

Request for Quotation
RFQ 19-700

for

Zoom Video Communications

for the

K-20 Education Network

Released by
Office of Financial Management
PO Box 43113
Olympia, Washington 98504-3113

1. INTRODUCTION

1.1 BACKGROUND

The K-20 Education Network is the nation's first high-speed, high-capacity network linking colleges, universities, K-12 school districts and libraries statewide. The K-20 Education Network provides a dedicated, carrier class network for video, communication, and data services to education facilities across the state.

The K-20 Education Network currently provides dedicated video conferencing services to education facilities and users across the state.

In 2016, OFM/K-20 implemented Zoom to provide customers with a modern, cloud-based video conferencing service operating in parallel with the legacy Cisco hardware multipoint video conferencing bridges in operation since 2009.

1.2 PURPOSE

The Office of Financial Management (OFM) is conducting this procurement on behalf of the K-20 Education Network (www.k20wa.org) to renew its Zoom video conferencing services for the K-20 community.

The purpose of this Request for Quotation (RFQ) is to contract with one qualified Bidder or reseller of Zoom Video Communications, Inc. for services which include unified cloud video conferencing, online meetings, and group messaging to provide video conferencing services for and between multiple K-20 Education Network customers/users.

1.3 MINIMUM QUALIFICATIONS

Have a minimum of three (3) years' experience providing the Zoom Video Communications, Incorporated unified cloud video conferencing, online meetings, and group messaging to customers of equivalent size and complexity as the State of Washington's K-20 Education Network, the subject of this procurement.

1.4 PERIOD OF PERFORMANCE

The period of performance of any contract resulting from this RFQ is tentatively scheduled to begin on or about October 16, 2019. The term of this Agreement shall be for an initial three (3) year term with the option to add up to three subsequent renewal terms of 12 months each. The entire term of this Contract shall not exceed six (6) years. If either party fails to comply with any provision of this Agreement, this Agreement may be terminated immediately if such breach has not been cured within thirty (30) days of notice of such breach.

1.5 DEFINITIONS

Definitions for the purposes of this RFQ include:

“**OFM**” shall mean the Office of Financial Management.

“**Apparently Successful Bidder**” shall mean Bidder(s) selected as an entity to perform the anticipated services, subject to completion of contract negotiations and execution of a written contract.

“**Business Days**” or “**Business Hours**” shall mean Monday through Friday, 8 AM to 5 PM, local time in Olympia, Washington, excluding Washington State holidays.

“**Contract**” shall mean the RFQ, the Response, Contract document, all schedules and exhibits, and all amendments awarded pursuant to this RFQ.

“**Contractor**” shall mean the individual or company interested in the RFQ and that may or does submit a proposal in order to attain a contract with the OFM. Also known as “Bidder” or “Bidder”.

“**Host**” means an individual who can schedule and start Meetings. Every Meeting will have one Host.

“**K-20 Education Network**” means the Washington State high-speed, high-capacity network linking colleges, universities, K-12 school districts and libraries.

“**K-20 community**” shall mean customers and users of the K-20 Education Network.

“**Initial Subscription Term**” means the initial subscription term for a Service as specified in an Order Form.

“**Meeting**” means a Zoom meeting.

“**Named Host**” means an identified employee or contractor of Customer to whom Customer gives the right to host Meetings. A Named Host may host an unlimited number of Meetings, but only one Meeting at a time. A Named Host license may not be shared or used by anyone other than the individual licensed to be a Named Host.

“**Order Start Date**” means the date of Initial Subscription Term begins as specified in an Order Form.

“**OFM**” shall mean Office of Financial Management.

“**Participant**” means an individual, other than the Host, who participates in a Meeting.

“**Response**” shall mean the written proposal submitted by Bidder to OFM in accordance with this RFQ. The Response shall include all written materials and assurances submitted by Bidder as of the date set forth in the RFQ schedule or as further requested by OFM. The Response shall be in the English language, and all measurements and qualities will be stated in units required by law in the United States.

“**Reseller**” shall mean any Bidder that is certified and authorized by Zoom to serve as a reseller of Zoom Video Communications services.

“**Renewal Term**” means the renewal subscription term for a Service commencing after the Initial Subscription Term or another Renewal Term as specified in an Order Form.

“**Term of Service**” shall mean the minimum 12 month period of service.

“**Bidder**” shall mean the company, organization, or entity submitting a Response to this RFQ, its subcontractors and affiliates. Also known as “Bidder” or “Contractor”.

“Bidder Demarcation Point” shall mean a physical location at the Purchaser’s site where the Bidder’s service physically terminates and is cross-connected to the Purchaser’s equipment.

1.6 ADA

The OFM complies with the Americans with Disabilities Act (ADA). Bidders may contact the Procurement Coordinator to receive this RFQ in Braille or on tape.

1.7 CONTRACTING WITH CURRENT OR FORMER STATE EMPLOYEES

Specific restrictions apply to contracting with current or former state employees pursuant to 42.52 RCW. Bidders should familiarize themselves with the requirements prior to submitting a proposal that includes current or former state employees.

2. GENERAL INFORMATION

2.1 PROCUREMENT COORDINATOR

The Procurement Coordinator is the sole point of contact for this procurement. All communication between the Bidder and the State of Washington upon release of this RFQ shall be with the Procurement Coordinator, as follows:

Name	Brenda Rix
Mailing Address	Office of Financial Management PO Box 43113 Olympia, WA 98504-3113
E-Mail Address	Brenda.Rix@ofm.wa.gov
Telephone	(360) 902.0426

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

2.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Issue Request for Quotations	August 15, 2019
Bidders may submit written questions until 3:30 pm local time, Olympia, WA	August 22, 2019
OFM will issue responses	August 23, 2019
Complaints due	August 26, 2019
Bidder must submit Response by 3:30 Pacific Time	September 4, 2019
OFM announces "Apparent Successful Bidder" and begins contract negotiations	September 9, 2019
OFM notifies Bidders	September 9, 2019
Bidders may request Debriefing until 3:30 Pacific Time	September 12, 2019
OFM holds Debriefing Conferences, if requested	September 13-16, 2019
Subscription Start Date	October 16, 2019

OFM reserves the right to revise the above schedule.

