

# REQUEST FOR QUOTES & QUALIFICATIONS



**RFQQ K12816**

## **WASHINGTON STATE DEPARTMENT OF CORRECTIONS**

### **PREA Auditing Services**

**ISSUE DATE: April 15, 2022**

**BID DUE DATE: May 13, 2022**

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STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS  
TUMWATER, WASHINGTON

REQUEST FOR QUOTES & QUALIFICATIONS  
RFQQ NO. K12816

*If you download this RFQQ from the Washington Electronic Business Solutions (WEBS) website located at <https://pr-webs-vendor.des.wa.gov/home.html>, you are responsible for either checking the website or sending your name, address, e-mail address, and telephone number to the RFQQ Coordinator in order for your organization to receive any RFQQ amendments or notices.*

**PROJECT TITLE:**

Washington State Department of Corrections (DOC) DOJ certified PREA Auditors.

**1. INTRODUCTION**

**1.1 PURPOSE**

Pursuant to PREA Standard 28 CFR 115.401-115.405 ("PREA Standards"), the Washington State Department of Corrections (DOC) is issuing this RFQQ to solicit Bids for qualified contractor(s) for the Prison Rape Elimination Act (PREA) to provide PREA auditing services for all DOC correctional facilities and community facilities located throughout Washington State to ensure they are compliant with the PREA National Standards to Prevent, Detect, and Respond to Prison Rape.

**1.2 SCOPE OF WORK**

Conduct PREA audits for the DOC facilities listed below to ensure all audit phase activities, including the possibility of corrective action plans, are completed no later than August 19, 2023. Bids are to be provided on a per facility basis. **The Onsite activities must take place between August 20, 2022 – November 18, 2022.**

- (1) Cedar Creek Corrections Center (CCCC): 12200 Bordeaux Road Littlerock, WA98556-0037. Funded capacity of 480 male Incarcerated Individuals.

- (2) Mission Creek Correctional Center for Women (MCCCW): 3420 NE Sand Hill Road Belfair, WA 98528. Funded capacity of 321 female Incarcerated Individuals.
- (3) Washington Corrections Center for Women (WCCW): 9601 Bujacich Rd. NW, Gig Harbor, WA 98332-8300. Funded capacity of 738 female Incarcerated Individuals.
- (4) Bishop Lewis RC: 703 8th Ave. Seattle, WA 98104. Houses 47 male individuals.
- (5) Helen B. Ratcliff RC: 1531 13th Ave. S. Seattle, WA 98144. Houses 53 female individuals.
- (6) Reynolds RC: 410 4th Ave. Seattle, WA 98104. Houses 92 male individuals.
- (7) Stafford Creek Corrections Center (SCCC): 191 Constantine Way, Aberdeen, WA 98520. Funded capacity of 1,936 Male Incarcerated Individuals.

**Bidder shall identify the key personnel to be utilized in performing the work, and their experience and qualifications, as part of its proposal. If awarded a Contract, Bidder shall not make changes to such key personnel during the term of the Contract except as requested or approved by DOC. In the event that DOC is unable to approve a substitute auditor, DOC may contract with another Bidder for that work.**

EXHIBIT H provides an example FY23 Audit Schedule.

### **1.3 MINIMUM QUALIFICATIONS**

All Bidders must meet the following minimum qualifications:

**U.S. Department of Justice certified PREA auditor.**

Bidders must demonstrate how they meet the minimum qualifications as part of their response in EXHIBIT C, Business Requirements Form. Bidders failing to demonstrate in their Bids that they meet these minimum qualifications will be considered non-responsive and will therefore be disqualified from further consideration.

### **1.4 PERIOD OF PERFORMANCE**

DOC may award up to Seven (7) Contracts (one for each facility) to provide the services described in this RFQQ. Each contract resulting from this RFQQ will initially run for a period of twelve (12) months.

### **1.5 RFQQ CONTENTS**

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EXHIBIT A – Certification and Assurances

EXHIBIT B – Bidder Profile Form  
EXHIBIT C – Business Requirements Form  
EXHIBIT C(1) - Auditor Requirements Form  
EXHIBIT D – Rate Proposal Form  
EXHIBIT E – Certification of Cost Proposal  
EXHIBIT F – Issues List  
EXHIBIT G – Contract Model  
EXHIBIT G(1) – General Terms and Conditions  
EXHIBIT H – Example FY23 Audit Schedule

## 2. **GENERAL INFORMATION FOR BIDDERS**

### 2.1 **RFQQ COORDINATOR**

The RFQQ Coordinator is the sole point of contact in DOC for this procurement. Upon receipt of this RFQQ all communication between Bidders and DOC shall be with the following RFQQ Coordinator:

Name	Renee Parker, Contracts Specialist
E-Mail Address	docRFQQresponse@doc.wa.gov

Any other communication will be considered unofficial and non-binding on DOC. Communication directed to anyone other than the RFQQ Coordinator may, at the RFQQ Coordinator's discretion result in disqualification of the Bidder. Bidders are to rely only on written statements issued by the RFQQ Coordinator.

### 2.2 **SCHEDULE OF PROCUREMENT ACTIVITIES**

The dates listed below represent the current procurement schedule. DOC reserves the right to change the schedule as needed. Any changes to the schedule prior to Bid due date will be posted electronically on WEBS as an amendment to this solicitation.

Failure to meet any of the required deadlines will result in disqualification from participation in the procurement. All times are local at Tumwater, WA.

RFQQ issued by posting on WEBS	April 15, 2022
Deadline for RFQQ coordinator to receive vendors' emailed questions about this RFQQ	April 26, 2022 4:00 PM

Date by which answers to vendors' written questions will be posted on WEBS as an Amendment to this RFQQ	May 03, 2022
Date by which complaints about this RFQQ must be received	May 06, 2022 4:00 PM
Date by which Bids are due by email to RFQQ coordinator	May 13, 2022 4:00 PM
Selection of Successful Bidders who will move on to the Oral Presentation stage	May 24, 2022
Oral Presentations & Reference Checks (optional at DOC's discretion)	May 31, 2022
Notification of the "Apparent Successful Bidder"	June 08, 2022
Deadline for debriefing requests (note that a debriefing is a prerequisite for submitting a protest)	June 13, 2022 4:00 PM
Deadline for Bidder protests	June 20, 2022 4:00 PM

Date by which the DOC must respond to a protest	July 04, 2022
Contract execution	July 06, 2022

### 2.3 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE

Materials submitted in response to this competitive solicitation shall become the property of DOC.

DOC is subject to the Public Records Act (chapter 42.56 RCW). All Bids received shall remain confidential until announcement of the Apparent Successful Bidder; thereafter, the Bids shall be deemed public records as defined in the Public Records Act.

Any information contained in the Bid that is proprietary or confidential must be clearly designated. Each page claimed to be exempt from disclosure must reference the specific basis claimed under Chapter 42.56 RCW, the Public Records Act or other state or federal law that provides for the nondisclosure of your Bid information. Any portion which you claim to be proprietary, confidential, or exempt from disclosure must be clearly identified by the word "Proprietary" or "Confidential" printed on the lower right-hand corner of the page. Marking of the entire Bid or entire sections of the Bid as proprietary or confidential will not be accepted nor honored. Marking of the Rate Proposal as proprietary or confidential will be neither accepted nor honored. Any attempts to restrict disclosure through use of footers on every page and/or statements restricting disclosure will not be honored and may subject Bidder to disqualification.

To the extent consistent with Chapter 42.56 RCW, the Public Records Act, DOC shall maintain the confidentiality of Bidder's information marked confidential or proprietary. If a request is made to view Bidder's confidential or proprietary information, DOC will notify Bidder of the request and of the date that the records will be released to the requester unless Bidder obtains a court order enjoining that disclosure or the requester and Bidder reach an agreement on the extent of such disclosure, which agreement will be forwarded to DOC by the requester prior to DOC's date for the proposed disclosure. If Bidder fails to obtain the requester's agreement or a court order enjoining disclosure, DOC will release the requested information on the date specified.

A charge will be made for copying and shipping, as outlined in RCW 42.56. Requests for records pursuant to the Public Records Act must be submitted to DOC's Public Records Officer (DOCPublicDisclosureUnit@doc.wa.gov).



## **2.4 REVISIONS TO THE RFQQ**

In the event it becomes necessary to revise any part of this RFQQ, addenda will be provided via e-mail to all Bidders who have provided their contact information to the RFQQ Coordinator. In addition, addenda will be published on WEBS. Questions and answers and any other pertinent information shall be considered an addendum to the RFQQ and also placed on WEBS. If the Bidder downloaded this RFQQ from WEBS, located at <https://pr-webs-vendor.des.wa.gov/home.html>, it is incumbent upon Bidder to either check the above-listed website or to notify the RFQQ Coordinator of Bidder's interest in receiving any revisions via e-mail.

## **2.5 RIGHT TO CANCEL**

DOC reserves the right to cancel or reissue this RFQQ, in whole or in part, *at any time* without obligation or liability. If DOC determines that one or more Bidders did not comply with the requirements of a particular Stage of the procurement, DOC reserves the right to cancel that Stage and/or all affected Stages, and require all Bidders to re-perform the Stage or affected Stages.

## **2.6 SMALL BUSINESS AND VETERAN-OWNED BUSINESS PARTICIPATION**

In accordance with the intent of Chapter 39.26.005 RCW, the state encourages the purchase of goods and services from state small businesses. State small businesses, mini-businesses, and micro-businesses are defined in RCW Chapter 39.26.010(22), (17), and (16) respectively.

In accordance with Chapter 43.60A.200 RCW, the state encourages participation in all of its contracts from firms certified by the Washington State Department of Veterans' Affairs (DVA). For information on these certified firms, Bidders may contact DVA at <http://www.dva.wa.gov/businessregistry/>.

While participation in these programs is encouraged, no minimum level of participation will be required as a condition for receiving an award and Bids will not be rejected or considered non-responsive on that basis.

In some cases, a Small Business as described above may also be certified by the Office of Minority and Women's Business Enterprises (OMWBE) in accordance with Chapter 39.19 RCW. The state of Washington encourages participation by these firms. For information of these certified firms, Bidders may contact OMWBE at: <http://www.omwbe.wa.gov/>.

Bidders must identify in **EXHIBIT B**, Bidder Profile Form, if they, or any Subcontractors, meet the definitions and/or are certified as described above.

## **2.7 ACCEPTANCE PERIOD**

Bids must provide 150 days for acceptance by DOC from the due date for the receipt of Bids.

## **2.8 MOST FAVORABLE TERMS**

DOC reserves the right to make an award without further discussion of the Bid submitted. Therefore, the Bid should be submitted initially on the most favorable terms that the Bidder can propose. DOC reserves the right to contact a Bidder for clarification of its Bid during the evaluation process. In addition, if the Bidder is selected as the Lowest Responsive and Responsible Bidder, DOC reserves the right to enter into contract negotiations with the Lowest Responsive and Responsible Bidder, which may include discussion regarding the terms of the Bid.

DOC reserves the right to negotiate with the next highest ranked Bidder and to contract with that Bidder if a contract is not signed by the Lowest Responsive and Responsible Bidder within ten (10) business days after a Contract is presented by DOC.

## **2.9 INCORPORATION OF BID INTO CONTRACT**

This RFQQ document (including any addenda and amendments), Bidder's Bid (including any submissions made by Bidder to DOC after the Bid is submitted), electronic recordings of the oral presentation and the presentation materials, and any commitments made by the Bidder at the oral presentation (if any) will become part of the representations and warranties of Bidder in the Contract and will be incorporated into and become attached to the Contract.

