

**STATE OF WASHINGTON
DEPARTMENT OF EARLY LEARNING
LACEY, WASHINGTON**

**REQUEST FOR PROPOSALS
RFP # 09-100**

PROJECT TITLE: Child Care Subsidy Training

PROPOSAL DUE DATE: July 20, 2009 no later than 3:00 PM at the DEL Lacey office.

EXPECTED TIME PERIOD FOR CONTRACT: September 1, 2009 through June 30, 2011

BIDDER ELIGIBILITY: This procurement is open to those Bidders that satisfy the minimum qualifications stated herein and that are available and licensed for work in Washington State.

DEL CONTACT INFORMATION:

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1. INTRODUCTION

1.1 Purpose and Background

The Washington State Department of Early Learning, hereinafter called DEL, is soliciting this Request for Proposals (RFP) from Bidders interested in participating in the following project:

The Quality Family Child Care Act of 2006 allowed collective bargaining with Licensed In-Home and License Exempt child care providers between the State of Washington and Service Employees International Union (SEIU) Local 925. Under the subsequent collective bargaining agreement (CBA), Articles 14.2 and 14.3 required that child care providers covered by the CBA take training at least once during the life of the proposed contract which will end June 30, 2011. The CBA stipulates that DEL is responsible for providing training to child care providers covered by the proposed contract. Therefore, DEL is seeking to contract with a qualified Bidder to develop the training curriculum and materials, train the trainers/subcontractors that will assist the Bidder in delivery of the training, oversee the training program, develop marketing materials, advertise the training, develop outreach strategies that will reach Licensed In-Home and License Exempt child care providers to ensure that as many child care providers as possible are reached, and provide an evaluation of the impact/effectiveness of the training materials and program.

1.2 Objective

Offer child care subsidy training to all Licensed In-Home, License Exempt, and Seasonal Child Care providers who provide care for subsidized children to ensure that these providers know how to properly bill the State for child care services. This training will include: a description of the child care subsidy process, how to properly calculate and bill for child care provided, and how to resolve payment issues. There are approximately 5,400 License Exempt child care providers and 2,200 Licensed In-Home child care providers in Washington State that will be required to take the training.

1.3 Minimum Qualifications

The Bidder must be licensed to do business in the State of Washington. The Bidder must have five (5) years of experience in developing curriculum and training materials and conducting trainings for a diverse population. In addition, experience in research and analysis of public policy related to children and families is required.

1.4 Funding

DEL budgeted an amount not to exceed \$285,000 from date of contract execution through June 30, 2010 and \$285,000 from July 1, 2010 through June 30, 2011.

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

1.5 Period of Performance

The period of performance of any contract resulting from this RFP is tentatively scheduled to begin on or about September 1, 2009 and to end on June 30, 2011.

Amendments extending the period of performance, if any, shall be at the sole discretion of DEL.

1.6 Definitions

Definitions for the purposes of this RFP include:

DEL - The Department of Early Learning is DEL of the State of Washington that is issuing this RFP.

Bidder – Individual or company submitting a proposal in order to attain a contract with DEL.

Contractor – Individual or company whose proposal has been accepted by DEL and is awarded a fully executed, written contract.

Proposal – A formal offer submitted in response to this solicitation.

Request for Proposals (RFP) – Formal procurement document in which a service or need is identified but no specific method to achieve it has been chosen. The purpose of an RFP is to permit the Bidder community to suggest various approaches to meet the need at a given price.

1.7 Americans with Disabilities Act

DEL complies with the Americans with Disabilities Act (ADA). Bidders may contact the RFP Coordinator to receive this Request for Proposals in Braille or on tape.

2. GENERAL INFORMATION FOR BIDDERS

2.1 RFP Coordinator

The RFP Coordinator is the sole point of contact in DEL for this procurement. All communication between the Bidder and DEL upon receipt of this RFP shall be with the RFP Coordinator, as follows:

Name	RaShelle Davis
Mailing Address	PO Box 40970, Olympia, WA 98504-0970
Or	OR
Delivery Address	640 Woodland Square Loop SE, Lacey, WA 98503
Phone Number	(360) 725-4427
Fax Number	(360) 725-4939
E-Mail Address	RaShelle.Davis@del.wa.gov

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

2.2 Estimated Schedule of Procurement Activities

SCHEDULE:

Issue Request for Proposals	5/26/09
Letter of Intent to Propose AND Questions Due from Bidders	6/15/09
Issue addendum to RFP as a response to questions	6/22/09
Proposals due	7/20/09 by 3:00 p.m.
Evaluate proposals	7/22/09 – 7/29/09
Conduct presentations and oral interviews with finalists	7/30/09 – 8/5/09
Announce “Apparent Successful Contractor” and send notification via fax or e-mail to unsuccessful proposers	8/6/09
Negotiate contract	8/6/09 – 8/14/09
File contract with OFM	8/18/09
Hold debriefing conferences (if requested)	8/6/09 – 8/11/09
Begin contract work	9/01/09

DEL reserves the right to revise the above schedule.

