlly	LIDAR	1	EA	\$
2.	<b>Total Cost</b> DragonEye (will be used to determine lowest cost for DragonEye's Products)					\$
<b>PARTS &amp; ACCESSORIES DISCOUNTS</b>						
	<b>Manufacturer's <u>Parts Discount</u></b>					
	DragonEye Tech. _____ Parts catalog/price list dated: _____					_____ %
	<b>Manufacturer's <u>Accessories Discount</u></b>					
	DragonEye Tech. _____ Accessories catalog/price list dated: _____					_____ %

**Category 4 – Kustom Signals**

<b>Req. Item</b>	<b>MANUFACTURER</b>	<b>MODEL</b>	<b>Band</b>	<b>Qty</b>	<b>Unit</b>	<b>Unit Price</b>
1.	Kustom Signals	Eagle II	K, Ka	1	EA	\$
2.	Kustom Signals	Eagle Plus II	K, Ka	1	EA	\$
3.	Kustom Signals	Golden Eagle	K, Ka	1	EA	\$
4.	Kustom Signals	Golden Eagle II	K, Ka	1	EA	\$
5.	Kustom Signals	Directional Golden Eagle II	Ka	1	EA	\$
6.	Kustom Signals	Falcon	K	1	EA	\$
7.	Kustom Signals	Falcon HR	K	1	EA	\$
8.	Kustom Signals	HR-12	K	1	EA	\$
9.	Kustom Signals	Pro-1000(DS)	K	1	EA	\$
10	Kustom Signals	Talon II	Ka	1	EA	\$
11	Kustom Signals	Directional Talon	Ka	1	EA	\$
12	Kustom Signals	Raptor RP-1	K, Ka	1	EA	\$
13	Kustom Signals	ProLaser III	LIDAR	1	EA	\$
14	Kustom Signals	Laser Cam II	LIDAR	1	EA	\$
15	Kustom Signals	DTMS	LIDAR	1	EA	\$
16	Kustom Signals	Pro-Lite	LIDAR	1	EA	\$
17	Kustom Signals	Pro-Lite +	LIDAR	1	EA	\$
18	<b>Total Cost</b> Kustom Signal (will be used to determine lowest cost for Kustom Products)					\$
<b>PARTS &amp; ACCESSORIES DISCOUNTS</b>						
		<b>Manufacturer's <u>Parts Discount</u></b>				
		Kustom Signals _____				_____ %
		Parts catalog/price list dated: _____				
		<b>Manufacturer's <u>Accessories Discount</u></b>				
		Kustom Signals _____				_____ %
		Accessories catalog/price list dated: _____				

**Category 5 – MPH Industries**

Req. Item	MANUFACTURER	MODEL	Band	Qty	Unit	Unit Price
1.	MPH Industries	BEE III	K, Ka	1	EA	\$
2.	MPH Industries	Python III	X,K, Ka	1	EA	\$
3.	MPH Industries	Ranger EZ	K	1	EA	\$
4.	MPH Industries	Speedgun	K	1	EA	\$
5.	MPH Industries	Z-25	K	1	EA	\$
6.	MPH Industries	Z-35	K	1	EA	\$
7.	MPH Industries	Enforcer	K, Ka	1	EA	\$
8.	<b>Total Cost MPH Industries</b> (will be used to determine lowest cost for MPH Products)					\$
<b>PARTS &amp; ACCESSORIES DISCOUNTS</b>						
	<b>Manufacturer's <u>Parts Discount</u></b>					
	MPH Industries _____					_____ %
	Parts catalog/price list dated: _____					
	<b>Manufacturer's <u>Accessories Discount</u></b>					
	MPH Industries _____					_____ %
	Accessories catalog/price list dated: _____					