2.3 QUESTIONS AND ANSWERS

To be considered responsive, Bidder MUST download a copy of this RFQ from the Electronic Business System (WEBS) web site. Failure to do so may result in dismissal of your bid response. Be sure to look at this website periodically in order to be sure you have downloaded any addenda or clarifications.

Bidders may e-mail written questions to the Procurement Coordinator. Questions will be accepted until the date set forth in the Section 2.2. Early submission of questions is encouraged. Questions and answers will be posted by addenda on Washington Electronic Business System (WEBS) and on www.ofm.wa.gov. Bidders may only rely on written statements issued by the Procurement Coordinator. Any oral communications are unofficial and are not binding on OFM.

2.4 SUBMISSION OF PROPOSALS

Bidders are required to submit proposals as an attachment to an e-mail to the Procurement Coordinator at the e-mail address above, on or before the proposal due date and time stated in Section 2.2.

Bidders should allow sufficient time to ensure timely receipt of the proposal by the Procurement Coordinator. Late Responses will not be accepted and will be automatically disqualified from further consideration.

OFM assumes no responsibility for delays caused by Bidder's e-mail, network problems or any other party. Zipped files cannot be received by OFM and cannot be used for submission of Responses. All proposals and any accompanying documentation become the property of the OFM and will not be returned.

2.5 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE

All proposals submitted in response to this solicitation shall become the property of the OFM. All proposals received shall remain confidential until the Apparently Successful Bidder has been announced; thereafter, the proposals shall be deemed public records as defined in Chapter 42.56 of the Revised Code of Washington (RCW).

Any information in the proposal that the Bidder desires to claim as proprietary and exempt from disclosure under the provisions of Chapter 42.56 RCW must be clearly designated. The information must be clearly identified and the particular exemption from disclosure upon which the Bidder is making the claim must be cited. Each page containing the information claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on the lower right hand corner of the page. Marking the entire proposal exempt from disclosure or as confidential will not be honored.

If a public records request is made for the information that the Bidder has marked as proprietary, the OFM will notify the Bidder of the request and of the date that the records will be released to the requester unless the Bidder obtains a court order enjoining that disclosure. If the Bidder fails to obtain the court order enjoining disclosure, the OFM will release the requested information on the date specified. If a Bidder obtains the court order enjoining disclosure, to the extent consistent with Chapter 42.56 RCW, the OFM shall maintain the confidentiality of the Bidder's information identified as proprietary.

Regardless of Bidder claims of proprietary information, all pricing information will be made publicly available upon award of a contract resulting from this RFQ.

2.6 REVISIONS TO THE RFQ

In the event it becomes necessary to revise any part of this RFQ, addenda will be published on the Washington Electronic Business System (WEBS) at <https://fortress.wa.gov/ga/webs/> and at http://ofm.wa.gov/contracts_procurements/default.asp. For this purpose, the published questions and answers and any other pertinent information shall be provided as an addendum to the RFQ and will be placed on the website.

The State of Washington also reserves the right to cancel or to reissue the RFQ in whole or in part, prior to execution of a contract.

2.7 ACCEPTANCE OF RFQ TERMS

The Bidder acknowledges that the submission of a Response, which includes a signed Bidder Certification and Assurance Form, attached as Exhibit A, constitutes a binding offer that is valid for 90 days from the due date for receipt of proposals.

2.8 RESPONSIVENESS

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

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

Bidders are liable for all errors or omissions contained in their Responses. Bidders will not be allowed to alter Response documents after the deadline for Response submission. OFM is not liable for any errors in Responses.

2.9 MOST FAVORABLE TERMS

The State of Washington 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. The State of Washington does reserve the right to contact a Bidder for clarification of its proposal.

The Apparent Successful Bidder should be prepared to accept this RFQ for incorporation into a contract resulting from this RFQ. 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 the State of Washington.

2.10 CONTRACT

The Apparently Successful Bidder (ASB) will be expected to enter into a contract, which is substantially the same as the proposed contract attached as Exhibit C. In addition, parties will be expected to enter into a subscription agreement with Zoom, an example of which is attached as Exhibit D.

In no event is a Bidder to submit its own standard contract terms and conditions in response to this solicitation. The Bidder may submit exceptions as allowed in the Certifications and Assurances section, Exhibit A to this solicitation. The OFM will review requested exceptions and accept or reject the same at its sole discretion.

Any specific areas of dispute with the attached terms and conditions must be identified in the Response and may, at the sole discretion of OFM, be grounds for disqualification from further consideration in the award of a Contract.

Bidder must explain why each item proposed as additional contract terms is in the state's best interest as a customer and how it will support the state's business objectives. Where terms and conditions cannot be changed and may have negative consequences on the quality of goods and services or their supply, Bidders are required to recommend methods of mitigating or limiting these negative consequences.

Bidder must review and identify the language in Exhibits C that Bidder finds problematic, state the issue, and, in the body of the document – utilizing Track Changes - propose the language or contract modification Bidder is requesting.

The final contract executed by the parties must satisfy the state's obligations with respect to performance-based contracting as directed in RCW 39.26.180. The parties may negotiate performance-based elements, in addition to those in Exhibit C. Other contract terms and conditions may be required to address issues associated with the family educational rights and privacy, accessibility for people with disabilities, data security and privacy, and protected health information.

The foregoing should not be interpreted to prohibit either party from proposing additional contract terms and conditions during negotiation of the final Contract.

The ASB will be expected to execute the Contract within ten (10) Business Days of its receipt of the final Contract. If the selected Bidder fails to sign the Contract within the allotted ten (10) days' time frame, OFM may elect to cancel the award, and award the Contract to the next ranked Bidder, or cancel or reissue this solicitation.