2.3 Bidder Questions & DEL Answers

All questions regarding this RFP must be in writing (mail, e-mail or fax) and addressed to the RFP Coordinator. DEL will only answer questions received no later than 3:00 p.m. local time on the date stated in the schedule. **Do not call the RFP coordinator to ask questions.** DEL will send a copy of all Bidders' questions and DEL's official written answers to all Bidders who submit a Letter of Intent to propose.

2.4 Letter of Intent

Bidders may send the RFP Coordinator a Letter of Intent to Bid no later than the 3:00 p.m. on the date stated in the SCHEDULE. Timely submission of this document will assure the Bidder that they will receive, through e-mail notification, any RFP amendments, questions and answers, and other correspondence pertinent to this procurement issued by the RFP Coordinator. All addendums, notifications, and amendments will be posted on the DEL Web site and the Washington Electronic Business Solution (WEBS) for Bidder notification as well. If no Letter of Intent is received by the DEL RFP Coordinator, you shall be responsible for checking those locations for updates, addendums and amendments.

2.5 Submission of Proposals

Bidders are required to submit seven (7) hard copies and one (1) CD ROM of the proposal. The proposal, whether mailed or hand delivered, must arrive at DEL no later than 3:00 p.m., local time on the due date stated in section 2.2.

Hard copy proposals are to be sent to the RFP Coordinator at the address noted in Section 2.1. The envelope/package should be clearly marked to the attention of the RFP Coordinator.

Bidders mailing proposals should allow normal mail delivery time to ensure timely receipt of their proposals by the RFP Coordinator. Bidders assume the risk for the method of delivery chosen. DEL assumes no responsibility for delays caused by any delivery service. Proposals may not be transmitted using electronic media such as facsimile transmission.

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

2.6 Proprietary Information/Public Disclosure

Materials submitted in response to this competitive procurement shall become the property of DEL.

All proposals received shall remain confidential until the contract, if any, resulting from this RFP is signed by the Director of DEL and the apparent successful Contractor; thereafter, the proposals shall be deemed public records as defined in RCW 42.17.250 to .340, "Public Records."

Any information in the proposal that the Bidder desires to claim as proprietary and exempt from disclosure under the provisions of RCW 42.17.250 to .340 must be clearly designated. The page must be identified and the particular exception from disclosure upon which the Bidder is making the claim. Each page claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on the lower right hand corner of the page.

DEL will consider a Bidder's request for exemption from disclosure; however, DEL will make a decision predicated upon Chapter 42.17 RCW and Chapter 143-06 of the Washington Administrative Code. Marking the entire proposal exempt from disclosure will not be honored. The Bidder must be reasonable in designating information as confidential. If any information is marked as proprietary in the proposal, such information will not be made available until the affected proposer has been given an opportunity to seek a court injunction against the requested disclosure.

A charge will be made for copying and shipping, as outlined in RCW 42.17.300. No fee shall be charged for inspection of contract files, but twenty-four (24) hours' notice to the RFP Coordinator is required. All requests for information should be directed to the RFP Coordinator.

2.7 Revisions to the RFP

In the event it becomes necessary to revise any part of this RFP, addenda will be [provided](#) to all who submitted a Letter of Intent, and will be posted on the DEL Web site and the Washington Electronic Business Solution (WEBS) Web site. For this purpose, the published questions and answers from any revisions or any other pertinent information shall be provided as an addendum to the RFP.

DEL also reserves the right to cancel or to reissue the RFP in whole or in part, prior to execution of a contract.

2.8 Minority & Women-Owned Business Participation

In accordance with the legislative findings and policies set forth in chapter 39.19 RCW, the state of Washington encourages participation in all of its contracts by firms certified by the Office of Minority and Women's Business Enterprises (OMWBE). Participation may be either on a direct basis in response to this solicitation or on a subcontractor basis. However, no preference will be included in the evaluation of proposals, no minimum level of MWBE participation shall be required as a condition for receiving an award and proposals will not be rejected or considered non-responsive on that basis. Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the contract documents will apply.

The established annual procurement participation goals for MBE is ten per cent (10%) and for WBE, four per cent (4%), for this type of project. These goals are voluntary. Bidders may contact OMWBE at 360-753-9693 to obtain information on certified firms.

2.9 Acceptance Period

Proposals must provide 60 days for acceptance by DEL from the due date for receipt of proposals.

2.10 Responsiveness

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

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

2.11 Most Favorable Terms

DEL reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms which the Bidder can propose. There will be no best and final offer procedure. DEL does reserve the right to contact a Bidder for clarification of its proposal.

The Bidder should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may incorporate some, or all, of the

Bidder's proposal. It is understood that the proposal will become a part of the official procurement file on this matter without obligation to DEL.

2.12 Contract and General Terms & Conditions

The apparent successful Bidder will be expected to enter into a contract which is substantially the same as the sample contract and its general terms and conditions attached as Exhibit B. Any contract language questions or issues should be addressed in the proposal to allow for prompt negotiations and/or response to questions upon selection of an apparent successful Bidder. In no event is a Bidder to submit its own standard contract terms and conditions in response to this solicitation.