**Category 6 – Municipal Electronics**

<b>Req. Item</b>	<b>MANUFACTURER</b>	<b>MODEL</b>	<b>Band</b>	<b>Qty</b>	<b>Unit</b>	<b>Unit Price</b>
1.	Municipal Electronics	TS-3	K	1	EA	\$
2.	<b>Total Cost</b> Municipal Electronics (will be used to determine lowest cost for Municipal Products)					\$
<b>PARTS &amp; ACCESSORIES DISCOUNTS</b>						
	<b>Manufacturer's <u>Parts Discount</u></b>					
	Municipal Electronics _____					_____ %
	Parts catalog/price list dated: _____					
	<b>Manufacturer's <u>Accessories Discount</u></b>					
	Municipal Electronics _____					_____ %
	Accessories catalog/price list dated: _____					

**Category 7 – U.S. Radar**

<b>Req. Item</b>	<b>MANUFACTURER</b>	<b>MODEL</b>	<b>Band</b>	<b>Qty</b>	<b>Unit</b>	<b>Unit Price</b>
1.	U. S. Radar	Phantom	K	1	EA	\$
2.	<b>Total Cost U.S. Radar</b> (will be used to determine lowest cost for U.S. Radar Products)					\$
<b>PARTS &amp; ACCESSORIES DISCOUNTS</b>						
	<b>Manufacturer's <u>Parts Discount</u></b>					
	U.S. Radar _____ Parts catalog/price list dated: _____					_____ %
	<b>Manufacturer's <u>Accessories Discount</u></b>					
	U.S. Radar _____ Accessories catalog/price list dated: _____					_____ %

**Category 8 – Laser Atlanta, LLC**

<b>Req. Item</b>	<b>MANUFACTURER</b>	<b>MODEL</b>	<b>Band</b>	<b>Qty</b>	<b>Unit</b>	<b>Unit Price</b>
1.	Laser Atlanta, LLC	Speedlaser B	LIDAR	1	EA	\$
2.	Laser Atlanta, LLC	Speedlaser R	LIDAR	1	EA	\$
3.	Laser Atlanta, LLC	Speedlaser S	LIDAR	1	EA	\$
4.	Laser Atlanta, LLC	Speedlaser T	LIDAR	1	EA	\$
5.	<b>Total Cost</b> Laser Atlanta, LLC (will be used to determine lowest cost for Laser Atlanta Products)					\$
<b>PARTS &amp; ACCESSORIES DISCOUNTS</b>						
	<b>Manufacturer's <u>Parts Discount</u></b>					
	Laser Atlanta _____ Parts catalog/price list dated: _____					_____ %
	<b>Manufacturer's <u>Accessories Discount</u></b>					
	Laser Atlanta _____ Accessories catalog/price list dated: _____					_____ %

**Category 9 – Laser Technology, Inc.**

<b>Req. Item</b>	<b>MANUFACTURER</b>	<b>MODEL</b>	<b>Band</b>	<b>Qty</b>	<b>Unit</b>	<b>Unit Price</b>
1.	Laser Technology, Inc.	LTI 20/20 TruCam	LIDAR	1	EA	\$
2.	Laser Technology, Inc.	TruSpeed	LIDAR	1	EA	\$
3.	Laser Technology, Inc.	Ultralyte 100/100 LR	LIDAR	1	EA	\$
4.	Laser Technology, Inc.	Ultralyte 200/200 LR	LIDAR	1	EA	\$
5.	Laser Technology, Inc.	Ultralyte LR B	LIDAR	1	EA	\$
6.	Laser Technology, Inc.	Ultralyte Compact	LIDAR	1	EA	\$
7.	Laser Technology, Inc.	Micro Digi-Cam System	LIDAR	1	EA	\$
8.	<b>Total Cost</b> Laser Technology, Inc. (will be used to determine lowest cost for Laser Technology Products)					\$
<b>PARTS &amp; ACCESSORIES DISCOUNTS</b>						
	<b>Manufacturer's <u>Parts Discount</u></b>					
	Laser Technology _____ Parts catalog/price list dated: _____					_____ %
	<b>Manufacturer's <u>Accessories Discount</u></b>					
	Laser Technology _____ Accessories catalog/price list dated: _____					_____ %

## **APPENDIX F TECHNICAL REQUIREMENTS**

### **1.1 FACTORY TEST**

Each unit and assembly shall undergo extensive testing prior to shipment from the factory. These tests shall encompass all aspects and functions of the equipment from component to unit entirely.