2.11 COSTS TO PROPOSE

The OFM will not be liable for any costs incurred by the Bidder in preparation of a proposal submitted in response to this RFQ or any other activities related to responding to this RFQ.

2.12 NO OBLIGATION TO CONTRACT

This RFQ does not obligate the state of Washington or the OFM to contract for services specified herein.

2.13 REJECTION OF PROPOSALS

The OFM 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 RFQ.

2.14 NON-ENDORSEMENT AND PUBLICITY

In selecting a Bidder to supply Services to the State of Washington, the State is neither endorsing Bidder's Products, nor suggesting that they are the best or only solution to the State's needs. By submitting a Response, Bidder agrees to make no reference to OFM, the K-20 Education Network, or the State of Washington in any literature, promotional material, brochures, sales presentation or the like, regardless of method of distribution, without prior review and express written consent.

2.15 ASSUMPTIONS

OFM will rely upon representations made in the Response. If the Bidder chooses to identify assumptions or dependencies on which it has based its proposal, OFM retains the right to determine if the Bidder's assumptions/dependencies render the Response non-responsive.

2.16 COMPLAINTS

This procedure is available to potential Bidders who are contemplating submitting a bid in response to this RFQ. Only complaints concerning the following subjects shall be considered:

- A claim that the solicitation unnecessarily restricts competition;
- A claim the solicitation evaluation or scoring process is unfair or flawed, or
- A claim the solicitation requirements are inadequate or insufficient to prepare a response.

Bidders complaining about this procurement shall follow the procedures described below. Complaints that do not follow these procedures shall not be considered. If a Bidder registers a complaint against this solicitation, the complaint cannot be raised again during the protest period.

All complaints must be in writing and signed by the complaining party or an authorized agent. The complaint must be sent to the Procurement Coordinator, or designee, by the date in Section 2.2 and must clearly articulate the basis for the complaint. The Bidder submitting the complaint must also include a proposed remedy.

Upon receipt of a complaint, a complaint review will be held by OFM. The OFM Procurement Coordinator will respond to complaints in writing and the OFM director will be notified of all complaints and provided a copy of the OFM's response. A copy of the response to the complaint, including any changes to the solicitation, will also be posted to WEBS.

The complaint process does not include an appeal process.

3.0 ADMINISTRATIVE REQUIREMENTS

3.1 LETTER OF SUBMITTAL

The Letter of Submittal and the attached Certifications and Assurances form (Exhibit A to this RFQ) and the Wage Theft Certification form (Exhibit A2 to this RFQ) must be signed and dated by a person authorized to legally bind the Bidder to a contractual relationship, e.g., the president or executive director of a corporation, the managing partner of a partnership, or the proprietor of a sole proprietorship. Signing the Letter of Submittal indicates that the Bidder accepts the terms and conditions of the RFQ. The Letter of Submittal shall contain the following information:

- a. Name, address, principal place of business, telephone number, fax number, and e-mail address of the legal entity or the individual with whom the contract would be written.
- b. Account Manager
Identification of the Account Manager to be the principal contact for OFM for the duration of the contract. The Account Manager will serve as the focal point for business matters and administrative activities. Provide the name, address, phone number, and e-mail address for the Account Manager.
- c. Project Manager
Identification of the Project Manager assigned to this project and a description of the roles and responsibilities of the Project Manager.
- d. A statement regarding whether subcontractors are/are not being used to provide any elements of the proposed video conferencing services. Subcontractors must be listed and their relationship described in this section of the Letter of Submittal.
- f. Terminations for Default
 - 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. The OFM 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 years, so indicate.

- g. A list of all RFQ addenda downloaded by the Bidder from WEBS and listed in order by addenda number and date. If there are no RFQ addenda, the Bidder must include a statement to that effect.
- h. A statement substantiating that the person who signs the letter is authorized to contractually bind the Bidder's firm.
- i. A statement substantiating that the Bidder meets all of the Minimum Qualifications as listed in Section 1.3, Minimum Qualifications.
- j. Identification of the page numbers on the Bidder's Response that are marked "Proprietary Information".
- k. A statement confirming that, if, during the term of the Contract, lower prices and rates are made available by the Bidder to any other customer for like terms, conditions, quantities and services, Purchaser will be given immediate benefit of such lower prices and rates.
- l. Lowest Corresponding Price. It is the responsibility of the Bidder to provide the most favorable terms to OFM.

3.2 BIDDERS CERTIFICATION AND ASSURANCES, WORKERS' RIGHTS FORMS

Bidders must submit a completed Bidder Certification and Assurances Form, Exhibit A, and the Workers' Rights Form, Exhibit A2. Please sign and include any attachments that are necessary.

3.3 ZOOM VIDEO COMMUNICATIONS VIDEO CONFERENCING SERVICE REQUIREMENTS ASSURANCE

Bidders must submit a completed Zoom Video Communications Unified Cloud Video Conferencing and Service Assurances, Exhibit B. No alternative specifications or requirements to those listed below will be accepted.

The attached Zoom Video Communications Unified Cloud Video Conferencing and Service Assurances (Exhibit B to this RFQ) must be signed and dated by a person authorized to legally bind the Bidder to a contractual relationship, e.g., the president or executive director of a corporation, the managing partner of a partnership, or the proprietor of a sole proprietorship. Signing the Zoom Video Communications Unified Cloud Video Conferencing and Service Assurances form indicates that the Bidder accepts the terms and conditions of the RFQ.

3.4 ADMINISTRATIVE SCREENING

Responses will be reviewed initially by the Procurement Coordinator to determine, on a pass/fail basis, compliance with the Administrative Requirements as specified herein. Evaluators will only evaluate Responses meeting all administrative requirements.

