

ORIGINAL

WHATCOM COUNTY
CONTRACT NO.

201107012

File # 878.41.20
Contract #:

11066-11-008

22
07/05/11

INTER-LOCAL AGREEMENT

BETWEEN

WHATCOM COUNTY

AND CLALLAM COUNTY

1. **THIS AGREEMENT**, made pursuant to RCW 39.34, and the authority set forth in RCW 10.93, is entered into this 15th day of July 2011, by and between WHATCOM COUNTY, a political subdivision of the State of Washington (hereinafter referred to as "WHATCOM") and CLALLAM COUNTY, a political subdivision of the State of Washington (hereinafter referred to as "COUNTY"). This agreement sets forth the agreed upon procedures for management, accountability, direction, reporting and execution of the process, as a sub-recipient of grant funds as described below.

2. **THE PURPOSE OF THIS AGREEMENT IS TO** memorialize the terms under which the COUNTY will grant sub-recipient rights to WHATCOM, to purchase and install various equipment and services authorized as sub-projects under the Public Safety Interoperability Communications (PSIC) grant awarded to Clallam County, funded by the National Telecommunications and Information Administration (NTIA) and administered through the U.S. Department of Homeland Security (DHS). The program is administered through the Washington State Military Department. The purpose of this grant is to enhance the interoperable communications capability of public safety agencies in responding to or recovering from disasters and incidents of terrorism.

NOW, THEREFORE IT IS MUTUALLY AGREED THAT:

3. **SCOPE OF WORK:** This Agreement defines the PSIC project scope of work and the responsibilities of the parties to the agreement. WHATCOM will purchase equipment and services by way of Equipment Approval Request guidelines as outlined in Exhibit A, Washington State Military Department Contract # E08-356; Contractor identified as Clallam County. The funding provided to WHATCOM under this Inter-Local Agreement is intended to procure the equipment and services outlined in Paragraph 7.

4. **INDEMNIFICATION:** Each party will defend, indemnify and hold harmless the other from and against any and all claims and/or liabilities arising out of the terms of this agreement that relate to its own intentional and/or negligent acts and/or omissions.

5. **DURATION:** This Agreement shall be effective March 31, 2011 and shall continue until May 15, 2012, or at such time as all work is completed, whichever is earlier. Completion date(s) are subject to the provision that the deadline for sub-project completion shall be governed by specific deadline dates published by Clallam County on the PSIC Region 1 & 2 Budget sheet (Exhibit B, as amended)..

6. **CONTACT PERSONS:** WHATCOM and the COUNTY will each appoint a representative who will be responsible for the administration of this Agreement. Unless otherwise designated in writing, the WHATCOM contact person will be the Whatcom County Sheriff or designee. The COUNTY contact person will be the Clallam County Sheriff or designee.

7. **COMPENSATION AND MATCH:** The COUNTY, utilizing PSIC federal grant funding, will provide funding to WHATCOM in the amounts shown below for each authorized sub-project, provided that a complete sub-project plan, implementation schedule, and commitment to vendor(s) in the form of

contract(s) or written quotation(s) and purchase order(s) is/are submitted to Clallam County no later than dates outlined in Exhibit B, as amended. In the event this requirement is not met, the amount shown below for the individual sub-project shall automatically be eliminated from the allocation, and the maximum amount of this agreement automatically reduced accordingly:

a. RoIP Equipment and Installation Services	\$156,679.00
b. Crossband repeaters and/or multi-band radios	\$239,471.00
c. Training Program	\$ 8,750.00
d. Consulting Services for Region 1 Grant Planning Completion	\$ 25,100.00

The total maximum allowable for all sub-projects is FOUR HUNDRED THIRTY THOUSAND AND NO/100 DOLLARS (\$430,000.00).

WHATCOM will provide fully completed reimbursement and match forms in accordance with the terms and conditions of the attached Contract between Washington State Military Department and Clallam County (Contract Number E08-356) hereinafter referred to as "PSIC Contract". The PSIC Contract is identified as Exhibit A. The match amount required by WHATCOM shall be \$124,700.