Bidders cannot treat the Bid as a "marketing" document, as it will become part of the contractual commitment of the Bidder. Bidders' subject matter experts, project team, technical staff, and others, as appropriate, must be involved to ensure that all responses in the Bidder's Bid are accurate, and can support the representations and warranties reflected in the Contract that are part of this RFQQ.

Any disclaimer or other language contained in a Bid that differs from the requirements described in this section will be disregarded by DOC and deemed to have no force or effect. If Bidder rejects the incorporation of any of the above materials into the resulting Contract, DOC will disqualify Bidder.

#### **2.10 COSTS TO PROPOSE**

DOC will not be liable to the Bidder for any costs related to responding to this RFQQ.

#### **2.11 NO OBLIGATION TO CONTRACT**

This RFQQ does not obligate the state of Washington or DOC to contract for goods or services specified herein.

#### **2.12 REJECTION OF BIDS**

DOC reserves the right at its sole discretion to reject any and all Bids received without penalty and not to issue a contract as a result of this RFQQ.

#### **2.13 COMMITMENT OF FUNDS**

The Secretary of DOC or delegate are the only individuals who may legally commit DOC to the expenditure of funds for a contract resulting from this RFQQ. No costs chargeable to the proposed Contract may be incurred before receipt of a fully executed contract. **No payments in advance or in anticipation of services to be provided under this contract shall be made by DOC.**

#### **2.14 ELECTRONIC PAYMENT**

DOC prefers to utilize electronic payment in its transactions. The successful contractor will be provided a form to complete with the contract to authorize such payment method.

### **3. INSTRUCTIONS TO BIDDERS**

#### **3.1 SUBMISSION OF BIDS**

**Bids may be submitted by email only. Late Bids will not be accepted and will be automatically disqualified from further consideration.**

The Bid is to be sent to the RFQQ Coordinator, who is DOC's sole point of contact for this procurement, at the email address noted in Section 2.1. The Bid must be received by DOC **no later than 4:00 P.M. PST, on May 13, 2022.**

### **3.2 RESPONSIVENESS**

All Bids will be reviewed by the RFQQ Coordinator to determine compliance with administrative requirements and instructions specified in this RFQQ. Failure to comply with any part of the RFQQ may result in rejection of the Bid as non-responsive. DOC, however, reserves the right, at its sole discretion, to waive minor administrative irregularities.

Bids must respond to the procurement requirements. Do not respond by referring to material presented elsewhere. The Bid must be complete and must stand on its own merits. All Bids and any accompanying documentation become the property of DOC and will not be returned.

### **3.3 RESPONDING TO REQUIREMENTS**

#### **3.3.1 Requirements Responses**

The Bidder must provide clear, concise, direct, detailed and specific responses to each item. Except where explicitly requested, do not submit marketing materials, white papers, brochures, customer testimonials, product or cut sheets, or other pre-printed materials in response to the requirements. Any such references will be disregarded by DOC. For requirements that state: "Describe . . .," "Describe how . . .," "Explain . . .," or similar open-ended references, Bidder must respond with information as to how Bidder's solution specifically meets the unique requirements or needs or solves the described problem.

#### **3.3.2 Failure to provide any requested information in the prescribed format may result in disqualification of the Bidder. However, Bidders are allowed to make changes to a response form's font types, font sizes, page orientation, headers and/or footers, and spacing.**

Figures and tables must be numbered and referenced in the text of the Bid by that number. Foldouts containing charts, spreadsheets and oversize exhibits are permissible.

The Bidder must respond to each requirement. If a requirement cannot be/is not met by Bidders' Bid, bidder must explicitly state that it does not meet the requirement. Leaving any requirements blank, without any response, will result in a DOC evaluation of "Fail" for the requirement. A failure evaluation may cause the entire response to be eliminated from consideration. A failure evaluation will not automatically be a basis for disqualification if a Bidder provides a response that it believes complies with the requirement, but that DOC determines either partially meets or does not meet the requirement. DOC reserves the right to discuss with the Bidder how the proposed solution can meet or better meet DOC's requirement.

The Bidder should include information in its response that is critical to service delivery and provide competitive advantage. DOC does not desire highly conceptual responses. DOC desires responses that are brief, clear, and directly address the specific requirement.

The Bidder must respond to requirements by providing the Bidder's response as directed by the requirements document. The explanations in the Bidder's Response will only be reviewed by DOC for evaluation purposes, and will not operate to diminish the assurances provided elsewhere in the Bid. DOC reserves the right, in its sole discretion, to remove or require the removal of any or all the explanations in the Bidder's Response when incorporating the response into the Contract documents. Any information set forth in the Bidder's Response that identifies how Bidder intends to meet a requirement or references optional ways or means by which Bidder may approach or address a requirement will not affect Bidder's obligation to meet the requirement.

The Bidder has an opportunity to ask questions and seek clarifications of DOC requirements prior to the submission of the Bid. Accordingly, DOC reserves the right to disregard any assumption or qualification in the Bid and score the response based on our intended meaning of the requirement.

Any indication that a requirement "can be," "could be," or "may be" (or similar phrases) addressed using an option or approach shall nonetheless mean that Bidder can satisfy the applicable requirement.

### **3.4 BID CONTENTS**

This section describes what is required in the Bid to be complete. Failure to comply with these requirements will result in disqualification of a Bid as non-responsive. Bids must provide

information in the same order as presented below and with the same headings. This will not only be helpful to the evaluators of the Bid, but should assist the Bidder in preparing a thorough response.

The Bid must include the following documents in the following order:

1. Transmittal Letter;
2. Certifications and Assurances (**EXHIBIT A**);
3. Bidder Profile (**EXHIBIT B**), Bidders must include answers to the questions for all Auditors to perform work under this contract.
4. Business Requirements Form (**EXHIBIT C**);
5. Auditor Requirements Form (**EXHIBIT C(1)**);
6. Rate Proposal Form (**EXHIBIT D**);
7. Certification of Bid (**EXHIBIT E**);
8. Issues List (**EXHIBIT F**);

#### 3.4.1 **Transmittal Letter**

The Transmittal Letter must:

1. Be addressed to the DOC RFQQ Coordinator identified in Section 2.1.
2. Be submitted on the Bidder's official business letterhead stationery.
3. Be signed and dated by a corporate officer, principal, manager, partner or other individual representative of the Bidder with the authorization to legally bind the Bidder.
4. Contain the following items in the following order:
  - a. An itemization of all materials and enclosures provided within the Bidder's Bid.

- b. Identification of all page numbers and Sections of the Bidder's Bid that are marked as containing Confidential or Proprietary Data, with a statement of the basis for each claim of exemption or the particular exception from disclosure upon which the Bidder is making the claim.

#### 3.4.2 **Certifications and Assurances Form**

The Certifications and Assurances form (**EXHIBIT A**) must be completed, signed, and submitted with the Bid.

#### 3.4.3 **\*\*IMPORTANT\*\* Please note that this RFQQ requires Bidders to certify on Attachment A that they/their subcontractors have the appropriate DOJ PREA certification. Bidders who do not satisfy this requirement will be administratively screened from further participation.**

#### 3.4.4 **Bidder Profile Form**

The intent of the Bidder Profile Form (**EXHIBIT B**) is to collect information that will assist DOC in understanding the Bidder's and any Auditor's business.

#### 3.4.5 **Business Requirements Form**

The Bidder must complete and include the Business Requirements Form (**EXHIBIT C**). Bidder must provide detailed responses to each element of the Business Requirements Form, address the Bidder's approach, methodology, to tasks required for this Project, and explain why they are the best qualified for the Project.

#### 3.4.6 **Auditor Requirements Form**

The Bidder Must complete and include the Auditor Requirements Form (**EXHIBIT C(1)**), for each Auditor they are proposing in response to this RFQQ. Bidder must provide detailed responses to each element of the Auditor Requirements Form, address the Auditor's approach, methodology, to tasks required for this Project, and explain why they are the best qualified for the Project. The responses in the Business Requirements Form will be incorporated into the Contract documents as a representation and warranty. The audit schedule proposed on the Rate Proposal Form (**EXHIBIT D**) will be evaluated as part of the overall Auditor score.

#### 3.4.7 **Rate Proposal**

Bidder must submit pricing by completing the Rate Proposal Form (**EXHIBIT D**). DOC will not review or consider any Bidder cost or pricing information in any other portion of the Bid.

#### 3.4.8 **Certification of Bid**

The Certification of Bid (**EXHIBIT F**) must be completed, signed, and submitted with the Bid.

#### 3.4.9 **Issues List**

The Bidder must complete and include an Issues List as described in this section using **EXHIBIT F**. If Bidder has no concerns, exceptions, or objections to any of the terms or conditions contained in the Contract documents provided in this RFQQ the Bidder must state so on the form.

Issues, concerns, exceptions, or objections to any of the terms or conditions contained in the Contract Model (**EXHIBIT G**) and/or General Terms & Conditions (**EXHIBIT G(1)**) must be documented by the Bidder in the Issues List. The Issues List response must set out by section or paragraph a description of each issue, concern, exception, and/or objection. **EXHIBIT F**, Issues List, sets forth the Issues List template to be used for the response. An Issues List must be provided for the Contract Model and the General Terms and Conditions. Bidders will need to submit the Issues List on behalf of their Subcontractors.

In completing the Issues List, Bidder must describe, in business terms and not in proposed Contract or legal language, the issue, concern, exception or objection it has and then propose a compromise that is reasonable in light of the commitment being sought by DOC. The Issues List must provide the reason or rationale supporting the issue, concern, exception, or objection. Simply stating that a paragraph is "not acceptable" or supplying proposed Contract terms without describing (in business language) the reason or rationale will be considered non-responsive. If the Issues List fails to identify a particular term or condition, the term or condition will be deemed accepted, and DOC will not negotiate further changes to such paragraphs or sections. The Issues List provided to DOC must be attached to Bidder's Bid in an unrestricted, editable Microsoft Word format.

DOC reserves the right to discuss the Issues List with the Bidders and applicable



Subcontractors and require Bidders to clarify and supplement the Issues List at any time during the evaluation process. Any changes to the Issues List will require Bidder to clarify, revise, and resubmit the Issues List.

#### 3.4.9.1 Contract Model and General Terms & Conditions

The Lowest Responsive and Responsible Bidder will be expected to enter into a Contract containing Terms and Conditions that are substantially the same as those found in the Contract Model attached as **EXHIBIT G** and the General Terms and Conditions attached as **EXHIBIT G(1)**. In no event is a Bidder to submit its own standard contract terms and conditions in response to this solicitation. The Bidder may use the Issues List to submit exceptions to the contract documents. DOC will review requested exceptions and accept or reject the same at its sole discretion. Such exceptions will be reviewed and negotiated after selection of the Lowest Responsive and Responsible Bidder (LRRB). If the Bidder and DOC are unable to reach agreement on the terms of the Contract within ten (10) business days after the Contract is presented to the LRRB for signature, Bidder may be disqualified from the award under this RFQQ.

#### 3.4.9.2 Redlined Bids

**Redlined Documents Will Not Be Reviewed:** The Issues List is the mechanism to communicate issues and concerns on the Contract documents. Do not provide in the Bid, the Issues List, or otherwise, a redlined contract, paragraph or clauses. Redlined text will only require DOC to make potentially inaccurate assumptions about what Bidder's specific issues or concerns might be. Redlined text will not be reviewed by DOC.

#### 3.4.9.3 Bidder's Standard Contract or Proposed Language

**Standard Bidder Contracts Will Not Be Reviewed:** Do not provide a copy of Bidder's standard contract or proposed language to DOC in the Bid.