DEL has the right to place the Bidder in corrective action or terminate the contract for any out of compliance notices received while carrying out the provision of the contract with the state.

2.13 Costs to Propose

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

2.14 No Obligation to Contract

This RFP does not obligate the State of Washington or DEL to contract for services specified herein.

2.15 Rejection of Proposals

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

2.16 Commitment of Funds

The Director of DEL, or her delegates, are the only individuals who may legally commit DEL to the expenditures of funds for a contract resulting from this RFP. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

2.17 Insurance Coverage

The Contractor is to furnish DEL with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below.

The Contractor shall, at its own expense, obtain and keep in force insurance coverage which shall be maintained in full force and effect during the term of the contract. The Contractor shall furnish evidence in the form of a Certificate of Insurance that insurance shall be provided, and a copy shall be forwarded to DEL within fifteen (15) days of the contract effective date.

Liability Insurance

- 1) Commercial General Liability Insurance: Contractor shall maintain general liability (CGL) insurance and, if necessary, commercial umbrella insurance, with a limit of not less than \$1,000,000 per each occurrence. If CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit. CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 (or a substitute form providing equivalent coverage). All insurance shall cover liability assumed under an insured contract (including the tort liability of another assumed in a business contract), and contain separation of insured (cross liability) condition.

Additionally, the Contractor is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

- 2) Business Auto Policy: As applicable, the Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto." Business auto coverage shall be written on ISO form CA 00 01, 1990 or later edition, or substitute liability form providing equivalent coverage.

Employers Liability ("Stop Gap") Insurance: In addition, the Contractor shall buy employers liability insurance and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

Additional Provisions

Above insurance policy shall include the following provisions:

1. **Additional Insured.** The State of Washington, Department of Early Learning, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella and property insurance policies. All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State.
2. **Cancellation.** State of Washington, Department of Early Learning, shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications. Insurers subject to 48.18 RCW (Admitted and Regulation by the Insurance Commissioner): The insurer shall give the State 45 days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation. Insurers subject to 48.15 RCW (Surplus lines): The State shall be given 20 days advance notice of cancellation. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.
3. **Identification.** Policy must reference the State's contract number and DEL's name.
4. **Insurance Carrier Rating.** All insurance and bonds should be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by Debby Carr, Contract Specialist, or the Risk Manager for the State of Washington, before the contract is accepted or work may begin. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapter 48.15 RCW and 284-15 WAC.
5. **Excess Coverage.** By requiring insurance herein, the State does not represent that coverage and limits will be adequate to protect the Contractor and such coverage and limits shall not limit Contractor's liability under the indemnities and reimbursements granted to the State in the contract.

Worker's Compensation Coverage

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 responsive in any way for claims filed by the Contractor or their employees for services performed under the terms of the contract.

3. PROPOSAL CONTENTS

Proposals must be submitted on eight and one-half by eleven (8 1/2 x 11) inch paper with tabs separating the major sections of the proposal. The four major sections of the proposal are to be submitted in the order noted below:

- 1) Letter of Submittal, including signed Certifications and Assurances (Exhibit A to this RFP);
- 2) Technical Proposal;
- 3) Management Proposal; and
- 4) Cost Proposal.

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

Do **not** use staples; place each complete proposal in a separate notebook or binder.

3.1 Letter of Submittal (Mandatory)

The Letter of Submittal and the attached Certifications and Assurances form (Exhibit A to this RFP) must be signed and dated by a person authorized to legally bind the Bidder to a contractual relationship. Along with introductory remarks, the Letter of Submittal is to include by attachment the following information about the Bidder and any proposed subcontractors:

1. Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom the contract would be negotiated.
2. Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.)
3. Legal status of the Bidder (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
4. Federal Employer Tax Identification number and the Washington Uniform Business Identification (UBI) number issued by the State of Washington Department of Revenue.
5. Location of the facility from which the Bidder would operate.
6. Identify any State employees or former Washington State employees employed or on the firm's governing board as of the date of the proposal. Include their position and responsibilities within the Bidder's organization. If following a review of this information, it is determined by DEL that a conflict

of interest exists, the Bidder may be disqualified from further consideration for the award of a contract.

3.2 Technical Proposal (Scored)

The Bidder must propose how they intend to develop and implement subsidy billing training for unionized child care providers. The Technical Proposal must contain a comprehensive description of services including the following elements:

- A. Project Approach/Methodology/Work Plan** – Please identify the methodology by which the Bidder will deliver training to providers. Include all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project defined in this RFP. This section of the technical proposal must contain sufficient detail to convey to members of the evaluation team the Bidder’s knowledge of the subjects and skills necessary to successfully complete the project. The Bidder may also present any creative approaches that might be appropriate and may provide any pertinent supporting documentation.