All test procedures and standards shall be as prescribed by NHTSA Technical Report.

An operational test report shall be furnished with each unit.

### **1.2 PRODUCT REQUIREMENTS**

All products bid via this solicitation shall be listed on the Conforming Products List (CPL) of the International Association of Chiefs of Police (IACP)

<http://www.theiacp.org/LinkClick.aspx?fileticket=OCj4QtaxEHE%3d&tabid=245>

International Association of Chiefs of  
Police  
515 N. Washington Street  
Alexandria, VA 22314-2357  
Telephone: 703-836-6767; 1-800-THE-IACP  
Fax: 703-836-4543



## **CONFORMING PRODUCT LIST (CPL)**

### **Enforcement Technology Program**

### **International Association of Chiefs of Police (IACP)**

July 18, 2011

The International Association of Chiefs of Police (IACP) publishes a Conforming Product List (CPL) for enforcement-technology equipment. This equipment is intended for use in highway-safety programs. Device models that appear on the CPL have been tested and found to be in compliance with IACP's performance specifications that were in effect when the device model was first placed on the CPL. These performance specifications are intended to help ensure these devices are both accurate and reliable when properly operated and maintained. IACP recommends that law-enforcement agencies use this CPL as one of its criteria when purchasing enforcement-technology equipment. It is important to note that these agencies must also be aware of any applicable federal, state and local requirements since these requirements are outside the scope of IACP's performance specifications.

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**PART I: DOWN-THE-ROAD RADAR SPEED-MEASURING DEVICES and  
UNITS APPROVED BUT NO LONGER IN PRODUCTION**

**PART II: LIDAR SPEED-MEASURING DEVICES AND SYSTEMS and  
UNITS APPROVED BUT NO LONGER IN PRODUCTION**

**PART I: DOWN-THE-ROAD RADAR SPEED-MEASURING DEVICES**

The International Association of Chiefs of Police (IACP), through Cooperative Agreement number DTNH22-10-H-00317 with the National Highway Traffic Safety Administration (NHTSA), has tested and certifies that the following down-the-road radar speed-measuring device models meet all the requirements of the *Speed-measuring Device Performance Specifications: Down-the-Road Radar Module* (DOT HS 809 812, June 2004) published by NHTSA and available at <http://www.nhtsa.dot.gov/people/injury/enforce/DownTheRoadWeb/pages/index.html>. For additional information, refer to the **Notes** section at the end of this portion of the CPL.

MANUFACTURER	MODEL	BAND	Mode (S/M)	HANDHELD	SAME DIRECTION	FASTEST TARGET	DISCRIMINATE DIRECTION
Applied Concepts	Stalker Basic	K	S/M	•			
Applied Concepts	Stalker Dual SL	Ka	S/M		•	•	
Applied Concepts	Stalker Dual DSR	Ka	S/M		•	•	•
Applied Concepts	Stalker DSR 2X	Ka	S/M		•	•	•
Applied Concepts	Stalker II SDR	Ka	S	•		•	•
Applied Concepts	Stalker II MDR	Ka	S/M	•	•	•	•
Applied Concepts	Stalker Patrol	K	S/M		•	•	
Decatur Electronics	Genesis GHD	K	S	•		•	•
Decatur Electronics	Genesis II Select <sup>1</sup>	K, Ka	S/M		•	•	
Decatur Electronics	Genesis II Select Harley-Davidson	Ka	S/M		•	•	
Decatur Electronics	Genesis II Directional <sup>2</sup>	K	S/M		•	•	•
Decatur Electronics	Genesis-VP Directional	K	S	•		•	•
Decatur Electronics	Harley-Davidson Genesis VP Directional	K	S	•		•	•
Decatur Electronics	Scout	K	S	•		•	•
Kustom Signals	Eagle II	K, Ka	S/M				

<sup>1</sup> The radar mirror is approved as a substitute for the original display unit of the Genesis II Select radar.

<sup>2</sup> The radar mirror is approved as a substitute for the original display unit of the Genesis II Directional radar.