COUNTY will submit all completed forms to the Washington State Military Department for reimbursement. Upon receipt of payment from the Washington State Military Department, COUNTY will submit payment to WHATCOM within 30 days from receipt of reimbursement from granting agency.

8. **TERMS AND CONDITIONS:** WHATCOM will comply with all terms, conditions, and requirements stated in the PSIC Contract applicable to WHATCOM as a sub-recipient.

9. **DISPUTE RESOLUTION:** In the event that a dispute arises under this agreement, it shall be determined in the following manner:

WHATCOM shall appoint a member to the Dispute Board. The COUNTY will appoint a member to the Dispute Board. WHATCOM and the COUNTY will jointly appoint a member to the Dispute Board. In the event WHATCOM and COUNTY are not able to jointly agree on a third member to serve on the Dispute Board, either party may petition the Superior Court for Clallam County to appoint a third member to the Dispute Board. The Dispute Board shall evaluate and adjudicate the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto.

10. **SECURITY:** It is the intent of the parties that the PSIC project carried out under this MOU will be conducted at the unclassified level. No classified information will be provided or generated under this MOU. It is considered "Law Enforcement Sensitive."

11. **SEVERABILITY:** If any provision of this agreement or any provision of any law, rule, or document incorporated by reference into this agreement, shall be held invalid, such invalidity shall not affect the other provisions of this agreement which legally can be given effect without the invalid provision. To this end, the provisions of this agreement are declared to be severable.

12. **AGREEMENT ALTERATIONS AND AMENDMENTS:** WHATCOM and the COUNTY may mutually amend this agreement. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind WHATCOM and the COUNTY. Changes to completion dates outlined in Exhibit B may be made by mutual written agreement of the appointed contact persons for each agency and also require approval of the Washington State Military Department. Exhibit B amendments will be published approximately monthly and distributed to all parties involved in the PSIC Grant administered by CLALLAM.

13. **TERMINATION:** Except as otherwise provided for in this agreement, either party may terminate this agreement upon thirty (30) days written notice. If this agreement is so terminated, the terminating party shall be liable only for performance rendered or costs incurred in accordance with the terms of this agreement prior to the effective date of termination.

14. **WHATCOM COUNTY STAFF:** WHATCOM COUNTY staff providing services under the terms of this Agreement shall be under the direct command and control of the Whatcom County Sheriff or designee and shall perform the duties required by this Agreement in a manner consistent with WHATCOM policies and regulations, applicable federal, state and local laws, and the Constitutions of the State of Washington and the United States.

15. **EQUIPMENT:** All equipment purchased or furnished by COUNTY for use by WHATCOM in accordance with this Agreement shall remain the property of WHATCOM. WHATCOM shall be responsible for the maintenance of any and all equipment or systems installed under this Agreement. WHATCOM shall be responsible for providing the inventory of equipment as required in the PSIC Contract.

16. **COMPLETE EXPRESSION:** This Agreement, and any written attachments or amendments thereto, constitutes the complete agreement of the parties and any oral representations or understandings not incorporated herein are excluded.

17. **ALL WRITINGS CONTAINED HEREIN:** IN WITNESS WHEREOF, Whatcom County and Clallam County have signed this agreement as of the date and year written below:

Bill Elfo 7-11-2011
Bill Elfo, Sheriff DATE
Whatcom County Sheriff's Office

W.L. Benedict
W.L. Benedict, Sheriff DATE
Clallam County Sheriff's Office

Pete Kremen 7/15/11
for Pete Kremen DATE
Whatcom County Executive

Howard V. Doherty, Jr. 07/05/2011
Howard V. Doherty, Jr. Chair DATE
Clallam County Commissioners

Approved as to Form:

Randall Watts
Randall Watts
Chief Civil Deputy Prosecutor

Approved as to Form:

Mark Nichols 7-1-11
Mark Nichols, Chief Deputy
Prosecuting Attorney

ATTEST BY:

Trish Holden
Trish Holden, CMC, Clerk of the Board

Date: July 5, 2011

Washington State Military Department
CONTRACT FACE SHEET

1. Contractor Name and Address: Clallam County 223 East 4th Street Port Angeles, WA 98362	2. Contract Amount: \$7,378,500	3. Contract Number E08-356 11066.08.001
4. Contractor's Contact Person, phone number: Patti Morris (360) 461-9008	5. Contract Start Date: October 1, 2007	6. Contract End Date: September 30, 2010
7. MD Program Manager/phone number: Jennifer Schaal (253) 512-7465	8. State Business License #: NA	9. UBI # (state revenue): 054-004-559

10. Funding Authority:
Washington State Military Department (Department) and the U.S. Department of Homeland Security (DHS)

11. Funding Source Agreement #: 2007-GS-H7-0003	12. Program Index # & OBJ/SUB-OJ 773PK, 773PC, 773PD, 773PG NZ	13. CFDA # & Title: 11.555 PSIC	14. TIN or SSN: 91-6001298
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15. Service Districts: (BY LEGISLATIVE DISTRICT): 24 (BY CONGRESSIONAL DISTRICT): 6	16. Service Area by County(ies): Clallam County	17. Women/Minority-Owned, State Certified?: <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO <input type="checkbox"/> YES, OMWBE # _____
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18. Contract Classification: <input type="checkbox"/> Personal Services <input type="checkbox"/> Client Services <input checked="" type="checkbox"/> Public/Local Gov't <input type="checkbox"/> Collaborative Research <input type="checkbox"/> A/E <input type="checkbox"/> Other _____	19. Contract Type (check all that apply): <input checked="" type="checkbox"/> Contract <input type="checkbox"/> Grant <input type="checkbox"/> Agreement <input type="checkbox"/> Intergovernmental (RCW 39.34) <input type="checkbox"/> Interagency
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20. Contractor Selection Process: <input checked="" type="checkbox"/> "To all who apply & qualify" <input type="checkbox"/> Competitive Bidding <input type="checkbox"/> Sole Source <input type="checkbox"/> A/E RCW <input type="checkbox"/> N/A <input type="checkbox"/> Filed w/OFM? <input type="checkbox"/> Advertised? <input type="checkbox"/> YES <input type="checkbox"/> NO _____	21. Contractor Type (check all that apply): <input type="checkbox"/> Private Organization/Individual <input type="checkbox"/> For-Profit <input checked="" type="checkbox"/> Public Organization/Jurisdiction <input checked="" type="checkbox"/> Non-Profit <input type="checkbox"/> VENDOR <input checked="" type="checkbox"/> SUBRECIPIENT <input type="checkbox"/> OTHER
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22. BRIEF DESCRIPTION:
Funds from the National Telecommunications and Information Administration (NTIA) and administered through the U.S. Department of Homeland Security (DHS) for the Public Safety Interoperable Communications Grant Program are being provided for projects to enhance the interoperable communications capability of public safety agencies in responding to and recovering from disasters and incidents of terrorism.

IN WITNESS WHEREOF, the Department and Contractor acknowledge and accept the terms of this contract and attachments hereto and have executed this contract as of the date and year written below. This Contract Face Sheet, Special Terms and Conditions, General Terms and Conditions, Statement of Work, and Budget govern the rights and obligations of both parties to this contract.

In the event of an inconsistency in this contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:
(a) **Applicable Federal and State Statutes and Regulations**
(b) **Statement of Work**
(c) **Special Terms and Conditions**
(d) **General Terms and Conditions, and if attached,**
(e) **any other provisions of the contract incorporated by reference.**
This contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

WHEREAS, the parties hereto have executed this contract on the day and year last specified below.

FOR THE DEPARTMENT:
James M. Mullen 8-12-08
Signature Date
James M. Mullen, Director
Emergency Management Division
Washington State Military Department

FOR THE CONTRACTOR:
Michael C. Chapman 07/15/08
Signature Date
Michael C. Chapman, Chair
Board of Commissioners
for

APPROVED AS TO FORM:
Sara J. Finlay (signature on file) 9/12/2007
Assistant Attorney General

Clallam County
Approved as to form only by:
Mark Nichols 7-19-08
Mark Nichols
Chief Deputy Prosecuting Attorney
Clallam County

PECIAL TERMS AND CONDITIONS

ARTICLE I -- COMPENSATION:

This is a fixed price, reimbursement contract. Within the total contract amount, travel, subcontracts, salaries and wages, benefits, printing, equipment, and other goods and services or other budget categories will be reimbursed on an actual cost basis unless otherwise provided in this contract. Any travel or subsistence reimbursement allowed under the contract shall be paid in accordance with rates set pursuant to RCW 43.03.050 and RCW 43.03.060 as now existing or amended and in agreement with federal rates. Receipts and/or backup documentation for any approved budget line items including travel related expenses that are authorized under this contract must be maintained by the Contractor and be made available upon request by the Military Department.