Please address each of the following:

Training Development

1. Describe how the Bidder will develop the training curriculum. Include the resources that will be used and how the information obtained will be incorporated into the development of the training curriculum.
2. Discuss how the trainers will be trained and include the number of workshops that will be offered to the trainers.
3. What methods, materials, tools, and technologies will the Bidder use to carry-out the trainings?
4. If DEL asks the Bidder to make adjustments to the training, explain the Bidder’s response and how the feedback will be incorporated.

Training Logistics

1. Explain how the Bidder will conduct outreach and marketing of the subsidy trainings.
2. The CBA requires trainings to be offered in every geographic region of Washington, online, and at various times, days, evenings and weekends. How will the Bidder fulfill this requirement and coordinate the trainings? Include the projected frequency of trainings in the various regions.
3. How will the Bidder address the needs of diverse and limited English proficient providers? Include a discussion of the various methodologies that will be used.

4. Explain how the needs of adult learners and those with learning and other types of disabilities will be addressed.

Training Implementation

1. Describe a typical in-class training session. Discuss any interactive tools that will be used.
2. Describe a typical online training session. Discuss any interactive tools that will be incorporated online.
3. Describe any other strategies, tools or methods that will be used to implement the training.

Training Evaluation

1. Explain how the Bidder will measure the effectiveness and relevance of the training. Discuss the various surveys, tests and other forms of evaluation the Bidder will employ.
2. Assess the results the trainings will achieve for providers, families, and DEL. Include an assessment of the nature and number of efficiencies achieved by the training.
3. Explain how the Bidder will incorporate suggestions and feedback.

Training Data and Reports

1. How will the Bidder monitor and record training activities and program effectiveness?
2. What reports would the Bidder propose to submit to DEL on a monthly basis or more frequently?

- B. Project Schedule** - Include a project schedule indicating when the elements of the work will be completed and when deliverables will be provided. The project schedule must include checkpoints with DEL to discuss and approve deliverables and timelines.
- C. Outcomes and Performance Measurement** – Describe the outcomes the Bidder proposes to achieve as a result of Delivery of these services including how these outcomes would be monitored, measured and reported to DEL.
- D. Deliverables** – Fully describe deliverables to be submitted under the proposed contract.

3.3 Management Proposal (Scored)

A. Project Management

- 1. Project Team Structure/Internal Controls** - Provide a description of the proposed project team structure and internal controls to be used during the course of the project, including any subcontractors. Provide an organizational chart of your firm indicating lines of authority for personnel involved in performance of this potential contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management. Include who within the firm will have prime responsibility and final authority for the work.

- 2. Staff Qualifications/Experience** - Identify staff, including subcontractors, who will be assigned to the potential contract, indicating the responsibilities and qualifications of such personnel, and include the amount of time each will be assigned to the project. Provide resumes for the named staff, which include information on the individual's particular skills related to this project, education, experience, significant accomplishments and any other pertinent information. The Bidder must commit that staff identified in its proposal will actually perform the assigned work. Any staff substitution must have the prior approval of DEL.

B. Experience of the Bidder

1. Indicate the experience the Bidder and any subcontractors have in the following areas:

Child Care Subsidies in Washington State

- o Working Connections Child Care
- o Seasonal Child Care
- o RCWs
- o WACs

Child Care Development Fund:

<http://www.acf.hhs.gov/programs/ccb/ccdf/index.htm>

Conducting K-12 Trainings. Briefly describe the audience, purpose and content area of the trainings.

Conducting other trainings. Please briefly identify the audience, content area and purpose of the trainings and include any online training experience as well.

Working with diverse populations who do not speak English as a first language.

Working with populations of varying education and reading levels.

2. Indicate other relevant experience that indicates the qualifications of the Bidder, and any subcontractors, for the performance of the potential contract.
3. Include a list of contracts the Bidder has had during the last five (5) years that relate to the Bidder's ability to perform the services needed under this RFP. List contract reference numbers, contract period of performance, contact persons, telephone numbers, and fax numbers/e-mail addresses.

C. References

List names, addresses, telephone numbers, and fax numbers/e-mail addresses of three (3) business references for whom work has been accomplished and briefly describe the type of services provided. Do not include current DEL staff as references. The Bidder must grant permission to DEL to contact the references and others who may have pertinent information regarding the Bidder's qualifications and experience to perform the services required by this RFP. References will be contacted for the top-scoring proposal(s) only.

D. Related Information (Mandatory)

1. If the Bidder, or any subcontractor, has contracted with the State of Washington during the past 24 months, indicate the name of any contractors to DEL, the contract number and project description and/or other information available to identify the contract.
2. If any of the bidders officers or the bidders subcontractors' employees or officers were employed by the state of Washington during the last two years, state their positions within your organization, state their proposed duties under any resulting contract, their duties and position during their employment with the state, and the date of their termination from state employment.
3. If any of the bidders officers, or their subcontractor's employees or officers, were employed by the state of Washington during the last two years and **retired** from state service, indicate whether the individual providing services retired using the 2008 Early Retirement Factors or whether the company is owned by an individual who retired under the new ERF and will be receiving compensation as a result of the contracted service.