4.0 ZOOM VIDEO COMMUNICATIONS VIDEO CONFERENCING SERVICE REQUIREMENTS

4.1 SERVICE REQUIREMENTS

Zoom Video Communications video conferencing services must meet the following minimum requirements:

- Video conferencing using both desktop and mobile clients

- Audio participation in conferences using VOIP and telephony integration
- Content/desktop sharing
- Support for H.323/SIP room systems
- Chat/instant messaging during conferences
- Outlook plug-in or self-scheduling portal/app
- Free desktop client (Mac and Windows support)
- Free mobile client (iOS and Android support)
- Ability to join/participate in conferences without a paid license
- Support for ad-hoc and self-scheduled conferences
- Streaming/webinar support (for use with large conferences/presentations where only limited interaction is needed)
- Stability and cross-platform compatibility of content/desktop sharing features
- Licensing model that supports multiple subaccounts for decentralized license management

4.2 TRANSITION EXISTING SERVICES TO NEW SERVICE

Bidder agrees to work with Zoom to ensure any account transition or activation activities required for moving the existing OFM/K-20 owner account and subaccounts to Bidder's Zoom offering are completed without impacting availability, reliability, quality of service and continuity of service to OFM/K-20's customers and without requiring additional time, materials, cost or labor by OFM/K-20 or network staff and customers.

4.3 MINIMAL LICENSE AND ADD ON QUANTITIES

- Zoom Pro Education Site License - 25,000 base scheduler accounts
- Zoom Host 500 Capacity Add On - 75 accounts
- Zoom Video Webinar 500 Add On - 125 accounts
- Zoom Video Webinar 1000 Add-On – 1 account
- Zoom Cloud Room Connector - 500 H.323 concurrent connection licenses
- Zoom Cloud Storage – 500 Gbps

Zoom Communication licenses and add-ons must be divisible among subaccounts which can be based on K-20 Education Network sectors and/or functional groups. The management of the moves/adds/changes of the individual licenses within each subaccount shall be managed by the appropriate K-20 Education Network sector/functional group.

4.4 SERVICE RELIABILITY

Bidder's service must perform at a minimum 99.9 percent of the time during a calendar month.

5.0. BIDDER FINANCIAL RESPONSE

5.1 Introduction

The Pricing Worksheets for the Bidder's response are found in electronic form at the Washington Electronic Business System (WEBS) or attached herein.

5.2 Pricing Worksheet

The Bidder's Pricing Worksheet must be presented in the formats shown in the MS Excel worksheets.

6.0 EVALUATION AND SELECTION AS AN APPARENTLY SUCCESSFUL BIDDER

6.1 Overview

Contracts may be awarded to one (1) Bidder capable of providing the Zoom Video Communications unified cloud video conferencing, online meetings, and group messaging.

The Apparently Successful Bidder will be the Bidder who:

- Meet all requirements in Section 3: Administrative Requirements
- Meet all requirements in Section 4: Zoom Video Communications unified cloud video conferencing and service requirements.
- Meet all requirements in Section 6: Bidder Financial Response, completes the Bidder Evaluation Price (Attachment A), and offer the lowest total cost based on the *Evaluation Model described in the RFQ*.

If a Bidder is selected as an ASB, they will enter into contract negotiations with OFM.

6.2 Requirements

Responses meeting all of the administrative and Zoom Video Communications unified cloud video conferencing and service requirements will then be reviewed on a pass/fail basis to determine if the Response meets the Requirements. Only Responses meeting all Requirements will be further evaluated. The State reserves the right to determine, at its sole discretion, whether Bidder's response to a Requirement is sufficient to pass.

If only one Bidder is determined to be responsive, OFM may award a single contract without formal evaluation. At any time OFM may reject any and all proposals submitted in response to the RFQ.

6.3 Financial Evaluation

The financial evaluation will be based upon the Bidder responses to Attachment A – Pricing Worksheet.

The Bidder with the lowest Bidder Evaluation Price will be declared the ASB.

6.4 Notification to Vendors

The OFM will notify the Apparently Successful Bidder of their selection by e-mail upon completion of the evaluation process. Individuals or firms whose proposals have not been selected as an Apparently Successful Bidder will be notified separately by e-mail.

6.5 Debriefing of Unsuccessful Bidders

Any Bidder who has submitted a proposal and been notified that they were not selected as an Apparently Successful Bidder may request a debriefing. The request for a debriefing conference must be received by the Procurement Coordinator as scheduled in Section 2.2 of this RFQ. Debriefings will be held as scheduled in Section 2.2 of this RFQ.

Discussion at the debriefing conference will be limited to the following:

- Evaluation and scoring of the Bidder's proposal;
- Critique of the requesting Bidder's proposal based on the evaluation; and
- Review of Bidder's final score in comparison with other final scores without identifying the other firms.

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 hour.

6.6 Protest Procedure

Protests may be made only by Bidders who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Bidder is allowed five (5) business days to file a protest of the acquisition with the Procurement Coordinator. Protests must be received by the Procurement Coordinator no later than 3:30 PM., Local Time, Olympia, Washington, as scheduled in Section 2.2. Protests may be submitted by email, but must then be followed by the document with an original signature.

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, addressed to the Procurement Coordinator, and signed by the protesting party or an authorized Agent. The protest must state the RFQ number, 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.

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 OFM 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) OFM's assessment of its own and/or other agencies' needs or requirements.

Upon receipt of a protest, a protest review will be held by the OFM. The OFM 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 the delay.

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

The final determination of the protest shall:

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

If the OFM determines that the protest is without merit, the OFM will enter into a contract with the Apparently Successful Contractor. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

BIDDER RESPONSE DOCUMENT CHECKLIST

- Cover Letter As described in RFQ Section 3.1
- Exhibit A Certifications and Assurances
- Exhibit A2 Wage Theft Certification
- Exhibit B Service Assurances
- Exhibit C Red-line Contract Issues
- Exhibit D Subscription Agreement
- Attachment A Bidder Evaluation Pricing Worksheet

Exhibit A
CERTIFICATIONS AND ASSURANCES

Issued by the State of Washington

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

The prices in this Response have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offer or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered. The prices in this Response have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before Contract award unless otherwise required by law. No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition. However, we may freely join with other persons or organizations for the purpose of presenting a single proposal or bid.