Some flexibility to shift funds between/among budget categories is allowed as follows: Changes to the budget in excess of 10% will not be reimbursed without the prior written authorization of the Department. Budget categories are as specified or defined in the budget sheet of the contract.

Under the PSIC Grant Program the following applies:

Changes to the budget under 10% may be made between/among budget categories requiring a non-federal match, or between/among non-matched budget categories. Changes to the budget between matched and non-matched budget categories will not be reimbursed without the prior written authorization of the Department.

Requests for reimbursement of funds requiring a non-federal match must include documentation demonstrating the match amount and detail supporting the match source and type. Documentation must state that match funds are from non-federal sources. Match requirements can be met through cash or in-kind sources consistent with 15 CFR Parts 24.3 and 24.24.

ARTICLE II -- REPORTS:

In addition to the reports as may be required elsewhere in this contract, the Contractor shall prepare and submit the following reports to the Department's Key Personnel:

<u>Financial</u>	<u>#/Copies</u>	<u>Due Date</u>
Quarterly Invoices	1	Within 30 days following the end of the quarter in which the work was performed.

Invoices must be submitted no more often than monthly, but at least quarterly. Failure to submit invoices in a timely manner will cause the Department to hold all requests for equipment approval until invoices are submitted.

Final Invoice (shall not exceed overall contract amount)	1	No later than 30th day following the contract end date
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All contract work must end on the contract end date, however the Contractor has up to 30 days after the contract end date to submit all final billing.

<u>Technical</u>	<u>#/Copies</u>	<u>Due Date</u>
Progress Report	Electronic	Every other month, on the 15th of the month, for the duration of the contract period
Final Report	Electronic	September 30, 2010

ARTICLE III -- KEY PERSONNEL:

The individuals listed below shall be considered key personnel. Any substitution must be made by written notification to the Military Department.

CONTRACTOR:

Patti Morris, Project Manager

MILITARY DEPARTMENT:

Jennifer Schaal, Program Manager

ARTICLE IV -- ADMINISTRATIVE REQUIREMENTS:

The Contractor shall comply with OMB Circular **A-87**, Cost Principles for State, Local, and Indian Tribal Governments; OMB **A-102**, Grants and Cooperative Agreements with State and Local Governments; and **A-133**, Audits of States, Local Governments, and Non-Profit Organizations.

ARTICLE V -- ADDITIONAL SPECIAL CONDITIONS AND MODIFICATION TO GENERAL CONDITIONS:

1. Funds are provided by the National Telecommunications and Information Administration (NTIA) in agreement with the U.S. Department of Homeland Security (DHS) solely for the purpose of enhancing the interoperable communications capability of public safety agencies to respond to and recover from catastrophic incidents and incidents of terrorism. The Contractor shall use the funds to perform tasks as described in the Statement of Work and Budget portions of the Contractor's request for funding. Funding may not be used to replace or supplant existing public safety agency funding.
2. The Contractor shall provide a match of non-federal origin for all PSIC acquisition and deployment activities. Said match may be in the form of goods, services and in-kind services.
3. Contractor acknowledges that since this contract involves federal funding, the period of performance described herein will likely begin prior to the availability of appropriated federal funds. Contractor agrees that it will not hold the Department, the State of Washington, or the United States liable for any damages, claim for reimbursement, or any type of payment whatsoever for services performed under this contract prior to distribution of appropriated federal funds.

Contractor agrees that it will not hold the Department, the State of Washington, or the United States liable for any damages, claim for reimbursement or any type of payment if federal funds are not appropriated or are not appropriated in a particular amount.