4. If the Bidder has had a contract terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the Bidder's non-performance or poor performance and the issue of performance was either: (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and such litigation determined that the Proposer was in default.

Submit full details of the terms for default including the other party's name, address, and phone number. Present the Bidder's position on the matter. DEL will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. If no such termination for default has been experienced by the Bidder in the past five (5) years, so indicate.

E. Office Minority Women-Owned Business Certification (Optional)

Include proof of certification issued by the Washington State Office of Minority and Women-Owned Business if certified minority-owned firm and/or women-owned firm(s) will be participating on this project.

3.4 Cost Proposal (Scored)

The maximum fee for this contract must be equal to or less than not to exceed \$285,000 during SFY 2010 and \$285,000 for SFY 2011 to be considered responsive to this RFP.

The evaluation process is designed to award this procurement not necessarily to the Bidder of least cost, but rather to the Bidder whose proposal best meets the requirements of this RFP. However, Bidders are encouraged to submit proposals which are consistent with State government efforts to conserve state resources.

A. Identification of Costs

Identify all costs including expenses to be charged for performing the services necessary to accomplish the objectives of the contract. The Bidder is to submit a fully detailed budget including staff costs and any expenses necessary to accomplish the tasks and to produce the deliverables under the contract. Bidders are required to collect and pay Washington state sales tax, if applicable.

Costs for subcontractors are to be broken out separately. Please identify if any subcontractors are certified by the Office of Minority and Women's Business Enterprises.

4. Evaluation and Contract Award

4.1 Evaluation Procedure

Responsive proposals will be evaluated strictly in accordance with the requirements stated in this solicitation and any addenda issued. The evaluation of proposals shall be accomplished by an evaluation team, to be designated by DEL, which will determine the ranking of the proposals.

Items in Section 3, Proposal Contents, marked “mandatory” must be included as part of the proposal for the proposal to be considered responsive; however, these items are not scored. Items marked “scored” are those that are awarded points as part of the evaluation conducted by the evaluation team.

DEL, at its sole discretion, may elect to require organizations participate in an oral presentation.

DEL reserves the right to award the contract to the Bidder whose proposal is deemed to be in the best interest of DEL and the State of Washington.

This space intentionally left blank.

4.2 Evaluation Weighting and Scoring

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

Scoring Section of Proposal	Total per Section
Technical Proposal – 50%	100 Points
Project	
Approach/Methodology/Work Plan	
Training Development	10 Points
Training Logistics	10 Points
Training Implementation	15 Points
Training Evaluation/Impact on Providers	15 Points
Training Data & Reports	10 Points
Project Schedule	15 Points
Project Deliverables	25 Points
Management proposal – 30%	60 Points
Project Team	15 Points
Structure/Internal Controls	
Staff	15 Points
Qualifications/Experience	
Experience of the Bidder	30 Points
Cost Proposal – 20%	40 Points
Sub Total	200 Points
References*	10 Points
Grand Total	210 Points

*References will be contacted for the top-scoring proposer(s) only and will then be scored and added to the sub-total score.

4.3 Oral Presentations May Be Required

Should oral presentations become necessary, DEL will contact the top-scoring firm(s) to schedule a date, time and location. Commitments made by the Bidder at the oral interview, if any, will be considered binding. The score from the oral presentation will determine the successful Bidder.

4.4 Notification to Proposers

Firms whose proposals have not been selected for further negotiation or award will be notified via e-mail, whenever possible.

4.5 Debriefing of Unsuccessful Proposers

Upon request, a debriefing conference will be scheduled with an unsuccessful Bidder. The request for a debriefing conference must be received by the RFP Coordinator within three (3) business days after the Notification of Unsuccessful Bidder letter is faxed/e-mailed to the Bidder. Debriefing requests must be received by the RFP Coordinator no later than 5:00 PM local time in Lacey, Washington on the third business day following the receipt of the Notification of Unsuccessful Bidder letter. The debriefing must be held within three (3) business days of the request.

Discussion will be limited to a critique of the requesting Bidder's current proposal only. Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a maximum of one (1) hour.

4.6 PROTEST PROCEDURE

This procedure is available to Bidders who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Bidder is allowed three (3) business days to file a protest of the acquisition with the RFP Coordinator. Protests must be received by the RFP Coordinator no later than 5:00 PM local time in Lacey, Washington on the third business day following the debriefing. Protests may be submitted by facsimile, but should be followed by the original document.

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 RFP 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 the evaluator;
- Errors in computing the score;
- Non-compliance with procedures described in the procurement document or DEL 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 proposal, or 2) DEL'S assessment of its own and/or other agencies needs or requirements.

Upon receipt of a protest, a protest review will be held by DEL. DEL director or an employee delegated by the Director 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 delay.