The attached Response is a firm offer for a period of 90 days following the Response Due Date specified in the RFQ, and it may be accepted by OFM without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 90 day period. In the case of protest, your Response will remain valid for 120 days or until the protest is resolved, whichever is later.

In preparing this Response, we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to the State's solicitation, or prospective Contract, and who was assisting in other than his or her official, public capacity. Neither does such a person nor any member of his or her immediate family have any financial interest in the outcome of this Response. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)

We understand that the State will not reimburse us for any costs incurred in the preparation of this Response. All Responses become the property of the State, and we claim no proprietary right to the ideas, writings, items or samples unless so stated in the Response. Submission of the attached Response constitutes an acceptance of the evaluation criteria and an agreement to abide by the procedures, compliance with Mandatory and all other administrative requirements described in the solicitation document.

We understand that any Contract awarded, as a result of this Response will incorporate all the solicitation requirements. Submission of a Response and execution of this Certifications and Assurances document certify our willingness to comply with the Contract terms and conditions appearing in Exhibit C, or substantially similar terms, if selected as a contractor. It is further understood that our standard contract will not be considered as a replacement for the terms and conditions appearing in Exhibit C of this solicitation.

We (circle one) **are / are not** submitting proposed Contract exceptions (see Section 2.10, *Contract*).

Bidder Signature

Bidder Company Name

Title

Date

Exhibit B
ZOOM VIDEO COMMUNICATIONS VIDEO CONFERENCING
AND SERVICE ASSURANCES

Issued by the State of Washington

We make the following assurances as a required element of the Response, to which it is attached, affirming and acknowledging that this response meets or exceeds compliance with the requirements stated in Sections 4 in its entirety, of the RFQ and that meeting or exceeding the requirements are necessary to the award and/or continuation of the resulting Contract.

We understand that any Contract awarded, as a result of this Response will include and incorporate all the Zoom Video Communications Unified Video Conferencing and Service requirements contained in Section 4 of the RFQ. Submission of a Response and execution of this Assurances document certify our willingness to comply with the Contract terms and conditions appearing in Exhibits C or substantially similar terms, if selected as a contractor.

Bidder Signature

Bidder Company Name

Title

Date

EXHIBIT C
PROPOSED CONTRACT

Contract Number KXXXX

***Zoom Video Communications
for the
K-20 Education Network***

between

***State of Washington
Office of Financial Management***

and

Bidder

**Contract Between the
State of Washington
Office of Financial Management/K20 Network
and**

This Contract, OFM Contract No., is made and entered into by and between the state of Washington, Office of the Governor, hereinafter referred to as the "OFM" and the below name firm, hereinafter referred to as "CONTRACTOR."

Contractor Name:
Address:
City, State, Zip Code:
Phone:
E-mail:
WA State UBI No.:

1. PURPOSE

2. SCOPE OF WORK

3. PERIOD OF PERFORMANCE

The period of performance under this contract will be _____ 2016 - _____, or a date mutually agreed upon by the OFM and the CONTRACTOR.

4. COMPENSATION

Total compensation payable to CONTRACTOR for satisfactory performance of the work under this contract shall not exceed _____ Dollars (\$ _____), based on the Exhibit B, Pricing, attached hereto and incorporated by this reference.

5. BILLING PROCEDURE AND PAYMENT

OFM will pay CONTRACTOR upon acceptance of service provided and receipt and approval of a properly completed invoice, which shall be submitted to the Contract Manager.

The invoice shall describe and document, to the OFM'S satisfaction, a description of the work performed and the fees. The invoice shall include reference to OFM Contract No.K.

Payment shall be considered timely if made by the OFM within thirty (30) calendar days after receipt of the properly completed invoice. Payment shall be sent to the address designated by the CONTRACTOR.

The OFM may, in its sole discretion, terminate the contract or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to satisfactorily comply with any term or condition of this contract.

No payment in advance or in anticipation of services or supplies to be provided under this contract shall be made by the OFM.

6. CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this contract.

CONTRACTOR Contract Manager Information:	OFM Contract Manager Information:
Name	Name
Address	Address
Address	Address
Phone:	Phone:
e-mail address:	e-mail address:

7. CONTRACT AMENDMENTS

With the exception of administrative changes, the contract may be changed, modified or amended only by written agreement executed by both parties. In the case of administrative changes, both parties agree that changes can be memorialized by letter.

8. INSURANCE

The CONTRACTOR shall provide insurance coverage, which shall be maintained in full force and effect during the term of this contract, as follows:

- a. Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence.

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

- b. The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insureds under the insurance policy/ies.

All policies shall be primary to any other valid and collectable insurance. CONTRACTOR shall instruct the insurers to give OFM thirty (30) calendar days advance notice of any insurance cancellation.

CONTRACTOR shall submit to OFM within fifteen (15) calendar days of the contract effective date, a certificate of insurance that outlines the coverage and limits defined in the Insurance section. CONTRACTOR shall submit renewal certificates as appropriate during the term of the contract.

9. ASSURANCES

OFM and the CONTRACTOR agree that all activity pursuant to this contract will be in accordance with all the applicable current deferral, state and local laws, rules, and regulations.

10. ORDER OF PRECEDENCE

Each of the exhibits listed below is by this reference hereby incorporated into this contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations

- Special terms and conditions as contained in this basic contract instrument
- Exhibit A – General Terms and Conditions
- Exhibit B – Pricing
- Exhibit C – Subscription Agreement
- Any other provision, term or material incorporated herein by reference or otherwise incorporated

11. ENTIRE AGREEMENT

This contract, including 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.

12. CONFORMANCE

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

13. APPROVAL

This contract shall be subject to the written approval of the OFM’S authorized representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

NAME OF CONTRACTOR

OFFICE OF FINANCIAL MANAGEMENT

Signature

Signature

Title

Date

Title

Date

Contractor Information:

Did you retire from a Department of Retirement Systems (DRS) covered employer under the Early Retirement Factors (ERF) 2008?