4. The Contractor shall comply with all federal civil rights laws including Title VI of the Civil Rights Act of 1964, as amended. The Contractor is required to take reasonable steps to ensure persons of limited English proficiency have meaningful access to language assistance services in conducting all PSIC funded activities.
5. The Contractor shall ensure objective subcontractor performance and eliminate unfair subcontractor competitive advantage. Any subcontractors that developed, drafted or helped prepare PSIC Investment Justifications, specifications, requirements, statements of work, invitations for bid and/or requests for proposal shall be excluded from competing for such procurements.

ARTICLE VI -- EQUIPMENT MANAGEMENT:

All equipment purchased under this contract, by the Contractor or a Subcontractor, will be recorded and maintained in an equipment inventory system.

1. Upon successful completion of the terms of this contract, all equipment purchased through this contract will be owned by the Contractor, or a recognized subcontractor/subgrantee for which a contract, subgrant agreement, or other means of legal transfer or ownership is in place.
2. The Contractor, or a recognized subcontractor/subgrantee, shall be responsible for any and all operation, maintenance, replacement, and for the safe operation of the equipment, including all questions of liability.
3. The Contractor shall maintain equipment records that include: a description of the property; the manufacturer's serial number, model number, or other identification number; the source of the equipment, including the Catalogue of Federal Domestic Assistance (CFDA) number; who holds title; the acquisition date; the cost of the equipment and the percentage of federal participation in the cost; the location, use and condition of the equipment at the date the information was reported; and disposition data including the date of disposal and sale price of the property.
4. Records for equipment shall be retained by the Contractor for a period of six (6) years from the date of the disposition, replacement or transfer. If any litigation, claim, or audit is started before the expiration of the six year period, the records shall be retained by the Contractor until all litigations, claims, or audit findings involving the records have been resolved.

5. The Contractor shall take a physical inventory of the equipment and reconcile the results with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the records shall be investigated by the Contractor to determine the cause of the difference. The Contractor shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.
6. The Contractor shall develop a control system to ensure adequate safeguards to prevent loss, damage, and theft of the property. Any loss, damage or theft shall be investigated and a report generated.
7. The Contractor will develop adequate maintenance procedures to keep the property in good condition.
8. If the Contractor is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
9. When original or replacement equipment is no longer needed for the original project or program or for other activities currently or previously supported by a federal agency, disposition of the equipment will be made as follows:
 - a. Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of by the Contractor with no further obligation to the awarding agency.
 - b. Items of equipment with a current per-unit fair market value of more than \$5,000 may be retained or sold and the Contractor shall compensate the federal-sponsoring agency for its share.
10. As subgrantees of federal funds, the Contractor must pass on equipment management requirements that meet or exceed the requirements outlined above for all subcontractors, consultants, and subgrantees who receive pass-through funding from this contract.

ARTICLE VII – SUBRECIPIENT MONITORING:

The Department will monitor the activities of the Contractor from award to closeout and for the life of equipment purchased under this contract. The goal of the Department's monitoring activities will be to ensure that agencies receiving federal pass-through funds are in compliance with federal and state audit requirements, federal grant guidance, applicable federal and state financial guides, as well as OMB Circular A-133 and A-122 where applicable.

Monitoring activities may include:

- review of performance reports;
- monitoring and documenting the completion of contract deliverables;
- documentation of phone calls, meetings, e-mails and correspondence;
- review of reimbursement requests to insure allowability and consistency with contract budget;
- observation and documentation of contract related activities, such as exercises, training, funded events and equipment demonstrations;
- on-site visits to review equipment records and inventories, verify source documentation for reimbursement requests and performance reports and verify completion of deliverables.

As subgrantees of federal funds, the Contractor is required to meet or exceed the monitoring activities, as outlined above, for all subcontractors, consultants, and subgrantees who receive pass-through funding from this contract.

ARTICLE VIII – ENVIRONMENTAL AND HISTORIC PRESERVATION

The Contractor shall ensure full compliance with FEMA's Environmental and Historic Preservation (EHP) Program. Information about these requirements can be found on FEMA's website at <http://www.fema.gov/plan/ehp/ehp-applicant-help.shtm>. Construction-based projects must comply with additional provisions of federal law, including, but not limited to, the National Environmental Policy Act (NEPA).