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MANUFACTURER	MODEL	BAND	Mode (S/M)	HANDHELD	SAME DIRECTION	FASTEST TARGET	DISCRIMINATE DIRECTION
Kustom Signals	Eagle Plus II	K, Ka	S/M			•	
Kustom Signals	Golden Eagle	Ka	S/M		•	•	
Kustom Signals	Golden Eagle II	K, Ka	S/M		•	•	
Kustom Signals	Directional Golden Eagle II	Ka	S/M		•	•	•
Kustom Signals	Falcon	K	S	•			
Kustom Signals	Falcon HR	K	S/M	•	•	•	•
Kustom Signals	HR-12	K	S/M	•			
Kustom Signals	Pro-1000(DS)	K	S/M				
Kustom Signals	Talon II	Ka	S/M	•	•	•	
Kustom Signals	Directional Talon	Ka	S/M	•	•	•	•
Kustom Signals	Raptor RP-1	K, Ka	S/M		•	•	•
MPH Industries	BEE III	K, Ka	S/M		•	•	•
MPH Industries	Python III	X, K, Ka	S/M		• (K and Ka Only)	• (K and Ka Only)	
MPH Industries	Ranger EZ <sup>3</sup>	K	S/M		•	•	•
MPH Industries	Speedgun	K	S/M	•	•	•	
MPH Industries	Z-25	K	S	•		•	
MPH Industries	Z-35	K	S	•		•	
MPH Industries	Enforcer	Ka	S/M		•	•	
Municipal Electronics	TS-3	K	S	•			
U. S. Radar	Phantom	K	S	•			

<sup>1</sup> MPH, Ranger EX, K-Band, please note that the directional feature was not tested in the lab due to the lab equipment not being compatible with the Ranger's radar technology.

<sup>3</sup> MPH, Ranger EX, K-Band, please note that the directional feature was not tested in the lab due to the lab equipment not being compatible with the Ranger's radar technology.

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**NOTES:**

- 1) Mode “S” refers to the stationary mode and mode “M” refers to moving mode.
- 2) Some of the models listed on the CPL may have operational features that are not a part of the model minimum performance specifications. It is important to understand that these features have not been tested or certified, even though the device itself has been certified to meet the model minimum performance specifications.
- 3) CPL certification for any individual device model will be voided by any third party modifications not specifically approved by the original equipment manufacturer and the IACP.
- 4) Test results and analysis contained herein do not represent product endorsement by the IACP nor product approval or endorsement by the National Highway Traffic Safety Administration, the U.S. Department of Transportation, the National Institute of Standards and Technology, or the U.S. Department of Commerce.

**PART II: LIDAR SPEED-MEASURING DEVICES AND SYSTEMS**

The International Association of Chiefs of Police (IACP), through Cooperative Agreement number DTNH22-10-H-00317 with the National Highway Traffic Safety Administration (NHTSA), has tested and certifies that the following lidar speed-measuring device models and systems meet all the requirements of the *Speed-measuring Device Performance Specifications: Lidar Module* (DOT HS 809 811, June 2004) published by NHTSA and available at [http://www.nhtsa.gov/people/injury/speedmgmt/speed\\_lidar\\_module/pages/index.html](http://www.nhtsa.gov/people/injury/speedmgmt/speed_lidar_module/pages/index.html)>. For additional information, refer to the **Notes** section at the end of this portion of the CPL.

MANUFACTURER	MODEL	LIDAR DEVICE <sup>(1)</sup>	LIDAR SYSTEM <sup>(2)</sup>		
			MANUAL <sup>(3)</sup>	AUTOMATIC <sup>(4)</sup>	
				ATTENDED <sup>(5)</sup>	UNATTENDED <sup>(6)</sup>
Applied Concepts, Inc.	Stalker	•			
Applied Concepts, Inc.	Stalker LR	•			
DragonEye Technology, LLC	LaserAlly <sup>4</sup>	•			
Kustom Signals, Inc.	ProLaser III	•			
Kustom Signals, Inc.	LaserCam II	•	•		