Yes No

Is your business a Small, Mini, or Micro Business, per RCW 39.26.101?

Yes No

Small Business means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that:

- (a) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either:
 - (I) Fifty or fewer employees; or,
 - (II) A gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years; or,
- (b) Is certified with the office of women and minority business enterprises under chapter 39.19 RCW

Mini Business means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that:

- (a) Is owned and operated independently from all other businesses; and
- (b) has a gross revenue of less than three million dollars, but one million dollars or more annually as reported on its federal tax return or on its return filed with the department of revenue.

Micro business means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that:

- (a) Is owned and operated independently from all other businesses; and,
 - (b) has a gross revenue of less than one million dollars annually as reported on its federal tax return or on its return filed with the department of revenue.
-

Is your business certified, on either the state or federal level, as being a small business owned and controlled by minority, women, or socially and economically disadvantaged persons?

Yes No

Is your business at least 51% owned and controlled by a Veteran of any branch of the United States armed forces?

Yes No

SAMPLE

EXHIBIT A -

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

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

- a. "OFM" shall mean the Office of Financial Management of the State of Washington, any division, section, office, unit or other entity of the OFM, or any of the officers or other officials lawfully representing that OFM.
- b. "AGENT" shall mean the Director, and/or the delegate authorized in writing to act on the Director's behalf.
- c. "CONTRACTOR" shall mean that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the CONTRACTOR.
- d. "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" means SUBCONTRACTOR(s) in any tier.

2. ACCESS TO DATA

In compliance with RCW 39.26.180(2), the CONTRACTOR shall provide access to data generated under this contract to OFM, 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.

3. ADVANCE PAYMENTS PROHIBITED

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

4. AMENDMENTS

With the exception of administrative changes, 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. In the case of administrative changes, both parties agree that changes can be memorialized by letter.

5. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The CONTRACTOR must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

6. ASSIGNMENT

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

7. ATTORNEYS' FEES

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

8. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

The CONTRACTOR shall not use or disclose any information concerning the OFM, 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 the OFM, or as may be required by law.

9. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the OFM may, in its sole discretion, by written notice to the CONTRACTOR terminate this contract if it is found after due notice and examination by the AGENT that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONTRACTOR in the procurement of, or performance under this contract.

In the event this contract is terminated as provided above, the OFM shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of the contract by the CONTRACTOR. The rights and remedies of the OFM provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the AGENT makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

10. 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 the OFM. The OFM shall be considered the author of such materials. In the event the materials are not considered "works for hire" under the U.S. Copyright laws, CONTRACTOR hereby irrevocably assigns all right, title, and interest in materials, including all intellectual property rights, to the OFM 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, CONTRACTOR hereby grants to the OFM a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The CONTRACTOR warrants and represents that CONTRACTOR has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the OFM.

The CONTRACTOR shall exert all reasonable effort to advise the OFM, 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.

The OFM shall receive prompt written notice of each notice or claim of infringement received by the CONTRACTOR with respect to any data delivered under this contract. The OFM shall have the right to modify or remove any restrictive markings placed upon the data by the CONTRACTOR.

11. 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.

The OFM 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.

12. DEBARMENT: CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY AND VOLUNTARY EXCLUSION—PRIMARY AND LOWER TIER COVERED TRANSACTIONS

- a. Contractor, defined as the primary participant and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:
 - 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or OFM.
 - 2) Have not within a three-year period preceding this Contract, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
 - 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and
 - 4) Have not within a three-year period preceding the signing of this Contract had one or more public transactions (Federal, State, or local) terminated for cause of default.
- b. Where the Contractor is unable to certify to any of the statements in this Contract, the Contractor shall attach an explanation to this Contract.
- c. The Contractor agrees by signing this Contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by OFM.
- d. The Contractor further agrees by signing this Contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

- 1) The lower tier contractor certifies, by signing this Contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or OFM.
 - 2) Where the lower tier contractor is unable to certify to any of the statements in this Contract, such contractor shall attach an explanation to this Contract.
- e. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact OFM for assistance in obtaining a copy of these regulations.

13. DISALLOWED COSTS

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

14. 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 AGENT.

- 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 AGENT and the other party's (respondent's) contract manager within 3 working calendar days after the parties agree that they cannot resolve the dispute.
- b. The respondent shall send a written answer to the requester's statement to both the agent and the requester within 5 working calendar days.
- c. The AGENT shall review the written statements and reply in writing to both parties within 10 working days. The AGENT 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.

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

15. DUPLICATE PAYMENT

The OFM 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.

16. 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.

17. INDEMNIFICATION

To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend, and hold harmless State, agencies of State and all officials, agents and employees of State, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. "Claim," as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting therefrom.

CONTRACTOR'S obligations to indemnify, defend, and hold harmless includes any claim by CONTRACTORS' agents, employees, representatives, or any subcontractor or its employees.

CONTRACTOR expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to CONTRACTOR'S or any subcontractor's performance or failure to perform the contract. CONTRACTOR'S obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

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

18. INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent contractor relationship will be created by this contract. The CONTRACTOR and his or her employees or agents performing under this contract are not employees or agents of the OFM. The CONTRACTOR will not hold himself/herself out as or claim to be an officer or employee of the OFM or of the State of Washington by reason hereof, nor will the CONTRACTOR make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with the CONTRACTOR.

19. 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, OFM may collect from the CONTRACTOR the full amount payable to the Industrial Insurance accident fund. The OFM may deduct the amount owed by the CONTRACTOR to the accident fund from the amount payable to the CONTRACTOR by the OFM 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 rights to collect from the CONTRACTOR.

20. 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.

21. LIMITATION OF AUTHORITY

Only the AGENT or AGENT'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 AGENT.

22. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

In the event of the CONTRACTOR'S non-compliance or refusal to comply with any nondiscrimination law, regulation, or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the CONTRACTOR may be declared ineligible for further contracts with the OFM. The CONTRACTOR shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

23. NONDISCRIMINATION

During the performance of this contract, the CONTRACTOR shall comply with all federal and state nondiscrimination laws, regulations and policies.

24. PRIVACY

Personal information including, but not limited to, "Protected Health Information," collected, used, or acquired in connection with this contract shall be protected against unauthorized use, disclosure, modification or loss. CONTRACTOR shall ensure its directors, officers, employees, subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the OFM 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 OFM for any damages related to the CONTRACTOR'S unauthorized use of personal information.

25. PUBLICITY

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

26. 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.

CONTRACTOR shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at

all reasonable times to inspection, review or audit by the OFM, personnel duly authorized by the OFM, 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 resolved.

27. 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.

28. RIGHT OF INSPECTION

The CONTRACTOR shall provide right of access to its facilities to the OFM, 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.

29. 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, the OFM may terminate the contract under the "Termination for Convenience" clause, without the ten-day notice requirement, subject to renegotiation at the OFM'S discretion under those new funding limitations and conditions.

30. 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.

31. SITE SECURITY

While on OFM premises, CONTRACTOR, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

32. 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 the OFM. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the Department for any breach in the performance of the contractor's duties. 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 agreement are carried forward to any subcontracts. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the OFM or as provided by law.

33. 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.

34. TERMINATION DUE TO CHANGE IN FUNDING

If the funds OFM relied upon to establish this Contract are withdrawn or reduced, or if additional or modified conditions are placed on such funding, OFM may immediately terminate this Contract by providing written notice to the Contractor. The termination shall be effective on the date specified in the notice of termination.

35. TERMINATION FOR CAUSE

In the event the OFM determines the CONTRACTOR has failed to comply with the conditions of this contract in a timely manner, the OFM has the right to suspend or terminate this contract. Before suspending or terminating the contract, the OFM shall notify the CONTRACTOR in writing of the need to take corrective action. If corrective action is not taken within 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.

The OFM 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 the OFM 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 the OFM provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

36. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this contract, the OFM may, by 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, the OFM 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.

37. TERMINATION PROCEDURES

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

The OFM shall pay to the CONTRACTOR the agreed upon price, if separately stated, for completed work and services accepted by the OFM, and the amount agreed upon by the CONTRACTOR and the OFM for (i) completed work and services for which no separate price is stated, (ii) partially completed work and

services, (iii) other property or services that are accepted by the OFM, and (iv) the protection and preservation of property, unless the termination is for default, in which case the AGENT shall determine the extent of the liability of the OFM. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The OFM may withhold from any amounts due the CONTRACTOR such sum as the AGENT determines to be necessary to protect the OFM against potential loss or liability.

The rights and remedies of the OFM 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 the AGENT, 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 the OFM, in the manner, at the times, and to the extent directed by the AGENT, all of the rights, title, and interest of the CONTRACTOR under the orders and subcontracts so terminated, in which case the OFM 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 the AGENT to the extent AGENT may require, which approval or ratification shall be final for all the purposes of this clause;
- e. Transfer title to the OFM and deliver in the manner, at the times, and to the extent directed by the AGENT any property which, if the contract had been completed, would have been required to be furnished to the OFM;
- f. Complete performance of such part of the work as shall not have been terminated by the AGENT; and
- g. Take such action as may be necessary, or as the AGENT may direct, for the protection and preservation of the property related to this contract, which is in the possession of the CONTRACTOR and in which the OFM has or may acquire an interest.

38. TREATMENT OF ASSETS

- a. Title to all property furnished by the OFM shall remain in the OFM. Title to all property furnished by the CONTRACTOR, for the cost of which the CONTRACTOR is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the OFM upon delivery of such property by the CONTRACTOR. Title to other property, the cost of which is reimbursable to the CONTRACTOR under this contract, shall pass to and vest in the OFM upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the OFM in whole or in part, whichever first occurs.

- b. Any property of the OFM furnished to the CONTRACTOR shall, unless otherwise provided herein or approved by the OFM, be used only for the performance of this contract.
- c. The CONTRACTOR shall be responsible for any loss or damage to property of the OFM that results from the negligence of the CONTRACTOR or which 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 OFM property is lost, destroyed or damaged, the CONTRACTOR shall immediately notify the OFM and shall take all reasonable steps to protect the property from further damage.
- e. The CONTRACTOR shall surrender to the OFM all property of the OFM 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.

39. U.S. Department of Treasury, Office of Foreign Assets Control

The OFM complies with U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) payment rules. OFAC prohibits financial transactions with individuals or organizations, which have been placed on the OFAC Specially Designated Nationals (SDN) and Blocked Persons sanctions list located at <http://www.treas.gov/offices/enforcement/ofac/index.html>. Compliance with OFAC payment rules ensures that the OFM does not conduct business with individuals or organizations that have been determined to be supporters of terrorism and international drug dealing or that pose other dangers to the United States.

Prior to making payment to individuals or organizations, the OFM will download the current OFAC SDN file and compare it to OFM and statewide Bidder files. In the event of a positive match, the OFM reserves the right to: (1) make a determination of "reasonability" before taking the positive match to a higher authority, (2) seek assistance from the Washington State Office of the State Treasurer (OST) for advanced assistance in resolving the positive match, (3) comply with an OFAC investigation, if required, and/or (4) if the positive match is substantiated, notify the contractor in writing and terminate the contract according to the Termination for Convenience provision without making payment. The OFM will not be liable for any late payment fees or missed discounts that are the result of time required to address the issue of an OFAC match.

40. WAIVER

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

Exhibit C
Sample Subscription Agreement

SAMPLE

SUBSCRIPTION AGREEMENT

This is a legal agreement ("Agreement") between the OFM/K-20 Network identified in the signature block to this Agreement ("OFM/K-20 Network"), and "Bidder", for use of the "Bidder" Video Communications, product subscriptions, which OFM/K-20 Network has licensed as specified in Exhibit A ("Products"). "End User" refers to an individual within the groups specified in Exhibit A and authorized by OFM/K-20 Network to use the Products. The Products are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Special terms are also set forth in Exhibit A. This Agreement is dated _____ ("Effective Date").