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

The final determination of the protest shall:

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

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

EXHIBIT A – CERTIFICATION AND ASSURANCES

CERTIFICATIONS AND ASSURANCES

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

1. I/we declare that all answers and statements made in the proposal are true and correct.
2. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
3. The attached proposal is a firm offer for a period of 60 days following receipt, and it may be accepted by DEL without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
4. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity.
5. I/we understand that DEL will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of DEL, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Proposer or to any competitor.
7. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
8. No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
9. I/we knowingly and voluntarily release the State of Washington, the Department of Early Learning, its individual employees, and all my former or present employers, and their individual employees, from any and all known claims and unknown claims for damages or other relief arising out of the organization’s request for and receipt of information from references, unless my current or former references are prohibited by state or federal law from disclosing the information that the organization requests.

Signature of Proposer

Title Date

EXHIBIT B- CONTRACT SAMPLE



Personal Services Contract

Department of
Early Learning

DEL Contract Number:
Title: Connections Group Communication Plan

This Contract is between the state of Washington Department of Early Learning (DEL) and the Contractor identified below.

CONTRACTOR INFORMATION

UBI:
TIN:

DEL INFORMATION

Department of Early Learning
PO Box 40970
Olympia WA 98504-0970
FAX: 360-413-3482

CONTRACT INFORMATION

Purpose: The purpose of this contract is to

Start Date: _____ **Contract Maximum:** _____
End Date: _____

Contractor is NOT a Sub Recipient for purposes of this contract.
CFDA Number(s):

The following Exhibits are incorporated by reference and in the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable federal and Washington statutes and regulations;
2. This Contract cover sheet;
3. Exhibit A – Statement of Work;
4. Exhibit B – Compensation and Budget;
5. Exhibit C –General terms and conditions;

SIGNATURES

The parties signing below represent that they have read and understand this Contract, and have the authority to execute this Contract. This Contract shall be binding on DEL only upon signature by DEL.

	SIGNATURE:	PRINTED NAME AND TITLE:	DATE SIGNED:
CONTRACTOR:	_____	_____	_____
DEL:	_____	_____	_____



Exhibit A: Statement of Work

Department of
Early Learning

DEL Contract Number:
Title:

The Contractor will provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

1. Compensation.

Total compensation payable to the Contractor for satisfactory performance of the work under this Contract shall not exceed the amount identified in the "Contract Maximum Amount" portion of the Contract cover sheet. The Contractor's compensation for services rendered shall be based on the following rates or in accordance with the following terms:

Expenses: The Contractor shall receive reimbursement for travel and other expenses as identified below or as authorized in advance by DEL as reimbursable. The maximum amount to be paid to the Contractor for authorized expenses shall not exceed \$____, which amount is included in the "Contract Maximum Amount" referenced above and identified on the Contract cover sheet.

Such expenses may include airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. The Contractor shall receive compensation for travel expenses at current travel reimbursement rates.



Exhibit B: Budget

Department of
Early Learning

DEL Contract Number:
Title:

(This budget is an estimate of costs, any variations in itemized costs must be approved by the DEL Contract Specialist prior to payment.)

Fiscal Year 2010:

Payment Point	Qty	Unit	Unit Cost	Budget
Total:				

Fiscal Year 2011:

Payment Point	Qty	Unit	Unit Cost	Budget
Total:				



Exhibit C: Additional Terms and Conditions

Department of
Early Learning

DEL Contract Number:
Title:

1. OFM FILING REQUIREMENT

Under the provisions of Chapter 39.29 RCW, this personal service Contract is required to be filed with the Office of Financial Management (OFM). No contract required to be so filed is effective and no work shall be commenced nor payment made until ten (10) working days following the date of filing, and if required, until approved by OFM. In the event OFM fails to approve the Contract, the Contract shall be null and void.

2. BILLING PROCEDURES AND PAYMENT

- a. DEL will pay the Contractor upon acceptance of services provided and receipt of a properly completed A-19 voucher, provided by DEL, which shall be submitted, not more than monthly, to:
Department of Early Learning
Attn: Financial Office
P.O. Box 40970
Olympia, WA 98504-0970.
- b. Each voucher will clearly reference the DEL Contract Number and the Contractor's statewide Vendor Registration number assigned by OFM.
- c. Each voucher shall describe and document, to DEL's satisfaction, the work performed by the Contractor, the progress of the project, and the amount being billed.
- d. Payment shall be considered timely if made by the DEL within thirty (30) calendar days after receipt of properly completed voucher. Payment shall be sent to the address designated by the Contractor.
- e. Statewide Vendor Registration. OFM maintains a central contractor registration file for Washington State agencies to use for processing contractor payments. This allows many contractors to receive payments by direct deposit. The Contractor must be registered in the Statewide Vendor payment System, <http://www.ofm.wa.gov/isd/vendors.asp>, prior to submitting a request for payment under this Contract. No payment shall be made until the registration is complete.

3. CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications regarding the performance of this Contract, is set forth on page one, for DEL the contact is listed under DEL Information and the Contractor is listed under Contractor Information.

4. INSURANCE

The Contractor shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the Contractor or Subcontractor, or agents of either, while performing under the terms of this Contract. The Contractor shall provide insurance coverage, which shall be maintained in full force and effect during the term of this Contract, as follows:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract

activity but no less than \$1,000,000 per occurrence.