#### 3.4.9.4 No Substantial Changes to Material Terms

Bidders are reminded that this is a competitive solicitation for a public contract and that DOC cannot accept a Bid or enter into a Contract that substantially changes the material terms and specifications published in this RFQQ.

#### 3.4.9.5 Use of the Issues List

The Issues List frames discussions between DOC and Bidders regarding the terms and conditions contained in the Contract documents.

The Issues List will be used initially to determine the responsiveness of the Bid. Bids that are contingent upon DOC making substantial changes to material terms and specifications published in the RFQQ will be determined to be non-responsive. DOC will consider the number and nature of the items on the Bidders Issue List in determining the likelihood of completing a Contract with the Bidder. Unresolved issues regarding the material business terms of the Contract and Project documents may affect DOC's selection of Bidders to advance to the next stage of the procurement.

### **3.5 VENDOR'S QUESTIONS AND DOC'S RESPONSES**

Vendors may submit written questions and requests for clarification pertaining to this RFQQ to the RFQQ coordinator identified in Section 2.1.

Vendor's questions must be in writing and sent by email. Questions received after the deadline date stated in the Schedule of Procurement Activities (Section 2.2) will not be answered. DOC will attempt to answer all questions received provided that they are received by DOC before the deadline.

The basic content of all vendor's questions and DOC's responses to the questions, will be published on the Washington Electronic Business Solutions (WEBS) web site at: <https://pr-webs-vendor.des.wa.gov/home.html> and sent via email to each vendor. Authors of questions will not be identified in this published document.

DOC's response as set forth in the published vendor's questions shall take precedence over the RFQQ if a conflict exists between the two documents.

The only official responses of DOC with regard to vendor's questions will be those stated in writing from the RFQQ Coordinator.

### **3.6 COMPLAINTS**

Vendors may submit a complaint by email to the RFQQ Coordinator by the complaint deadline identified in Section 2.2. The purpose of the complaint process is to settle unresolved vendor issues or concerns that either were not or could not be resolved during the question and answer period. Vendors are expected to raise any issues they have concerning the RFQQ early in the RFQQ process. If a vendor believes the RFQQ unnecessarily restricts competition, contains inadequate or insufficient requirements, or utilizes an evaluation process that is unfair or

flawed, the Bidder may submit a formal written complaint to the RFQQ Coordinator. The complaint process allows vendors to focus on the solicitation requirements and evaluation process and raise issues with these processes early enough to allow DOC to correct a problem before bids are submitted and time expended on evaluations. DOC's Contracts Administrator will review the complaint and during this time the solicitation process may continue. If DOC does not find merit in the complaint, no further action will be taken. If DOC finds merit with the complaint DOC may take steps to intervene, such as requiring modification of solicitation requirements, modification of the schedule, or withdrawal of the RFQQ. The response to complaints, including any changes to the solicitation, will be posted on WEBS. The resulting decision is final with no further administrative appeal available. A complaint may not be raised again during the protest period.

### **3.7 DEBRIEFING OF UNSUCCESSFUL BIDDERS**

Upon request, a debriefing conference will be scheduled with an unsuccessful Bidder. The request for a debriefing conference must be received by the RFQQ Coordinator within three (3) business days after the date on which the Bidder is notified of the Apparent Successful Bidder. The debriefing must be held within three (3) business days of the Bidder's request.

Discussion at a Debriefing conference is limited to a critique of the requesting Bidder's Bid. Comparisons between Bids or evaluation of other Bids is not allowed. Debriefing conferences will be conducted by telephone and scheduled for a maximum of 30 minutes.

### **3.8 PROTEST PROCEDURE**

This procedure is available to Bidders who submitted a response to this procurement document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Bidder is allowed five (5) business days to file a protest of the procurement with the RFQQ Coordinator. Protests may be submitted by email, but should be followed by a signed original sent by mail.

Bidders protesting this procurement shall follow the procedures described below. Protests that do not follow these procedures shall not be considered. This protest procedure constitutes the sole administrative remedy available to Bidders under this procurement.

All protests must be in writing and signed by the protesting party or an authorized Agent. The protest must state the grounds for the protest with specific facts and complete statements of the action(s) being protested. A description of the relief or corrective action being requested

should also be included. All protests shall be addressed to the RFQQ Coordinator.

Only protests stipulating an issue of fact concerning the following subjects shall be considered:

- A matter of bias, discrimination, or conflict of interest on the part of an evaluator;
- Errors in computing the score, if any;
- Non-compliance with procedures described in the procurement document or DOC policy.

Protests not based on procedural matters will not be considered. Protests will be rejected as without merit if they address issues such as: 1) an evaluator's professional judgment on the quality of a Bid, or 2) DOC's assessment of its own needs or requirements.

Upon receipt of a protest, a protest review will be held by DOC. The DOC Contracts Administrator or an employee delegated by the Contracts Administrator who was not involved in the procurement will consider the record and all available facts and issue a decision within five (5) business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

In the event a protest may affect the interest of another Bidder that submitted a Bid, such Bidder will be given an opportunity to submit its views and any relevant information on the protest to the RFQQ Coordinator.

The final determination of the protest shall:

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

If DOC determines that the protest is without merit, DOC will enter into a Contract with the Apparent Successful Bidder. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

All protests shall be sent to the Contracts Administrator:

Contracts Administrator  
Department of Corrections  
Contracts and Legal Affairs  
PO Box 41114  
Olympia, WA 98504-1114

#### **4. EVALUATION AND CONTRACT AWARD**

***ALL ADMINISTRATIVE REQUIREMENTS MUST BE MET IN ORDER TO BE EVALUATED.***

##### **4.1 EVALUATION PROCEDURE**

Responsive Bids will be evaluated strictly in accordance with the requirements stated in this solicitation and any addenda issued. The evaluation of Bids shall be accomplished by an evaluation team, to be designated by DOC, which will determine the best Bid for DOC.

DOC will evaluate Bids in a structured, four stage approach. For each stage, the assigned evaluation team will select which Bidder(s) may proceed to the next stage based on the evaluation approach.

##### **4.2 EVALUATION STAGES**

###### **3.8.1 Stage 1: Administrative Screening**

Bids will be reviewed by the RFQQ Coordinator to determine, on a pass/fail basis, compliance with administrative requirements as specified in Section 3, Instructions to Bidders, and the Certification of Bid (**EXHIBIT F**). The evaluation team will only evaluate Bids meeting these requirements.

###### **3.8.2 Stage 2: Evaluation**

The DOC Evaluation Team will evaluate the submitted materials. The DOC Evaluation Team will take into consideration the overall evaluation, the Bidder Profile, the Issues List, and references when selecting the participants for Stage 3. There is no set number of Bidders who will advance to Stage 3. The RFQQ Coordinator will notify Bidders whether or not their Bid is moving forward to the next stage. Bidders who do not initially move to the next stage may later be invited to move forward.

###### **3.8.3 Stage 3: Oral Presentation & Reference Checks (at DOC's option) and Determination of the Lowest Responsive and Responsible Bidder**

DOC may, at its option, ask select Bidders to participate in an oral presentation.

DOC will identify one Bidder as the Lowest Responsive and Responsible Bidder (LRRB) to participate in Stage 4 based on the overall assessment of the Bidders.

#### 3.8.4 Stage 4: Contract Negotiations & Selection of the Apparent Successful Bidder

In this Stage DOC will undertake contract negotiations with the LRRB. Upon successful contract negotiation DOC will announce the Apparent Successful Bidder who will be asked to sign the contract documents.

### 4.3 EVALUATION WEIGHTING

The following weighting will be assigned to the Proposal sections for evaluation purposes:

Stage 2:

Business Proposal Form:	10%
Auditor Proposal Form:	60%
Cost Proposal:	30%

Stage 3: 50% of total score for  
bidders who move on to this stage

Oral Presentation:	100%
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### 4.4 STANDARD EVALUATION AND SCORING

Standard evaluation and scoring will be used for the Business Proposal Form and Auditor Requirements Form. Each evaluator will evaluate and score the entire document as a whole (i.e. evaluators will not be scoring individual elements in the forms). Each evaluator will assign a score to the entire Business Proposal Form and Auditor Requirements Form on a scale of 0 to 10 using the criteria identified in the following table. Scoring is at the complete discretion of the evaluator.

0	<b>No value</b>	The Bidder has omitted any discussion of the requirements, the information provided is of no value, or the Bidder has simply restated the requirements.
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1-3	<b>Poor</b>	The Bidder has not fully established its capability to perform the requirements, and/or has marginally described its approach.
4-6	<b>Adequate</b>	The Bidder has an adequate capability or solution to meet the requirements, and/or has described its approach in sufficient detail to be considered "as meeting minimum requirements."
7-9	<b>Good</b>	The Bidder has an above-adequate capability or solution, and/or has described its approach in sufficient detail to be considered "as exceeding minimum requirements."
10	<b>Excellent</b>	The Bidder has a superior, innovative, detailed, efficient capability or solution, and/or has described its approach in sufficient detail to be considered "as far exceeding minimum requirements."

#### 4.5 RATE PROPOSAL EVALUATION AND SCORING

The Bidder with the lowest rate will receive the maximum number of points, and the remaining Bidders will be allocated points based on the difference between the rates.

Example:

Bidder A: (Lowest Blended Hourly Rate)	\$80.00/hr = 100 Points Lowest Bidder receives all 100 available points
Bidder B: (2nd Lowest Blended Hourly Rate)	\$100.00/hr $(\$80.00 / \$100.00) \times 100 = 80$ Points Lowest Bid / Higher Bid = Percentage of Available Points * Available Points = Points Awarded

#### 4.6 ORAL PRESENTATIONS

Bidders selected to move to Stage 3 will be asked to give an oral presentation. It is anticipated that two or more Bidders will be asked to participate in this stage.

Selected Bidders will be asked to give an oral presentation of, and answer questions regarding,

key aspects of their Proposal. The RFQQ Coordinator will notify participants of the date, time, and location of the presentation. The dates in the Schedule of Procurement Activities (Section 2.2) are an estimate and are subject to change at the discretion of the DOC. DOC reserves the right to require additional presentations and interviews.

The Bidder's key personnel proposed to be involved in the performance of the Project must participate in the presentation.

The Oral Presentation will be evaluated and scored based upon how well the Bidder addresses each presentation topic. Required presentation topics are listed below:

- Team Member expertise and experience
- Experience and methodology

\*These topics are subject to change.

Each evaluator will evaluate and score each Presentation Topic separately. Each evaluator will assign a raw score to each scored element on a scale of 0 to 10 using the criteria identified in the following table.

0	<b>No value</b>	The Bidder failed to discuss this area or the information provided is of no value.
1-3	<b>Poor</b>	The Bidder marginally discussed this area.
4-6	<b>Adequate</b>	The Bidder discussed this area and provided the basic information expected.
7-9	<b>Good</b>	The Bidder discussed this area and provided a comprehensive level of information.
10	<b>Excellent</b>	The Bidder discussed this area and provided comprehensive, detailed and highly applicable information.

#### 4.7 REFERENCE CHECKS

Reference checks of Bidders and their subcontractors will be conducted at DOC's discretion during Stage 3.

Each Reference Check will receive a PASS or FAIL Score. DOC reserves the right to disqualify a Bid and withdraw it from consideration if a Bidder receives a FAIL score.



#### **4.8 LOWEST RESPONSIVE AND RESPONSIBLE BIDDER**

Based upon the activities in Stage 3 and consistent with RCW 39.26.160, DOC will make a determination of the Lowest Responsive and Responsible Bidder who will advance to Stage 4. There can be only one Lowest Responsive and Responsible Bidder.