<sup>4</sup> DragonEye Speed Lidar

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MANUFACTURER	MODEL	LIDAR DEVICE <sup>(1)</sup>	LIDAR SYSTEM <sup>(2)</sup>		
			MANUAL <sup>(3)</sup>	AUTOMATIC <sup>(4)</sup>	
				ATTENDED <sup>(5)</sup>	UNATTENDED <sup>(6)</sup>
Kustom Signals, Inc.	DTMS	•		•	•
Kustom Signals, Inc.	Pro-Lite	•			
Kustom Signals, Inc.	Pro-Lite +	•			
Laser Atlanta, LLC	SpeedLaser® B	•			
Laser Atlanta, LLC	SpeedLaser® R	•			
Laser Atlanta, LLC	SpeedLaser® S	•			
Laser Atlanta, LLC	SpeedLaser® T	•			
Laser Technology, Inc.	LTI 20/20 TruCAM	•	•	•	
Laser Technology, Inc.	TruSpeed	•			
Laser Technology, Inc.	Ultralyte 100/100 LR	•			
Laser Technology, Inc.	Ultralyte 200/200 LR	•			
Laser Technology, Inc.	Ultralyte LR B	•			
Laser Technology, Inc.	Ultralyte Compact	•			
Laser Technology, Inc.	Micro Digi-Cam System	•	•	•	

**NOTES:**

- 1) Lidar Device – down-the-road speed-measuring equipment, which determines target range and speed based on the time-of-flight of laser light pulses reflected off a target. The term “lidar device” is synonymous with "laser speed-measuring device" and “lidar unit.”
- 2) Lidar System – a lidar device that incorporates additional equipment that is used to gather, process and/or recorded images to be used as part of speed enforcement efforts.
- 3) Manual Mode – a mode in a lidar system where an operator manually aims the lidar system to track the movement of a target vehicle while the vehicle’s range and speed are determined and images recorded.
- 4) Automatic Mode – a mode in a lidar system, which automatically determines a target vehicle’s range and speed and records images. This mode applies to both attended and unattended operation.
- 5) Attended Operation – an operator is an integral part of the evidence acquisition process.

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- 6) Unattended Operation – an operator is not an integral part of the evidence acquisition process.
- 7) Some of the models listed on the CPL may have operational features that are not a part of the model minimum performance specifications. It is important to understand that these features have not been tested or certified, even though the device itself has been certified to meet the model minimum performance specifications.
- 8) CPL certification for any individual device model will be voided by any third party modifications not specifically approved by the original equipment manufacturer and the IACP.
- 9) Test results and analysis contained herein do not represent product endorsement by the IACP nor product approval or endorsement by the National Highway Traffic Safety Administration, the U.S. Department of Transportation, the National Institute of Standards and Technology, or the U.S. Department of Commerce.

## APPENDIX G SUPPLEMENTAL INFORMATION

### **Company/bidder experience submittal**

This submittal will be evaluated and used to aide in the determination of whether the Bidder Passes or Fails the Responsibility Evaluation.

No state form is provided for this Submittal, a one page, self-authored Submittal should be provided. This Submittal shall be titled Appendix G Supplemental Information and contain your company's name.

Bidders should review the considerations below and make sure the Submittal is in alignment with, and that it addresses the primary focus below.

Considerations: While the Purchasing Activity is not limited in what it can consider, the primary focus is detailed below:

- Please explain why/how your company is well suited to carry out the duties of this contract across multiple states. This should include contracts the Bidder has held during the past three years (or greater) that demonstrate the firm's ability to perform the services identified in the solicitation.
- Provide documentation that indicates how the equipment Unit Prices, and Discount off list for parts and accessories offered in your bid are an equal or greater value when compared to current contracts which are similar in size. Examples: comparisons to other state contracts, city or County contracts, GSA contracts etc. List contract reference numbers, periods of performance, contract persons and telephone numbers.

Failure to provide this Submittal will not cause your bid to be rejected however it will be required upon request. If the Purchasing Activity requests this Submittal, you will have 10 days to provide it. Failure to provide the Submittal within 10 days may cause your bid to be rejected as non-responsible.

**APPENDIX H STATE SPECIFIC TERMS AND CONDITIONS**

State specific, unique terms and conditions are listed below as embedded documents:



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