Additionally, the Contractor is responsible for ensuring that any Subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

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

\$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

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

The Contractor shall submit to DEL within fifteen (15) calendar days of the Contract "Start Date" listed on the Contract cover sheet, a certificate of insurance that outlines the coverage and limits defined in this Insurance section. The Contractor shall submit renewal certificates as appropriate during the term of the Contract.

5. ACCESS TO DATA

In compliance with RCW 39.29.080, the Contractor shall provide access to data generated under this Contract to DEL, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions and recommendations of the Contractor's reports, including computer models and methodology for those models.

6. 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 DEL.

7. AMENDMENTS

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

8. ASSIGNMENT

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

9. ASSURANCES

The Contractor agrees that all activity pursuant to this Contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations, including but not limited to all applicable non-discrimination laws.

10. ATTORNEYS' FEES

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

11. CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND INELIGIBILITY

If federal funds are the basis (in whole or in part) for this Contract, the Contractor certifies that neither it nor its principals are presently debarred, declared ineligible or voluntarily excluded from participation in transactions by any federal department or agency.

12. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

The Contractor shall not use or disclose any information concerning DEL, or information that may be classified as confidential, for any purpose not directly connected with the administration of this Contract, except with prior written consent of DEL, or as may be required by law.

13. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, DEL may, in its sole discretion, by written notice to the Contractor terminate this Contract without liability if it is found after due notice and examination by DEL 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.

In the event this Contract is terminated as provided above, DEL 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 DEL provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law.

14. CONFORMANCE

If any provision of this Contract violates any statute, regulation, or rule of law of the State of Washington, that provision is considered modified to conform to that statute, regulation, or rule of law.

15. COPYRIGHT PROVISIONS

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 DEL. DEL 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, the Contractor hereby irrevocably assigns all right, title, and interest in materials, including all intellectual property rights, to DEL effective from the moment of creation of such materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For materials that are delivered under the Contract, but that incorporate pre-existing materials not produced

under the Contract, the Contractor hereby grants to DEL 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 the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to DEL.

The Contractor shall exert all reasonable effort to advise DEL, 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.

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

16. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for securing business.

DEL 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.

17. DISALLOWED COSTS

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

18. DISPUTES

Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the DEL Director or the Director's delegate authorized in writing to act on the Director's behalf ("the Director").

a. The request for a dispute hearing must:

--Be in writing;

--State the disputed issue(s);

--State the relative positions of the parties;

--State the Contractor's name, address, and contract number; and

--Be mailed to the Director and the other party's (respondent's) Contract Manager within three (3) working calendar days after the parties agree that they cannot resolve the dispute.

b. The respondent shall send a written answer to the requesting party's statement to both the Director and the requester within five (5) working calendar days.

c. The Director shall review the written statements and reply in writing to both parties within ten (10) working

calendar days. The Director may extend this period if necessary by notifying the parties.

d. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

e. Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable ADR method in addition to the dispute resolution procedure outlined above.

19. DUPLICATE PAYMENT

DEL shall not pay the Contractor, if the Contractor has charged or will charge the state of Washington or any other party under any other Contract or agreement, for the same services or expenses.

20. ENTIRE AGREEMENT

This Contract, including any referenced exhibits, represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral, shall be deemed a part hereof or to bind any of the parties to this Contract.

21. GOVERNING LAW

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

22. INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the State of Washington and its agencies, officers, employees, and agents, 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 there from.

The Contractor's obligations to indemnify, defend, and hold harmless includes any claim by the Contractor's agents, employees, representatives, or any Subcontractor or its employees.

The Contractor expressly agrees to indemnify, defend and hold harmless the State for any claim arising out of or incident to the Contractor's or any Subcontractor's performance or failure to perform the Contract. The 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.

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

23. INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and its employees or agents performing under this Contract are not officers, employees or agents of the State of Washington or DEL. The Contractor will not hold itself out as or claim to be an officer or employee of DEL or the State of

Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit that would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

24. INDUSTRIAL INSURANCE COVERAGE

The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, DEL may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. DEL may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by DEL under this Contract, and transmit the deducted amount to the Department of Labor and Industries (L&I), Division of Insurance Services. This provision does not waive any of L&I's right to collect from the Contractor.

25. LICENSING, ACCREDITATION AND REGISTRATION

The Contractor shall comply with all applicable local, state and federal licensing, accreditation and registration requirements/standards necessary for the performance of this Contract.

26. LIMITATION OF AUTHORITY

Only the DEL Director or the Director's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this Contract is not effective or binding unless made in writing and signed by the DEL Director or the Director's delegate by writing (delegation to be made prior to action).

27. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

In the event of the Contractor's non-compliance or refusal to comply with any applicable 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 DEL. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance.