In Stage 4, DOC will undertake negotiations with the Lowest Responsive and Responsible Bidder to determine final Contract terms, and to determine if the Bid may be improved in terms of best value to DOC.

At the successful conclusion of negotiations with the Lowest Responsive and Responsible Bidder DOC will require that Bidder to submit a signed Contract.

If, after a reasonable period of time, DOC cannot reach agreement on acceptable Contract terms with the Lowest Responsive and Responsible Bidder, DOC may suspend negotiations and undertake negotiations with the next Lowest Responsive and Responsible Bidder as determined by the evaluations in all Stages. Alternatively DOC may request Best and Final Offers (BAFOs) from all Responsive and Responsible Bidders, or cancel the procurement.

#### **4.9 BEST AND FINAL OFFERS (BAFO)**

Once a Bid has been submitted, Bidders will not be allowed to make material changes to those Bids unless they receive a request for a BAFO from DOC. The circumstances under which a BAFO may be requested are described in this section.

At any time after the completion of Stage 2, DOC may notify all remaining Responsive and Responsible Bidders that DOC will require them to submit BAFOs. The notice will be in writing and will set a specific time and date certain by which the BAFO must be submitted to DOC. The BAFO notice may set additional conditions and requirements for the submission of the BAFO. The notice will advise Bidders that the BAFO shall be in writing. The BAFO Notice will be posted on WEBS. Prior to the closing date for the submission of BAFOs DOC may, at DOC's discretion, engage in discussion with all remaining Responsive and Responsible Bidders regarding how Bidders can make their Bids more responsive to the selection criteria in the RFQQ. All Bidders shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of Bids, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining BAFOs. In conducting discussions, there shall be no disclosure of any information derived from Bids submitted by competing Bidders.

Evaluation of BAFOs and selection of a Successful Bidder will be based upon the evaluation criteria set out in the RFQQ. Terms proposed as part of a BAFO must be substantially in accordance with the terms requested in this RFQQ and may not materially alter the requirements of the RFQQ.

At the conclusion of negotiations with the Lowest Responsive and Responsible Bidder DOC will require that Bidder to submit a signed Contract as a BAFO pending acceptance.

#### **4.10 AWARD**

DOC will be awarding each site individually to the lowest responsive and responsible bidder for each facility. It is possible that a Bidder may not be awarded all facilities bid on. Any Contract resulting from this RFQQ will be awarded to the Lowest Responsive and Responsible Bidder whose Bid, in the sole opinion of DOC, offers the greatest benefit to DOC. The decision will be based on consideration of the total best value, including, but not limited to, the responsiveness of the Bid to the requirements as set forth in the RFQQ, the competence and responsibility of the Bidder, quality of service, breadth and depth of offering, the strength and form of contractual commitments made by Bidder to DOC and total cost. In making an award DOC may consider:

1. The relative ability, capacity, and skill of the Bidder to perform the Contract and provide the service required, including: (a) vendor financial capacity and stability; and (b) quality of professional personnel.
2. Whether the Bidder can complete the Project within the time specified.
3. The character, integrity, reputation, judgment, experience, and efficiency of the Bidder.
4. The quality of performance of previous contracts or services including previous and existing compliance by the Bidder with laws relating to the Contract or services, and vendor expertise with engagements of similar scope and complexity.
5. The extent to which the Bid satisfies the needs of DOC as specified in the RFQQ documents, including: (a) the relative quality of the product or service proposed by the Bidder; (b) quality and effectiveness of the proposed business solution and approach; and (c) innovative use of current technologies.
6. The cost of the Bid to the state, including: (a) projected internal cost to DOC for the Project; and (c) the extent to which the Bid provides competitive pricing, economies, and efficiencies.

7. The strength and form of contractual commitments made by Bidder to DOC and the willingness to conform to the contractual terms as proposed in the RFQQ.
8. Whether the Bid encourages diverse contractor participation.
9. Whether the Bid considers human health and environmental impacts.

DOC reserves the right to award the Contract to the Bidder whose Bid is deemed to be in the best interest of DOC and the state of Washington. Hence, the lowest bid may not be awarded the contract.

DOC will notify the Apparent Successful Bidder of its selection in writing, and will also announce the Apparent Successful Bidder on Washington's Electronic Business Solution (WEBS), <https://pr-webs-vendor.des.wa.gov/>. Bidders whose Bids were not selected for award will be notified separately by email from the RFQQ Coordinator.

This RFQQ and the award of any resulting Contract will be made in conformance with applicable DOC policies and Washington State law. Bids made by Bidders are offers to Contract and will not be binding upon DOC until accepted by execution of the Contract.

#### **4.11 DOC NEGOTIATION PROCEDURES**

The Lowest Responsive and Responsible Bidder invited to Stage 4 will participate in Contract negotiations to agree on the language for final Contract terms and to determine if the Bid may be improved in terms of best value to DOC. During negotiations in Stage 4, DOC and the Lowest Responsive and Responsible Bidder may discuss alterations to the Bid or the RFQQ requirements, provided they do not substantially change the scope of work and material terms in the RFQQ or substantially increase the cost to DOC above that contained in the original bid.

##### **3.8.5 4.12.1 Final Written Offer**

At the conclusion of negotiations in Stage 4, DOC will request that the Bidder sign a Contract as a final written offer with a provision that such offer is irrevocable and cannot be withdrawn prior for 90 days, (or such longer period as DOC and Bidder may agree). The Contract signed by the Bidder can only be countersigned, and thus become a binding agreement between Bidder (and any applicable Third Party Solution Provider) and DOC, subject to the results of the protest period and after the Contract is approved by appropriate authorities in the state.

#### **4.12 APPARENT SUCCESSFUL BIDDER (ASB)**

Upon successful completion of Contract negotiations and DOC's receipt of a final Contract offer from a Lowest Responsive and Responsible Bidder which appears acceptable, DOC will announce that Bidder as the ASB. DOC will notify the ASB of selection in writing. Announcement of the ASB will be promptly posted to WEBS. WEBS posting will be official notification to all Bidders of the ASB. Bidders not selected for further negotiation or award will be notified separately by the RFQQ Coordinator via email.

After the announcement of the ASB, DOC will hold a Bidder debriefing conference for any Bidder who requests one.

Consistent with RCW 39.26.030, following the announcement of the ASB, Bids and bid evaluations will be made available for public inspection through the public disclosure process.

The ASB must complete registration with the Department of Revenue within thirty (30) calendar days of being identified as the ASB and be responsible for collection and payment of all taxes due on payments made under the Contract resulting from this RFQQ. Bidders must also be qualified to do business in the state of Washington.

DOC may, at its sole discretion, announce the ASB prior to receipt of the final Contract offer from the Lowest Responsive and Responsible Bidder.

#### **4.13 EXECUTION OF CONTRACT AND COMMITMENT OF FUNDS**

Following announcement of the Apparent Successful Bidder, DOC anticipates it will execute a Contract (including all contract schedules and exhibits). The DOC Secretary or designee is the only governmental authority who may legally commit DOC to the expenditure of funds for a Contract resulting from this RFQQ. No costs chargeable to the proposed Contract may be incurred or encumbered by DOC before receipt of a fully executed Contract approved and signed by the DOC Secretary or his designee. DOC may not sign a Contract before the Protest process is completed except when the Director of DES grants DOC the authority to do so due to exigent circumstances.

#### **4.14 WAIVE MINOR ADMINISTRATIVE IRREGULARITIES**

DOC reserves the right to waive minor administrative irregularities contained in any Bid. Additionally, DOC reserves the right, at its sole option, to make corrections to Bidders' Bids when an obvious error or typo has been made in the Bid. Absent a request for BAFOs, Bidders

will not be allowed to make changes to their Bid after the Bid submission deadline.

DOC may waive minor irregularities in a Bid provided that, in the judgment of DOC, such action will not negate fair competition and will permit proper comparative evaluation of Bids submitted. DOC's waiver of an irregularity will in no way modify the RFQQ documents or excuse the Bidder from full compliance with other RFQQ requirements.

#### **4.15 ERRORS IN BID**

Bidders are liable for all errors or omissions contained in their Bids. Bidders will not be allowed to alter Bid documents after the deadline for Bid submission. DOC is not liable for any errors in Bids. DOC reserves the right to contact Bidder for clarification of Bid contents. In those cases where it is unclear to what extent a requirement or rate has been addressed, an evaluator may, at their discretion and acting through the RFQQ coordinator, contact a Bidder to clarify specific points in the submitted Bid. However, under no circumstances will the responding Bidder be allowed to make changes to the proposed items after the deadline stated for receipt of Bids.

#### **4.16 NOTIFICATION TO BIDDERS**

Bidders whose Bids have not been selected for further negotiation or award will be notified by e-mail.

## EXHIBIT A

### CERTIFICATIONS AND ASSURANCES

Bidder makes the following certifications and assurances as a required element of the Bid, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):

1. Bidder declares that all answers and statements made in the Bid are true and correct.
2. **Proposed auditors have the appropriate DOJ PREA certification.**

The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, Bidder may freely join with other persons or organizations for the purpose of presenting a single Bid.

3. The attached Bid is a firm offer for a period of 150 days following receipt. The bids may be accepted by the DOC without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the firm offer period.
4. In preparing this Bid, Bidder has not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this Bid or prospective contract, and who was assisting in other than his or her official, public capacity. Any exceptions to these assurances are described in full detail on a separate page and attached to this document.
5. Bidder understand that DOC will not reimburse me/us for any costs incurred in the preparation of this Bid. All Bids become the property of the DOC, and Bidder claims no proprietary right to the ideas, writings, items, or samples, unless so stated in this Bid.
6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Bidder, and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Bidder or to any competitor.
7. Bidder agrees that submission of the attached Bid constitutes acceptance of the solicitation contents, the general terms and conditions, and any attached contract documents.
8. No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not to submit a Bid for the purpose of restricting competition.
9. Bidder grants the DOC the right to contact references and others, who may have pertinent information regarding the Bidder's prior experience and ability to perform the services

contemplated in this procurement.

10. Bidder certifies that each submission, response and information provided by Bidders to DOC pursuant to this RFQQ is true, accurate, and correct, and that Bidder has not omitted any material facts that would make the response, submission and information incomplete or misleading
11. If the Bidder engages subcontractors, the Bidder agrees to take full responsibility and accountability for the performance of all subcontractors.
12. Bidder certifies that Bidder has not been determined by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of RCW chapters 49.46, 49.48, or 49.52 within the last three (3) years. Bidder will immediately notify Department If Bidder is found to have violated the above referenced statutes.
13. Bidder certifies that it does not require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.
14. Bidder certifies that, except as validly contested, Bidder is not delinquent and has paid or has arranged for payment of all taxes due to the State of Washington and has filed all required returns and reports as applicable.
15. Bidder, if conducting business other than as a sole proprietorship (e.g. Bidder is a corporation, limited liability company, partnership), certifies that Bidder is in good standing in the State of Washington and the jurisdiction where Bidder is organized, including having timely filed all required annual reports.

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Signature of Bidder\*

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Title

Date

\* This document must be signed and dated by a representative of the Bidder with the authority to legally bind the Bidder.

**EXHIBIT B**  
**BIDDER PROFILE FORM**

Provide the requested Bidder information in each Section below. **Where indicated, Bidders must also provide answers for Subcontractors/ contracted Auditors that Bidders anticipate using for the work.**

**1. General Information**

- A. Name, address, principal place of business, telephone number, fax number and email address of Bidder's legal entity with which DOC may enter into a contract.

Bidder response:

- B. Name, address, principal place of business, telephone number, fax number and email address of any Subcontractors/ contracted Auditorss/ contracted Auditors.