Washington Military Department
GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

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

- a. **"Department"** shall mean the Washington Military Department, as a state agency, any division, section, office, unit or other entity of the Department, or any of the officers or other officials lawfully representing that Department.
- b. **"Contractor"** shall mean that firm, organization, group, individual, or other entity performing services under this contract, and shall include all employees of the Contractor. It shall include any subcontractor retained by the prime Contractor as permitted under the terms of this contract. "Contractor" shall be further defined as one or the other of the following and so indicated on face sheet of the contract.
 - 1) **"Subrecipient"** shall mean a contractor that operates a federal or state assistance program for which it receives federal funds and which has the authority to determine both the services rendered and disposition of program funds.
 - 2) **"Vendor"** shall mean a contractor that agrees to provide the amount and kind of service or activity requested by the Department and that agrees to provide goods or services to be utilized by the Department.
- c. **"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 Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.
- d. **"Recipient"** – a nonfederal entity that expends federal awards received directly from a federal awarding agency to carry out a federal program.
- e. **"Pass-Through Entity"** means the Washington State Military Department as it is applied to this contract. As found in SAAM 50.30.30 – "A nonfederal entity that provides a federal award to a subrecipient to carry out a federal program."
- f. **"Nonfederal Entity"** is defined as a state local government or nonprofit organization (as defined in federal Circular A-133).
- g. **"Cognizant State Agency"** shall mean a state agency that has assumed the responsibility of implementing single audit requirements and coordinating audit follow-up for a particular grantee by virtue of providing the majority of federal assistance. If funds are received from more than one state agency, the cognizant state agency shall be the agency who contributes the largest portion of federal financial assistance to the subrecipient unless the designation has been reassigned to a different state agency by mutual agreement.
- h. **"Federal Financial Assistance"** – Assistance that nonfederal entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations or other assistance. It does not include amounts received for provision of vendor services to federal agencies or reimbursement for services rendered directly to individuals.
- i. **"Grant"** - For the purposes herein, the term "grant" may be used to mean "contracts" or "grants" or "agreements".
- j. **"CFDA Number"** – The five-digit number assigned to a federal assistance program in the federal Catalog of Federal Domestic Assistance (CFDA) or, in the absence of a catalog defined number, the number defined by instructions from the federal audit clearinghouse.
- k. **"CFR"** – Code of Federal Regulations
- l. **"OMB"** – Office of Management and Budget
- m. **"RCW"** - Revised Code of Washington
- n. **"WAC"** - Washington Administrative Code.

2. **SUBRECIPIENT MONITORING**

- a. The Department, as a Recipient and/or Pass-Through Entity, receives federal financial assistance under federal programs and is charged with maintaining compliance with federal and state laws and regulations regarding the monitoring, documentation, and auditing of subrecipient grant activities using federal financial assistance. Management and implementation guidelines for the federal programs ensure compliance with statutes, grant guidelines, the sub-award agreement, Office of Management and Budget (OMB) circulars (including OMB Circular A-133), subrecipient audits, and other guidance found in the Federal Register. The Department shall adhere to its Subrecipient Monitoring Policy and the Subrecipient Monitoring Procedures (WMD Policy number 00-025-05.)
- b. The Contractor shall perform under the terms of the contract and the Department has responsibility for reasonable and necessary monitoring of the Contractor's performance. The Department shall conduct contract monitoring activities on a regular basis. Monitoring is defined as any planned, ongoing, or periodic activity that measures and ensures contractor compliance with the terms, conditions, and requirements of a contract.

Monitoring involves prudent collection of information about Contractor operations and is not limited to site visits or the completion of formal reviews. Monitoring may include periodic contractor reporting to the Department, Department review of audit reports, invoice reviews, onsite reviews and observations, and surveys. Adequate documentation is essential for effective contract monitoring and will include copies of letters, meeting notes, and records of phone conversations as evidence that conscientious monitoring has occurred during the period of the contract. Subrecipient monitoring will occur throughout the year rather than relying solely on a once-a-year audit. The Contractor agrees to cooperate with all monitoring activities and to comply with reporting requirements.