28. PRIVACY

The Contractor shall protect all Personal Information collected, used, or acquired in connection with this Contract against unauthorized use, disclosure, modification or loss. "Personal Information" means information identifiable to any natural person, including, but not limited to, information that relates to the person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers or other identifying numbers, drivers license numbers, and any financial identifiers. The Contractor shall ensure its directors, officers, employees, Subcontractors or agents use Personal Information solely for the purposes of accomplishing the services set forth herein. The Contractor and its Subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons Personal Information without the express written consent of the DEL or as otherwise required by law.

Any breach of this provision may result in termination of the Contract and the demand for return of all personal information. The Contractor agrees to indemnify and hold harmless the State of Washington and DEL for any damages related to the Contractors breach of this paragraph.

29. PUBLICITY

The Contractor agrees to submit to DEL all advertising and publicity matters relating to this Contract wherein the State of Washington or DEL'S name is mentioned or language used from which the connection with the State of Washington or DEL may, in DEL'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 DEL.

30. RECORDS MAINTENANCE

The Contractor shall maintain books, records, documents, data and other evidence relating to this Contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract.

The Contractor shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review or audit by DEL, personnel duly authorized by DEL, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been finally resolved.

31. 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.

32. RIGHT OF INSPECTION

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

33. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, DEL may terminate the Contract under the "Termination for Convenience" clause, without the ten (10) day notice requirement, subject to renegotiation at DEL'S discretion under those new funding limitations and conditions.

34. SEVERABILITY

The provisions of this Contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Contract.

35. SINGLE AUDIT ACT REQUIREMENTS

If the Contractor is a Subrecipient of federal awards as defined by Office of Management and Budget (OMB) Circular A-133, the Contractor shall maintain records that identify all federal funds received and expended. Such funds shall be identified by the appropriate OMB Catalog of Federal Domestic Assistance Numbers. The Contractor shall make the Contractor's records available for review or audit by officials of the federal awarding agency, the General Accounting Office, DEL, and the Washington State Auditor's Office. The Contractor shall incorporate OMB Circular A-133 audit requirements into all contracts between the Contractor and its Subcontractors who are subrecipients. The Contractor shall comply with any future

amendments to OMB Circular A-133 and any successor or replacement Circular or regulation.

If the Contractor expends \$500,000 or more in federal awards from any and/or all sources in any fiscal year ending after December 31, 2003, the Contractor shall procure and pay for a single or program-specific audit for that year. Upon completion of each audit, the Contractor shall submit to the contracting officer named in this Contract the data collection form and reporting package specified in OMB Circular A-133, reports required by the program-specific audit guide (if applicable).

36. SITE SECURITY

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

37. SUBCONTRACTING

Neither the Contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this Contract without obtaining prior written approval of DEL. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractors. The terms "Subcontractor" and "Subcontractors" means Subcontractors in any tier. In no event shall the existence of the subcontract operate to release or reduce the liability of the Contractor to DEL for any breach in the performance of the Contractor's duties. This clause does not include contracts of employment between the Contractor and personnel assigned to work under this Contract.

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

38. TAXES

All payments accrued because of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

39. TERMINATION FOR CAUSE

In the event DEL determines the Contractor has failed to comply with the conditions of this Contract in a timely manner, DEL has the right to suspend or terminate this Contract. Before suspending or terminating the Contract, the DEL shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days, the Contract may be terminated or suspended.

In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Contract and the replacement or cover Contract and all administrative costs directly related to the replacement Contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

DEL reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by DEL to terminate the Contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of DEL provided in this Contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

40. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Contract, DEL may, by ten (10) calendar days written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, DEL shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

41. TERMINATION PROCEDURES

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

DEL shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by DEL, and the amount agreed upon by the Contractor and DEL 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 DEL, and (iv) the protection and preservation of property, unless the termination is for default, in which case DEL shall determine the extent of the liability of DEL.

DEL may withhold from any amounts due the Contractor such sum as DEL determines to be necessary to protect DEL against potential loss or liability. The rights and remedies of DEL provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

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

- a. Stop work under the Contract on the date, and to the extent specified, in the notice;
- b. 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;
- c. Assign to DEL, in the manner, at the times, and to the extent directed by DEL, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case DEL has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- d. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of DEL to the extent DEL may require, which approval or ratification shall be final for all the purposes of this clause;
- e. Transfer title to DEL and deliver in the manner, at the times, and to the extent directed by DEL any property which, if the Contract had been completed, would have been required to be furnished to DEL;
- f. Complete performance of such part of the work as shall not have been terminated by DEL; and
- g. Take such action as may be necessary, or as DEL 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 DEL has or may acquire an interest.

42. TREATMENT OF ASSETS

- a. Title to all property furnished by DEL shall remain in DEL. 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 DEL 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 DEL 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 DEL in whole or in part, whichever first occurs.

b. Any property of DEL furnished to the Contractor shall, unless otherwise provided herein or approved by DEL, be used only for the performance of this Contract.

c. The Contractor shall be responsible for any loss or damage to property of DEL that results from the negligence of the Contractor or that results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.

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

e. The Contractor shall surrender to DEL all property of DEL prior to settlement upon completion, termination or cancellation of this Contract.

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

43. 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 DEL.