Bidder response:

- C. Name, telephone number, and email address of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.) of the Bidder.

Bidder response:



- D. Identify Bidder's sole contact person for this Bid who will have the authority to represent the Bidder. Include the name, title, address, telephone and fax numbers and email address.

If the need arises for the Washington State Department of Corrections (DOC) to clarify any portion of the Bidder's Bid, the RFQQ Coordinator will attempt to contact this person. DOC expects that this Bidder contact will be timely in responding and will be reasonable in all related communication with DOC.

Bidder response:

- E. Legal status of the Bidder (sole proprietorship, partnership, corporation, etc.), the year the entity was organized to do business as the entity now substantially exists, and the year the entity was registered or qualified to do business in Washington State.

Bidder response:

- F. Bidder's Federal Employer Tax Identification number and the Washington Uniform Business Identification (UBI) number issued by the state of Washington Department of Revenue. If the Bidder does not have a UBI number, the Bidder must state that it will obtain one by becoming licensed in Washington within thirty (30) calendar days of being selected as the apparent successful Bidder.

Bidder response:

- G. Has the Bidder, Subcontractors/ contracted Auditors, Third Party Providers, or any of their principle owners or partners been debarred or prohibited from submitting a Bid, having a Bid considered or entering into a public contract by any public entity or governmental agency within the last five (5) years?

Bidder response:

Bidder response for Subcontractors/ contracted Auditor(s):

- H. Include a description of the Bidder and any Subcontractors/ contracted Auditors' core business, services offered, types of customers, number of employees, and size of operations.

Bidder response:

Bidder response for Subcontractors/ contracted Auditor(s):

- I. Identify if Bidder or any Subcontractors/ contracted Auditors meet the definitions, desirable criteria and/or certifications listed in Section 2.6 of the RFQQ, Small Business and Veteran-Owned Business Participation. If not applicable, so indicate.

Bidder response:

Bidder response for Subcontractors/ contracted Auditor(s):

## **2. Current or Former State Employee(s)**

- A. Identify any current or former employee of the state of Washington on the Bidder's and any Subcontractors/ contracted Auditors's governing board as of the date of the Bid. Include their position and responsibilities within the Bidder's organization. If not applicable, so indicate.

If, following a review of this information, it is determined by DOC that a conflict of interest exists, the Bidder may be disqualified from further consideration for the award of a contract.

Bidder response:

Bidder response for Subcontractors/ contracted Auditor(s):

- B. If the Bidder's staff or Subcontractors/ contracted Auditor's staff was an employee of the state of Washington at any time during the past 24 months, or is currently an employee of the state of Washington, identify the individual by name, the agency previously or currently employed by, job title or position held and separation date. If not applicable, so indicate.

Bidder response:

Bidder response for Subcontractors/ contracted Auditor(s):

Bidder response:

### 3. Threatened Defaults, Terminations and Litigations

- A. "If the Bidder or Subcontractors/ contracted Auditors has had a **customer** contract terminated for default, threatened to be terminated for default or has received a written notice of default in the last five years, describe such incident. **For publicly-held companies, do not refer DOC to Bidder's financial statements or state that there is no material litigation; rather, any customer contract arrangements that fall within the foregoing description must be disclosed.**

Submit full details of the terms of the incident including the customer and/or other adverse party name, address, and telephone number. Present the Bidder's position on the matter. DOC reserves the right to contact the customer or other adverse party and their representatives for further investigation of the incident. DOC will evaluate the facts and may, at its sole discretion, reject the Bid on the grounds of the past experience.

If no such termination, threatened termination or written notice of default has been experienced by the Bidder, Subcontractors/ contracted Auditorss, or Third Party Providers in the past five years, so indicate.

Bidder response:

Bidder response for Subcontractors/ contracted Auditor(s):

#### **4. RFQQ and Bid Statements**

- A. State that the Bidder acknowledges and agrees to all of the rights of DOC expressed in this RFQQ.

Bidder response:

- B. State specifically whether or not the Bid contains any proprietary information and identify (by document name, page number and location on page) where the proprietary information is in Bidder's response. Stating or marking the entire Bid or entire Sections as proprietary will not be honored. DOC will reject Bids where pricing is marked as proprietary.

Bidder response:

- C. State any additional representations, promises, warranties, and/or other information as the Bidder deems appropriate and wishes to convey to DOC.

Bidder response:

#### **5. Procurement or Financial-Related Convictions**

- A. Indicate whether the Bidder or Subcontractors/ contracted Auditors, or any of the Bidder or Subcontractors/ contracted Auditors principle owners, officers or partners are currently

under investigation for or have been convicted within the last ten (10) years of any of the following :

- (a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
- (b) Conviction or a final determination in a civil action under state or federal statutes of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, violation of the federal false claims act, 31 U.S.C. Sec. 3729 et seq., or the state Medicaid fraud false claims act, chapter 74.66 RCW, or any other offense indicating a lack of business integrity or business honesty.
- (c) Conviction under state or federal antitrust statutes arising out of the submission of Bids or Bids.

Submit full details of the terms of the incident including the customer and/or other adverse party name, address, and telephone number. Present the Bidder's position on the matter. DOC reserves the right to contact the customer or other adverse party and their representatives for further investigation of the incident. DOC will evaluate the facts and may, at its sole discretion, reject the Bid on the grounds of the past conviction.

If no such criminal conviction has been experienced by the Bidder or Subcontractors/contracted Auditors(s) in the past ten (10) years, so indicate.

Bidder response:

Bidder response for Subcontractors/ contracted Auditor(s):

## EXHIBIT C

### BUSINESS REQUIREMENTS FORM

Bidder must respond to each of the items below. The entire completed Business Requirements form must not exceed 50 pages using 11-point font. Note that evaluators may dock points for responses that are not concise.

#### GENERAL REQUIREMENTS

1. Provide three client references (Other correctional agencies preferable, but not required) by completing the Client Reference Form below for each reference.

Complete the Client Reference Form for each reference provided.

Client Reference Form 1			
Client Organization:			
Contact Name:			
Contact Phone Number:			
Contact Email Address:			
Project Start Date:			
Project End Date:			
Project Status:	<input type="checkbox"/> In Progress <input type="checkbox"/> Complete	<input type="checkbox"/> On Schedule <input type="checkbox"/> Ahead of Schedule <input type="checkbox"/> Behind Schedule	<input type="checkbox"/> Over Budget <input type="checkbox"/> On Budget <input type="checkbox"/> Under Budget
Services Provided:			
Primary Deliverables:			

Client Reference Form 2	
Client Organization:	
Contact Name:	
Contact Phone Number:	
Contact Email Address:	
Project Start Date:	



Project End Date:			
Project Status:	<input type="checkbox"/> In Progress <input type="checkbox"/> Complete	<input type="checkbox"/> On Schedule <input type="checkbox"/> Ahead of Schedule <input type="checkbox"/> Behind Schedule	<input type="checkbox"/> Over Budget <input type="checkbox"/> On Budget <input type="checkbox"/> Under Budget
Services Provided:			
Primary Deliverables:			

Client Reference Form 3			
Client Organization:			
Contact Name:			
Contact Phone Number:			
Contact Email Address:			
Project Start Date:			
Project End Date:			
Project Status:	<input type="checkbox"/> In Progress <input type="checkbox"/> Complete	<input type="checkbox"/> On Schedule <input type="checkbox"/> Ahead of Schedule <input type="checkbox"/> Behind Schedule	<input type="checkbox"/> Over Budget <input type="checkbox"/> On Budget <input type="checkbox"/> Under Budget
Services Provided:			
Primary Deliverables:			

2. Briefly describe the types/areas of audit services Bidder has provided to other clients in the past.

Bidder's response:

3. List the correctional/criminal justice clients, if any, to whom Bidder has provided or currently provides PREA audit Services.

Bidder's response:

4. List Bidder's public entity clients.

Bidder's response:

5. Is Bidder registered to do business in Washington State?

Bidder's response:

6. How will Bidder ensure delivery of a high-quality services?

Bidder's response:

7. Identify any subcontractors Bidder intends to use to provide services and briefly describe the services each subcontractor will provide and your working history with the subcontractor.

Bidder's response:

8. Describe the challenges Bidder expects to face in performing the work, and how Bidder expects to overcome those challenges.

Bidder's response:

9. List all Bid assumptions.

Bidder's response:

## EXHIBIT C(1)

### AUDITOR REQUIREMENTS FORM

Bidder must respond to each of the items below. The entire completed Auditor Requirements Form must not exceed 50 pages using 11-point font. Note that evaluators may dock points for responses that are not concise.

**Auditor Name:**

**Contact Information:**

**Certification Number:**

#### GENERAL REQUIREMENTS

1. Provide three client references (Other correctional agencies preferable, but not required) by completing the Client Reference Form below for each reference.

Complete the Client Reference Form for each reference provided.

Client Reference Form 1			
Client Organization:			
Contact Name:			
Contact Phone Number:			
Contact Email Address:			
Project Start Date:			
Project End Date:			
Project Status:	<input type="checkbox"/> In Progress <input type="checkbox"/> Complete	<input type="checkbox"/> On Schedule <input type="checkbox"/> Ahead of Schedule <input type="checkbox"/> Behind Schedule	<input type="checkbox"/> Over Budget <input type="checkbox"/> On Budget <input type="checkbox"/> Under Budget
Services Provided:			
Primary Deliverables:			

#### Client Reference Form 2

Client Organization:			
Contact Name:			
Contact Phone Number:			
Contact Email Address:			
Project Start Date:			
Project End Date:			
Project Status:	<input type="checkbox"/> In Progress <input type="checkbox"/> Complete	<input type="checkbox"/> On Schedule <input type="checkbox"/> Ahead of Schedule <input type="checkbox"/> Behind Schedule	<input type="checkbox"/> Over Budget <input type="checkbox"/> On Budget <input type="checkbox"/> Under Budget
Services Provided:			
Primary Deliverables:			

Client Reference Form 3			
Client Organization:			
Contact Name:			
Contact Phone Number:			
Contact Email Address:			
Project Start Date:			
Project End Date:			
Project Status:	<input type="checkbox"/> In Progress <input type="checkbox"/> Complete	<input type="checkbox"/> On Schedule <input type="checkbox"/> Ahead of Schedule <input type="checkbox"/> Behind Schedule	<input type="checkbox"/> Over Budget <input type="checkbox"/> On Budget <input type="checkbox"/> Under Budget
Services Provided:			
Primary Deliverables:			

2. Describe Auditor's experience providing PREA audit services in Washington State.

Auditor's response:

3. List the correctional/criminal justice clients, if any, to whom Auditor has provided or currently provides PREA audit Services.

Auditor's response:

4. Briefly describe the types/areas of audit services Bidder has provided to other clients in the past.

Auditor's response:

5. What differentiates Auditor's services from the services of its competitors?

Auditor's response:

6. How will Auditor ensure delivery of a high-quality services?

Auditor's response:

7. Identify any support staff Auditor intends to use to provide services and briefly describe the services each subcontractor will provide and your working history with the subcontractor.

Auditor's response:

8. Briefly describe Auditor's methodology for performing the work including the measurements of success to be used.

Auditor's response:

9. Describe the challenges Bidder expects to face in performing the work, and how Bidder expects to overcome those challenges.