The Department as the Recipient and/or Pass-Through Entity will conduct on-site visits as appropriate and required by contract for "for-profit" subrecipients, since the A-133 Single Audit does not apply to "for-profit" organizations.

3. **RECORDS, MONITORING AND AUDIT ACCESS**

- a. The Contractor shall cooperate with and fully participate in all monitoring or evaluation activities that are pertinent to this contract.
- b. Access to public records-The Contractor acknowledges that the Department is subject to the Public Records Act, Chapter 42.56 RCW, and that records prepared, owned, used or retained by the Department relating to the conduct of government or the performance of any governmental or proprietary function are available for public inspection and copying, except as exempt under RCW 42.56 or other statute which exempts or prohibits disclosure of specific information or records.
- c. The Contractor shall maintain all books, records, documents, data and other evidence relating to this contract and the provision of any materials, supplies, services and/or equipment under this contract herein, including, but not limited to, records of accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review and audit by personnel duly authorized by the Department, the Washington State Auditor's Office, and federal officials so authorized by law, rule, regulation, or contract. The Contractor will retain all books, records, documents, and other materials relevant to this contract and make them available for inspection, review or audit for six (6) years from the end date of this contract, date of final payment or conclusion of services performed under this contractor, whichever is later. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.

- d. Contractor shall provide right of access to its facilities and records to the Department and 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.

4. **SINGLE AUDIT ACT REQUIREMENTS (INCLUDING ALL AMENDMENTS)**

Non-federal entities as subrecipients that expend \$500,000 or more in one fiscal year of federal funds from all sources, direct and indirect, are required to have a single or a program-specific audit conducted in accordance with the Office of Management and Budget (OMB) Circular A-133-Audits of States, Local Governments, and Non-Profit Organizations (revised June 27, 2003, effective for fiscal years ending after December 31, 2003). Non-federal entities that spend less than \$500,000 a year in federal awards are exempt from federal audit requirements for that year, except as noted in Circular No. A-133. Circular A-133 is available on the OMB Home Page at <http://www.omb.gov> and then select "Grants Management" followed by "Circulars".

Contractors required to have an audit must ensure the audit is performed in accordance with Generally Accepted Auditing Standards (GAAS) as found in the Government Auditing Standards (the Revised Yellow Book) developed by the Comptroller General and the OMB Compliance Supplement. The Contractor has the responsibility of notifying the Washington State Auditor's Office and requesting an audit. Costs of the audit may be an allowable grant expenditure.

The Contractor shall maintain auditable records and accounts so as to facilitate the audit requirement and shall ensure that any subcontractors also maintain auditable records.

The Contractor is responsible for any audit exceptions incurred by its own organization or that of its subcontractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Contractor must respond to Department requests for information or corrective action concerning audit issues or findings within 30 days of the date of request. The Department reserves the right to recover from the Contractor all disallowed costs resulting from the audit.

Once the single audit has been completed, the Contractor must send a full copy of the audit to the Department and a letter stating there were no findings, or if there were findings, the letter should provide a list of the findings. The Contractor must send the audit and the letter no later than nine (9) months after the end of the Contractor's fiscal year(s) to:

**Accounting Manager
Washington Military Department
Finance Division, Building #1 TA-20
Camp Murray, WA 98430-5032**

In addition to sending a copy of the audit, the Contractor must include a corrective action plan for any audit findings and a copy of the management letter if one was received.

The Contractor shall include the above audit requirements in any subcontracts.

5. **RECAPTURE PROVISIONS**

In the event that the Contractor fails to expend funds under this contract in accordance with applicable state and federal laws and/or the provisions of this contract, the Department reserves the right to recapture funds in an amount equivalent to the extent of the noncompliance in addition to any other remedies available at law or in equity.

Such right of recapture shall exist for a period not to exceed six (6) years following contract termination or audit resolution, whichever is later. Repayment by the Contractor of funds under this recapture provision shall occur within 30 days of demand. The Department is required to institute legal proceedings to enforce the recapture provision.

6. **COMPLIANCE WITH APPLICABLE LAW**

The Contractor and all subcontractors shall comply with all applicable federal, state, tribal government, and local laws, regulations, and policies.