Auditor's response:

10. How many PREA Audits does Auditor typically perform in a calendar year?

Auditor's response:

11. Provide two sample Audit Reports that you've used for other Audit projects in a correctional setting.

Auditor's response:

**MINIMUM QUALIFICATIONS RESPONSE**

12. Are you a U.S. Department of Justice certified PREA Auditor?

Auditor's response:



**EXHIBIT D**  
**RATE PROPOSAL FORM**

**INSTRUCTIONS**

Bidder may bid on all facilities or each facility individually. For each facility bid upon, bidders must identify the DOJ certified PREA Auditor(s) they are proposing for that facility, and a single maximum blended hourly rate. This rate will represent the maximum hourly rate that may be charged to the agency and will be used for any statements of work resulting from this RFQQ. Bidders must provide a proposed schedule of dates and times for starting and completing each audit. **Onsite work must take place between August 20, 2022 – November 18, 2022.** EXHIBIT H provides an example of a complete audit schedule. Bidders must provide max hours, and total hours proposed for each location.

The blended hourly rate may not include travel expenses (lodging, per diem, mileage, flight costs), but must include all other expenses and costs. If travel expenses are incurred during the provision of any work, the state will reimburse at the state's then current rates, which may be found here: <https://ofm.wa.gov/accounting/administrative-accounting-resources/travel>.

The Rate proposal is a firm offer for a period of 150 days following receipt, and it may be accepted by DOC without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 150-day period.

<b>Facility</b>	<b>Proposed Auditor(s)</b>	<b>Blended Hourly Rate</b>	<b>Proposed Schedule</b>	<b>Max Hours for Location</b>	<b>Total Hours Proposed</b>
<b>EXAMPLE</b>	John Doe	\$000.00	8/22/2022-8/24/2022	30 Hrs	30 Hrs
<b>Cedar Creek Corrections Center</b>					
<b>Mission Creek Correctional Center for Women</b>					
<b>Washington Corrections Center for Women</b>					
<b>Bishop Lewis RC</b>					

<b>Hellen B. Ratcliff RC</b>					
<b>Reynolds RC</b>					
<b>Stafford Creek Corrections Center</b>					

## EXHIBIT E

### CERTIFICATION OF BID

The undersigned corporate officer of \_\_\_\_\_ (Bidder) certifies to the Washington State Department of Corrections (DOC) that, in submitting the Bid:

1. The prices and/or rate data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, Bidder may have freely joined with other persons or organizations for the purpose of presenting a single Bid.
2. The Bid is a firm offer for a period of 150 days following receipt, and it may be accepted by DOC without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 150-day period.
4. Unless required by law, the prices and/or cost data in the Bid have not been, and will not be, directly or indirectly, disclosed by Bidder to any other Bidder or to any competitor.
5. Bidder acknowledges that any pricing information provided by Bidder in any documents other than the Bid will be disregarded and will not be considered by DOC in its evaluation. Only the pricing provided by Bidder within the DOC-provided documents will be considered Bidder's official pricing proposal.
6. The undersigned acknowledges that Bidder did not base its Bid on its standard business terms or practices or any significantly reduced level of commitments or obligations Bidder believes it may negotiate. Further, Bidder certifies that it used the contract and project commitments set forth in the Model Contract and General Terms and Conditions included in the RFQQ as a baseline upon which to base its Cost Proposal.

**Except with respect to completing (filling-in the blanks) and executing this Certification of Bid, Bidder may not modify or alter this form, nor may Bidder reserve any rights to change or modify the certifications and/or assurances stated in this document. If Bidder modifies or qualifies the certifications and/or assurances or fails to submit this form with the proposal, Bidder will be disqualified.**

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

\_\_\_\_\_  
Signature of Company Representative

\_\_\_\_\_  
Name and Title of Company Representative\* (Type/Print)

\_\_\_\_\_  
Date

\*The Bidder's representative signing and dating this form must be a corporate officer, principal, manager, partner, or other individual representative of the Bidder with the authorization to execute and legally bind the Bidder.

## EXHIBIT F

### ISSUES LIST

Use the following template to provide Bidder's response to Section 3.4.7 of the RQQ.

Item	Reference Document and Section #	Issue	Bidder Proposed Solution/Rationale
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			

## EXHIBIT G



### State of Washington Department of Corrections

KXXXXXX

This Contract is entered into by and between the Washington State Department of Corrections, hereinafter referred to as "Department" or "DOC," and \_\_\_\_\_ hereinafter referred to as "Contractor," for the express purposes set forth in the following provisions of this Contract. The Department and Contractor may be collectively referred to as the "Parties" or individually as a "Party."

**WHEREAS** the purpose of this Contract is to

**NOW THEREFORE**, in consideration of the terms and conditions contained herein, or attached and incorporated and made a part hereof, the Department and Contractor agree as follows:

#### I. CONTRACT TERM

Subject to other Contract provisions, the term under this Contract will be from \_\_\_\_\_ through \_\_\_\_\_, unless sooner terminated as provided herein.

#### II. RIGHTS AND OBLIGATIONS

All rights and obligations of the Parties to this Contract shall be subject to and governed by the special terms and conditions contained in the text of this Contract instrument, the General Terms and Conditions attached hereto as Attachment A, and the Statement of Work (including Department obligations) attached hereto as Attachment B, each incorporated by reference herein.

**\*\*NOTE THAT THIS CONTRACT WILL BE A CONVENIENCE CONTRACT. NO WORK WILL BE PERMITTED WITHOUT AN EXECUTED SOW FULLY DETAILING THE WORK, THE SCHEDULE, THE MILESTONES, ETC.\*\***

#### III. COMPENSATION AND PAYMENT

- A. Amount of Compensation. Total compensation including expenses payable to Contractor for satisfactory performance of the work under this Contract shall not exceed \_\_\_\_\_.
- B. Compensation is contingent upon Contractor meeting the performance standards and attaining the outcome measures for the contracted services that are detailed in the Statement of Work, Attachment B. Any additional services provided by the Contractor must have the prior written approval of the Department.
- C. Time of Payment. Payment shall be considered timely if made by the Department within 30 days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor. The Department may, at its sole discretion, terminate the Contract or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Contract.

- D. Method of Payment. Compensation for services rendered shall be payable upon submittal of properly completed invoices. The Contractor shall submit invoices to the Contract Manager together with a detailed statement of the Contract services performed for which the Contractor is seeking compensation.
- E. Invoices Required. Requests for payment under this Contract shall be submitted by the Contractor on Invoices (State Form A-19) prepared in the manner prescribed by the Department. These invoices shall include such information as is necessary for the Department to determine the exact nature of all expenditures. Each invoice will clearly indicate that it is for the services rendered in performance under this Contract.

#### IV. INSURANCE

- A. Contractor shall maintain insurance coverage in full force and effect during the entire term of this Contract as set out below. The insurance required shall be issued by an insurance company authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insureds. All policies shall be primary to any other valid and collectable insurance. Contractor shall instruct the insurers to give the Department 30 days advance notice of any insurance cancellation.
- B. Professional Liability: Contractor shall maintain professional liability insurance during the term of this Contract, including coverage for losses caused by errors or omissions. Such policy shall contain the following limits: Each occurrence - \$1,000,000; General Aggregate - \$2,000,000.
- C. Commercial Form General Liability Insurance (contractual liability included) with minimum limits of \$1,000,000.00 for each occurrence and \$2,000,000.00 for general aggregate. If the insurance is written on a claims-made form, it shall continue for three (3) years following termination of this Contract. The insurance shall have a retroactive date of placement prior to or coinciding with the commencement of the Term of this Contract
- D. In the event that services delivered pursuant to this Contract involve the use of vehicles, either owned or unowned by the Contractor, Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident.
- E. 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. The State 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.
- F. Contractor will provide the Department with one copy of the certificate of insurance for each coverage required under the Contract. Each copy shall be sent to the Contracts and Legal Affairs Section at [docclacontractassist@doc1.wa.gov](mailto:docclacontractassist@doc1.wa.gov). Contractor shall immediately notify the Contracts and Legal Affairs Section in the event such policy is terminated, canceled, or modified.

## **V. CONTRACT REPRESENTATIVES**

- A. The Department's Contract Manager for this Contract shall be \_\_\_\_\_, [Title]. The Contract Manager shall be responsible for monitoring the performance of the Contractor, the approval of actions by the Contractor, approval for payment of billings and expenses submitted by the Contractor, and the acceptance of any reports by the Contractor.
- B. The Contractor's representative for this Contract shall be \_\_\_\_\_, [Title] who will be contact person for all communications regarding the conduct of work under this Contract.

## **VII. INDEPENDENT CONTRACTOR STATUS**

The Contractor is not an employee of the Department of Corrections. By signing this Contract, the Contractor certifies that he or she is not a current Department employee, and will advise the Department immediately should this status change. This Contract shall become null and void if the Contractor accepts employment with the Department. The Contractor shall not hold himself out as nor claim to be an officer or employee of the State of Washington by reason hereof. The Contractor agrees not to make any claim, demand, or application to or for any right or privilege applicable to a Department employee or state of Washington employee including but not limited to, workmen's compensation coverage or retirement membership or credit or any other benefit which would accrue to a civil service employee.

## **VIII. INTERPRETATION OF CONTRACT**

- A. Order of Precedence. In the event of an inconsistency in this Contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:
- Applicable federal and state of Washington statutes and regulations
  - Special terms and conditions contained in this basic Contract instrument
  - Any other provision, term, or material incorporated herein by reference or otherwise incorporated
- B. Entire Agreement. This Contract including referenced schedules represents all the terms and conditions agreed upon by the Parties. No other understanding or representations, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the Parties hereto.
- C. Conformance. If any provision of this Contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.
- D. Counterparts. This Contract is executed in duplicate originals and each duplicate shall be deemed an original copy of the Contract signed by each Party, for all purposes.
- E. Approval. This Contract shall be subject to the written approval of the Department's authorized representative and shall not be binding until so approved. The Contract may be altered, amended, or waived only by a written amendment executed by both Parties.

**THIS CONTRACT**, consisting of four (4) pages and two (2) attachments, is executed by the persons signing below who warrant that they have the authority to execute the Contract.

**CONTRACTOR**

**DEPARTMENT OF CORRECTIONS**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

Daryl Huntsinger  
\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

Contracts Administrator  
\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

Approved as to Form:

This Contract format was approved by the Office of the Attorney General.

Approval on file.



**STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS  
GENERAL TERMS AND CONDITIONS**

**1. DEFINITIONS**

- 1.1 As used throughout this Contract, the following terms shall have the meanings set forth below:
- 1.2 “Contractor” shall mean the individual or entity performing services pursuant to this Contract and includes the Contractor’s owners, members, officers, directors, partners, employees, and/or agents, unless otherwise stated in this Contract. “Contractor” shall also include any Subcontractor retained by the Contractor as permitted under the terms of this Contract.
- 1.3 “Secretary” shall mean the Secretary of the Department of Corrections and designees authorized to act on the Secretary’s behalf.
- 1.4 “Department” shall mean the Department of Corrections (DOC) of the state of Washington, any division, section, office, unit or other sub-division of the Department, or any of the officers or other officials lawfully representing the Department.
- 1.5 “Subcontractor” shall mean one not in the employment of the Contractor who, under a separate contract with the Contractor, is performing all or part of the services under this Contract. Contractor shall remain responsible to the Department for any work required under the terms of this contract that is performed by a subcontractor under separate contract to Contractor.
- 1.6 “Contracts Administrator” shall mean the Administrator of Contracts and Legal Affairs or designee.
- 1.7 “Contracts and Legal Affairs” shall mean the Department of Corrections (DOC) headquarters contracting office, or successor section or office.
- 1.8 “Individual” and “Individuals” shall mean person or persons under the jurisdiction of the Department of Corrections.

**2. ACCESS TO DATA**

The Contractor shall, at no additional cost, provide access to data generated under this Contract to the Department, the Washington State Joint Legislative Audit and Review Committee, and the Washington State Auditor. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor’s reports, including computer models and methodology for those models.

**3. AMERICANS WITH DISABILITIES ACT (ADA)**

The Contractor must comply with the ADA, which provides comprehensive civil rights protection to

individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications. (See Americans with Disabilities Act (ADA) of 1990, Public Law 101-336, also referred to as the "ADA" 28 CFR Part 35.)

#### **4. ADVANCE PAYMENTS PROHIBITED**

No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the Department.

#### **5. AMENDMENTS AND MODIFICATIONS**

- 5.1 Amendments and modifications to this contract shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.
- 5.2 Changes in the rate of compensation must be signed by both parties and shall not be effective until the first day of the month following the last date of signature of the amendment or until the effective date of the amendment if later than the date of last signature.
- 5.3 The Secretary may, at any time, by written notification to the Contractor, and without notice to any guarantor or surety, unilaterally amend the scope of work to be performed under the Contract, the period of performance, or the compensation to be paid to the Contractor. These unilateral changes shall be effective as set forth in the amendment or upon signature by the Contracts Administrator, if no date has been set forth.
- 5.4 The Contractor will be deemed to have accepted any such unilateral amendment unless, within fifteen (15) calendar days after the date the amendment is signed by the Contracts Administrator, the Contractor notifies the Contract Manager, in writing, of its non-acceptance of such unilateral change. The Contractor and the Department will then use good faith efforts to negotiate an amendment acceptable to both parties.
- 5.5 Failure to reach agreement shall constitute a dispute concerning a question of fact within the meaning of the Disputes provision contained in this Contract. However, nothing in this provision shall excuse the Contractor from proceeding with the Contract as amended. Contractor must continue to provide the contracted services, including any unilaterally amended services, during any period of non-acceptance or negotiation of a unilateral amendment.

#### **6. ASSIGNMENT**

Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the Contractor without prior written consent of the Department.

#### **7. ATTORNEYS' FEES**

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

#### **8. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

8.1 "Confidential Information" as used in this section includes:

- i. All material provided to the Contractor by the Department that is designated as "confidential" by the Department;
- ii. All material produced by the Contractor that is designated as "confidential" by the Department; and
- iii. All personal information in the possession of the Contractor that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- iv. The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of the Department or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide the Department with its policies and procedures on confidentiality. The Department may require changes to such policies and procedures as they apply to this Contract whenever the Department reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by the Department. Upon request, the Contractor shall immediately return to the Department any Confidential Information that the Department reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.

**9. CONFLICT OF INTEREST/ETHICS**

- 9.1 Notwithstanding any determination by the Executive Ethics Board or other tribunal, the Department may, in its sole discretion, by written notice to the Contractor, terminate this Contract if it is found after due notice and examination by the Contracts Administrator that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the Contractor in the procurement of or performance under this Contract.
- 9.2 In the event this Contract is terminated as provided above, the Department shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Contract by the Contractor. The rights and remedies of the Department provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Contracts Administrator makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Contract.

## **10. CONSTRUCTION**

Nothing in this Contract shall be construed to create a right enforceable by or in favor of any third party.

## **11. COPYRIGHT PROVISIONS**

- 11.1 Unless otherwise provided, all materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the Department. The Department shall be considered the author of such materials. In the event the materials are not considered "works for hire" under the U.S. Copyright laws, Contractor hereby irrevocably assigns all right, title, and interest in materials, including all intellectual property rights, to the Department effective from the moment of creation of such materials.
- 11.2 Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.
- 11.3 For materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, Contractor hereby grants to the Department a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the Department.
- 11.4 The Contractor shall use all reasonable effort to advise the Department, at the time of delivery of materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document that was not produced in the performance of this Contract.
- 11.5 The Department shall receive prompt written notice of each notice or claim of infringement received by the Contractor with respect to any data delivered under this Contract. The Department shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

## **12. COVENANT AGAINST CONTINGENT FEES**

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

brokerage, or contingent fee. The provisions of this section shall survive any termination or the expiration of this Contract.

### **13. DISPUTES**

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, Agreement terms and applicable statutes and rules and make a determination of the dispute. The Dispute Board shall thereafter decide the dispute with the majority prevailing.

### **14. DISALLOWED CHARGES/DUPLICATE CHARGES/OVERPAYMENT REFUNDS**

- 1.1 The Contractor is not allowed to charge the Department for a Medicaid service. If the Department has erroneously paid for a Medicaid service charged by the Contractor, that payment is considered an overpayment and shall be deducted from the Contractor's future payments by the Department.
- 1.2 The Contractor warrants that the cost charged for services under the terms of this Contract are not in excess of the cost charged to other entities for the same service(s) nor are they a duplicate payment. If the charges are determined to be in excess of those costs charged to other entities or a duplicate charge, the Department is entitled to an overpayment refund for the excess or duplicate charges.

### **15. ENTIRE AGREEMENT**

This Contract, all attachments, and future amendments hereto, constitute the entire agreement between the Contractor and the Department and no other statements or representations, written or oral, shall be deemed a part hereof.

### **16. FEDERAL IMMIGRATION REFORM AND CONTROL ACT (IRCA)**

During the performance of this Contract, the Contractor shall comply with all requirements of the federal Immigration Reform and Control Act (IRCA) and any regulations adopted by the Department of Justice Bureau of Immigration and Naturalization Services to implement the IRCA. The provisions of this paragraph shall be in addition to any other requirements set forth in the text of the Contract.

### **17. GOVERNING LAW**

This contract shall be construed and interpreted according to the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

### **18. HEALTH and SAFETY**

- 18.1 Health. The Contractor shall ensure that all of its personnel assigned to DOC sites is trained in the requirements of Chapter 296-823 WAC, blood borne pathogens. Further, the Contractor shall provide all such personnel with protections from blood borne and other body fluid diseases that meet or exceed the WAC standards for such protection. If the Contractor is a

health care provider whose duties include the medical or physical care of Individuals or emergency or medical treatment of employees, the Contractor shall abide by the requirements of Chapter 296-823 WAC as well as standard medical practice.

- 18.2 Safety. For all work performed under this Contract, the Contractor agrees to comply with Department policies and procedures relative to custody of Individuals and security/operation of the institution such as, but not limited to, fingerprinting, photographs for identification purposes, and searches.

## **19. INDEMNIFICATION**

- 19.1 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 or death arising out of or resulting from the performance of the Contract. "Claim" as used in this Contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting therefrom.
- 19.2 Contractor's obligation to indemnify, defend and hold harmless includes any claim by Contractors' agents, employees, representatives, or any subcontractor or its employees.
- 19.3 Contractor expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Contractor's or any subcontractor's performance or failure to perform the Contract. Contractor's obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.
- 19.4 Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless State and its agencies, officials, agents, or employees.
- 19.5 The provisions of this paragraph shall not apply to any act or omission by the Contractor for which the Department, in the text of this Contract, has agreed to defend and hold the Contractor harmless. The provisions of this section shall survive any termination or the expiration of this Contract.

## **20. INDEPENDENT CONTRACTOR STATUS**

The parties intend that an independent contractor relationship will be created by this Contract. The Contractor will not hold himself or herself out as, nor claim to be, an officer or employee of Washington State in the performance of this Contract. Conduct and control of the work required under this contract is solely with the Contractor.

## **21. INDUSTRIAL INSURANCE COVERAGE**

The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. The Department will not be responsible for payment of industrial insurance premiums or for any other

claim or benefit for the Contractor, or any Sub-contractor, or employee of the Contractor, which might arise under these industrial insurance laws during performance of duties and services under this Contract.

## **22. LICENSING AND ACCREDITATION STANDARDS**

The Contractor shall comply with all applicable local, state and federal licensing and accrediting standards, required by law and necessary in the performance of this Contract.

## **23. LIMITATION OF CONTRACTING AUTHORITY**

Only the Secretary, Secretary's designee, or Contracts Administrator shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this contract is not effective or binding unless made in writing and signed by the Secretary, Secretary's designee, or Contracts Administrator.

## **24. MAINTENANCE OF RECORDS**

24.1 During the term of this Contract and for six (6) years following its termination or expiration, the Contractor shall maintain, and provide DOC or its designee, at no additional cost, with reasonable access to Contractor's records sufficient to:

- i. Document performance of all services required by this Contract; and
- ii. Substantiate the Contractor's statement of its organization's structure, tax status, capabilities, performance and principals; and
- iii. Demonstrate accounting procedures, practices, and records, which sufficiently and properly document the Contractor's invoices to DOC and all expenditures made by the Contractor to perform as required by this Contract.
- iv. If any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- v. Should an audit, conducted under the authority of this section, disclose that the Contractor has been paid by the Department in excess of the agreed upon costs (overpayment), or has been reimbursed by the Department for direct or indirect costs which are disallowed as a result of that audit, then, the Contractor shall, upon demand by the Department, repay such overpayment or reimbursement to the Department without requiring further legal action by the Department.
- vi. The provisions of this section shall survive termination or expiration of this Contract.

## **25. PUBLIC RECORDS ACT**

25.1 This Agreement and all records associated with the performance of this Agreement shall be available from the Department for inspection and copying by the public when required by the Public Records Act, Chapter 42.56 RCW (the "Act").

- 25.2 If records in the custody of the Contractor are needed by the Department to respond to a request under the Act, as determined by the Department, the Contractor agrees to make them promptly available to the Department. Upon request by the Department, the Contractor further agrees to provide a detailed index of records associated with its performance of the contract. This index will allow for more efficient and accurate identification of potentially responsive records.
- 25.3 If the Contractor considers any portion of any record associated with the Contractor's performance under this Agreement to be protected from disclosure under law, the Contractor shall clearly identify the specific information that it claims to be confidential or proprietary when the records are provided to the Department in response to a public records request. The Department retains sole discretion in the appropriateness and application of withholdings and redactions on all records.
- 25.4 If the Department receives a request under the Act to inspect or copy information identified by the Contractor as confidential or proprietary and the Department determines that release of the information is required by the Act or otherwise is appropriate, the Department's sole obligation shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the Department will release the requested information on the date specified with whatever withholdings and redactions it deems proper.
- 25.5 The Department is not obligated to claim any exemption from disclosure under the Act on behalf of the Contractor. The Department shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The Department shall not be liable to the Contractor for releasing any records in compliance with this section, in compliance with the Act, or in compliance with an order of a court of competent jurisdiction.

## **26. RECAPTURE OF FUNDS**

- 26.1 In the event that the Contractor fails to perform this contract in accordance with state laws and/or the provisions of this contract, the Department reserves the right to recapture funds in an amount to compensate the Department for the noncompliance in addition to any other remedies available at law or in equity.
- 26.2 Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by the Department. In the alternative, the Department may recapture such funds from payments due under this contract.
- 26.3 Such right of recapture shall exist for a period not to exceed six years following contract termination. In the event that the Department is required to institute legal proceedings to enforce the recapture provision, the Department shall be entitled to its costs thereof, including attorneys' fees.



## **27. RETIREMENT BENEFIT SUSPENSION – PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)**

- 27.1 The Contractor certifies by signing this Contract that the Contractor is not a Public Employee Retirement System (PERS) retiree who retired early under the Public Employees Retirement System (PERS) RCW 41.40.630(3); and if it is found that the Contractor did retire early under the PERS, the Contractor's retirement benefits may be suspended for the duration of this Contract.
- 27.2 Further, if the Contractor was a PERS retiree, the Contractor agrees to notify the Department of Retirement Systems (DRS), regarding the execution of this Contract, failure to do so is considered a material breach and may subject the Contractor to damages. In addition, the Contractor certifies that the Contractor does not have a beneficial interest in this Contract as defined in the Executive Ethics Board's Advisory Opinion 97-07).

## **28. NONDISCRIMINATION**

- 28.1 During the performance of this contract, the Contractor shall comply with all federal, state, and local nondiscrimination laws, regulations and policies.
- 28.2 In the event of the Contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation, or policy, this Contract may be rescinded, canceled, or terminated, in whole or in part, and the Contractor may be declared ineligible for further contracts with the Department. The Contractor may be given a reasonable time in which to cure this noncompliance. Any dispute shall be resolved in accordance with the "Disputes" procedure set forth herein.

## **29. PUBLICITY**

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

## **30. REGISTRATION WITH DEPARTMENT OF REVENUE**

The Contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

## **31. RIGHT OF INSPECTION**

At no additional cost all records relating to the Contractor's performance under this Contract shall be subject at all reasonable times to inspection, review, and audit by the Department, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Contract. The Contractor shall provide access to its facilities for this purpose.

## **32. RIGHTS AND REMEDIES**

The rights and remedies of the Department provided in this Contract shall not be exclusive and are in addition to any other rights and remedies provided by law.

## **33. SAFEGUARDING OF INCARCERATED INDIVIDUAL INFORMATION**

- 33.1 The Contractor may use Individual information gained by reason of this Contract only to perform work under the terms of this Contract. The Contractor shall not disclose, transfer, or sell any such information to any party, except as provided by law, or with the prior written consent of the Department, Individual, or Individual personal representative.
- 33.2 The Contractor agrees to abide by all present and future federal and state laws and regulations in maintaining the confidentiality of Department files and records, including Criminal History Record Information (CHRI). In the event CHRI is provided to the Contractor, the Contractor shall also abide by all present and future Department rules and regulations governing the use of CHRI.
- 33.3 The provisions of this section shall survive any termination or expiration of this Contract.

## **34. SEVERABILITY**

The terms and conditions of this Contract are severable. If any term or condition of this Contract is held invalid by any court, such invalidity shall not affect the validity of the other terms or conditions of this Contract.

## **35. SITE SECURITY**

While on Department premises, Contractor, its agents, employees, or subcontractors shall conform in all respects to site security requirements relative to custody of Individuals and security operations, including but not limited to, background check, fingerprinting, photographs for identification, physical safety, fire, and security policies or regulations.

## **36. SUBCONTRACTING**

- 36.1 Neither the Contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this Contract without obtaining the prior written approval of the Contracts Administrator. If the Department approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, the Department in writing may:
  - i. Require the Contractor to amend its subcontracting procedures as they relate to this Contract;
  - ii. Prohibit the Contractor from subcontracting with a particular person or entity; or
  - iii. Require the Contractor to rescind or amend a subcontract.
  - iv. In no event shall the existence of any subcontract operate to release or reduce the liability of the Contractor to the Department for any breach in the performance of the Contractor's

duties. Additionally, the Contractor is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this Contract are carried forward to any subcontracts.

### **37. TAXES**

All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for the Contractor or the Contractor's staff shall be the sole responsibility of the Contractor.

### **38. TERMINATION**

38.1 BY CONTRACTOR. The Contractor may terminate this Contract by giving the Department written notice of such termination. No such termination shall be effective until sixty (60) days after the Department has received the Contractor's written notice of termination, or until such later date as established by the Contractor in the Contractor's written notice of termination. Contractor shall mail or deliver the Contractor's written notice of termination to the Contracts Administrator. If the Contractor terminates the Contract, the Department shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination.

38.2 BY DEPARTMENT FOR CAUSE. The Secretary may, by written notice, terminate this Contract in whole or in part, for failure of the Contractor to perform any of the Contract provisions. In such event, the Contractor shall be liable for damages as authorized by law, including, but not limited to, any cost difference between the original Contract and the replacement or cover Contract and all administrative costs directly related to the replacement Contract, i.e., cost of the competitive bidding, mailing, advertising, and staff time. If it is determined for any reason that the Contractor was not in default or that the default was beyond Contractor's or Sub-contractor's control, fault or negligence, then the Termination for Default shall convert to Termination for Convenience.

38.3 In the alternative, the Department upon written notice may allow the Contractor a specific period of time in which to correct the non-compliance. During the corrective-action time period, the Department may suspend further payment to the Contractor in whole or in part, or may restrict the Contractor's right to perform duties under this Contract. Failure by the Contractor to take timely corrective action shall allow the Department to terminate the Contract.

38.4 BY DEPARTMENT FOR CONVENIENCE. The Secretary or designee may terminate this Contract, in whole or in part, when it is in the best interests of the Department. The Department shall give the Contractor written notice of termination at least five days in advance of the effective termination date. When a contract is terminated for convenience, the Department shall only pay, in accordance with the terms of this Contract, for services rendered prior to the effective date of termination.

38.5 BY DEPARTMENT FOR NON-AVAILABILITY OF FUNDS. If the funds the Department relied upon to establish this Contract are withdrawn or reduced, or if new or modified conditions are placed on such funds, the Secretary may terminate this Contract immediately.

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

### **39. TERMINATION PROCEDURES**

- 39.1 Upon termination of this contract the Department shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by the Department, and the amount agreed upon by the Contractor and the Department for:
- i. Completed work and services for which no separate price is stated;
  - ii. Partially completed work and services;
  - iii. Other property or services that are accepted by the Department; and
  - iv. The protection and preservation of property, unless the termination is for default, in which case the Contracts Administrator shall determine the extent of the liability of the Department. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The Department may withhold from any amounts due the Contractor such sum as the Contracts Administrator determines to be necessary to protect the Department against potential loss or liability.
- 39.2 The rights and remedies of the Department provided in this "Termination Procedures" provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. After receipt of a notice of termination, and except as otherwise directed by the Notice, the Contractor shall:
- i. Stop work under the contract on the date, and to the extent specified, in the notice;
  - ii. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
  - iii. Assign to the Department, in the manner, at the times, and to the extent directed by the Department, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Department has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
  - iv. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Department to the extent Department may require, which approval or ratification shall be final for all the purposes of this clause;
  - v. Transfer title to the Department and deliver in the manner, at the times, and to the extent directed by the Department any property which, if the contract had been completed, would have been required to be furnished to the Department;
  - vi. Complete performance of such part of the work as shall not have been terminated by the Department; and
  - vii. Take such action as may be necessary, or as the Department 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 Department has or may acquire an interest.

#### **40. TREATMENT OF PROPERTY**

The Department, in addition to any other rights provided in this Contract, may require the Contractor to deliver to the Department any property specifically produced or acquired for the performance of such part of this Contract as has been terminated. In all such cases, this "Treatment of Property" provision shall apply.

- 40.1 Title to all property furnished by the Department shall remain in the Department. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this Contract, shall pass to and vest in the Department upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this Contract, shall pass to and vest in the Department 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 Department in whole or in part, whichever first occurs.
- 40.2 Any property of the Department furnished to the Contractor shall, unless otherwise provided herein or approved by the Department, be used only for the performance of this Contract.
- 40.3 The Contractor shall be responsible for any loss or damage to Department property that results from the negligence of the Contractor or the failure of the Contractor to maintain and administer that property in accordance with sound management practices.
- 40.4 If any Department property is lost, destroyed or damaged, the Contractor shall immediately notify the Department and shall take all reasonable steps to protect the property from further damage.
- 40.5 The Contractor shall surrender all Department property to the Department prior to settlement upon completion, termination, or cancellation of this Contract.
- 40.6 All equipment purchased by the Contractor for the Contractor's use under the terms of this Contract, that as defined in this Contract provision, is actually owned by the Department, shall be shipped or delivered to the institution/location designated by the Contract Manager for tagging and entry into the DOC Capital Asset Management System (CAMS) before distribution to the Contractor for use.

#### **41. UTILIZATION OF MINORITY-OWNED AND WOMEN-OWNED BUSINESSES**

- 41.1 During the performance of this Contract, the Contractor shall comply with Chapter 39.19 RCW, as now existing or hereafter amended, any rule adopted under Chapter 39.19 by OMWBE and/or any policy or regulation adopted by the Department to effect agency compliance with Chapter 39.19 RCW.
- 41.2 If the Contractor fails to comply with any contract requirements relative to the utilization of minority and/or women-owned businesses, the Department may take any or all such actions available to the Department under Chapter 39.19 RCW.

- 41.3 If the Contractor prevents or interferes with any Subcontractor's compliance with Chapter 39.19 RCW, or submits false or fraudulent information to the Department regarding compliance, the Contractor shall be subject to a fine not to exceed one thousand dollars (\$1,000) in addition to any other penalties or sanctions prescribed by law.

## **42. WAIVER**

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

## **43. EQUALITY IN COMPENSATION**

- 43.1 The Contractor must ensure that similarly employed individuals in its workforce are compensated as equals, consistent with the following:

Employees are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed.

Contractor may allow differentials in compensation for its workers based in good faith on any of the following:

- i. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
  - ii. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience, that is: consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
  - iii. A bona fide regional difference in compensation level must be: consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.
- 43.2 This Contract may be terminated if the Department or the Department of Enterprise Services determines that the Contractor is not in compliance with this provision.

## **44. ACCESSIBILITY COMPLIANCE**

Contractor hereby warrants that any technology provided under this Agreement currently complies, and will continue to comply, with Washington State Office of Chief Information Officer ("OCIO") Policy 188 (<http://ocio.wa.gov/policy/accessibility>) and Minimum Accessibility Standard 188.10 (<http://ocio.wa.gov/policy/minimum-accessibility-standard>). Contractor agrees to promptly respond to and resolve any complaint brought to its attention regarding accessibility of its products or services. Contractor further agrees to indemnify and hold harmless the Washington State Department of Corrections from any claim arising out of Contractor's failure to comply with the aforesaid requirements.

#### **45. WORKER'S RIGHTS**

Contractor hereby warrants that it does not require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

EXAMPLE

PREA Audit Schedule – Cycle One

Cycle Year	Facility	Audit
1	CCCC	08/22/2022 – 08/24/2022 (ending at 12:00)
		Audit documentation period – 06/16/2021 – 06/15/2022
		Audit notice to be posted and documents submitted in OAS by 07/07/2022
1	MCCCW	08/24/2022 (beginning at 1:00) – 08/26/2022
		Audit documentation period – 06/16/2021 – 06/15/2022
		Audit notice to be posted and documents submitted in OAS by 07/11/2022
1	WCCW	09/20/2022 – 09/23/2022
		Audit documentation period – 07/01/2021 – 06/30/2022
		Audit notice to be posted and documents submitted in OAS by 08/08/2022
1	Bishop Lewis RC	10/17/2022 – 10/18/2022 (ending at 12:00)
		Audit documentation period – 08/01/2021 - 07/31/2022
		Audit notice to be posted and documents submitted in OAS by 09/01/2022
1	Helen B. Ratcliff RC	10/18/2022 (beginning at 1:00) – 10/19/2022
		Audit documentation period – 08/01/2021 - 07/31/2022
		Audit notice to be posted and documents submitted in OAS by 09/01/2022
1	Reynolds RC	10/20/2022 – 10/21/2022 (ending at 12:00)
		Audit documentation period – 08/01/2021 - 07/31/2022
		Audit notice to be posted and documents submitted in OAS by 09/01/2022
1	SCCC	11/14/2022 – 11/17/2022
		Audit documentation period – 09/01/2021 - 08/31/2022
		Audit notice to be posted and documents submitted in OAS by 10/03/2022