1. LICENSE. "Bidder" hereby grants to OFM/K-20 Network a non-exclusive, non-transferable, worldwide right for End Users to use the Products, subject to the terms and conditions of this Agreement. OFM/K-20 Network is responsible for use of the Products by End Users and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with each End User's use of the Products. OFM/K-20 Network shall notify "Bidder" immediately of any unauthorized use of any password or account or any other known or suspected breach of security or misuse of the Products. All rights not expressly granted herein are reserved by "Bidder" and its licensors.

2. PRICES AND FULFILLMENT. For each Product license acquired by OFM/K-20 Network, OFM/K-20 Network will be billed at prices set forth in Exhibit A. The prices specified in Exhibit A include all charges for the right to use, standard support as specified by "Bidder" and updates made commercially available, but not for customization, sales taxes, and duties unless called out separately on the "Bidder" invoice. All pricing terms are confidential, and OFM/K-20 Network agrees not to disclose them to any third party.

3. INVOICES & PAYMENTS. OFM/K-20 Network shall pay all invoices within 30 days of the date of such invoice. Except as explicitly provided in this Agreement, all payment obligations are non-cancelable and all amounts paid are non-refundable. The fees paid by OFM/K-20 Network are exclusive of all taxes, levies, or duties imposed by taxing authorities, and unless tax exempt, OFM/K-20 Network shall be responsible for payment of all such applicable taxes, levies, or duties, excluding only United States (federal or state) taxes based solely on "Bidder's" income. OFM/K-20 Network agrees the billing and contact information provided to "Bidder" is complete and accurate. If OFM/K-20 Network believes their bill is incorrect, OFM/K-20 Network must contact "Bidder" in writing within 30 days of the invoice date of the invoice containing the amount in question to be eligible to receive an adjustment or credit.

4. NO COMMERCIAL USE. Other than using the Products as permitted under the terms and conditions of this Agreement or other written agreements between OFM/K-20 Network and "Bidder", OFM/K-20 Network may not sublicense, sell, resell, transfer, assign, distribute, make any commercial use of, use on a timeshare or service bureau basis, or use to operate a Web-site or otherwise generate income from the Products.

5. PROPRIETARY RIGHTS. "Bidder" or its licensors own and shall retain all proprietary rights, including all copyright, patent, trade secret, trademark and all other intellectual property rights, in and to the Products. "Bidder" shall retain ownership of any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by OFM/K-20 Network or any other party relating to the Products. OFM/K-20 Network acknowledges that the licenses granted under this Agreement do not provide OFM/K-20 Network with title to or ownership of the Products, but only a right to use under the terms and conditions of this Agreement. OFM/K-20 Network shall not cause or permit the modification, disassembly, decompilation or reverse engineering of the Products or otherwise attempt to gain access to the source code to the Products. OFM/K-20 Network may not modify, adapt, translate or create derivative works based on all or any part of the Products. OFM/K-20 Network shall not use the Products in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Products.

6. TERM AND TERMINATION. The term of this Agreement shall be for an initial one (1) year term with two subsequent renewal terms of 12 months each unless either party provides the other thirty (30) days written notice prior to the applicable Effective Date anniversary. If either party fails to comply with any provision of this Agreement, this Agreement may be terminated immediately if such breach has not been cured within thirty (30) days of notice of such breach. Sections 2 through 11, inclusive, shall survive any termination of this Agreement. Upon any termination of this Agreement, OFM/K-20 Network shall cease any further use of the Products and destroy any copies of associated software within OFM/K-20 Network's possession and control.

7. SERVICE LEVEL AGREEMENT: "Bidder" shall uphold 99.9% uptime for its services under this subscription. Any OFM/K-20 Network downtime or interruption of services associated with this subscription agreement beyond the stated uptime

metrics shall be addressed by "Bidder" in the form of a credit towards the Subscriber's account in the amount equal to the downtime as relative to the Subscriber's monthly subscription amount. For any issues with the service that cause the OFM/K-20 Network to be without service or to be unable to conduct effective meetings over "Bidder", Subscriber will be required to notify "Bidder" of these issues. Upon notification of these issues, "Bidder" shall have 15 business days to provide a satisfactory resolution to these issues, otherwise Subscriber may terminate this agreement due to breach of agreement.

8. WARRANTIES.

8.1 LIMITED WARRANTY. "Bidder" warrants to OFM/K-20 Network during the Term of this Agreement that the Products will, in all material respects, conform to the functionality described in the "Bidder" documentation. "Bidder's sole and exclusive obligation, and OFM/K-20 Network's sole and exclusive remedy for a breach of this warranty shall be that "Bidder" shall be required to use commercially reasonable efforts to modify the Products to conform in all material respects the "Bidder" documentation, and if "Bidder" is unable to materially restore such functionality within thirty (30) days from the date of written notice of said breach, OFM/K-20 Network shall be entitled to terminate the Agreement upon written notice and shall be entitled to receive a pro-rata refund of the unused license fees which have been paid in advance (if any) under this Agreement. This warranty shall be in effect for the first thirty (30) days ("Warranty Period") from the date the applicable Products are first provided to the OFM/K-20 Network. In the event of any material non-conformance reported after the Warranty Period, "Bidder's sole and exclusive obligation and OFM/K-20 Network's sole and exclusive remedy shall be to obtain error corrections through "Bidder's technical support services.

8.2 WARRANTY DISCLAIMER. EXCEPT AS EXPLICITLY PROVIDED IN THIS AGREEMENT, "BIDDER" AND ITS LICENSORS EXPRESSLY DISCLAIM ANY AND ALL OTHER REPRESENTATIONS AND WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE WITH RESPECT THERETO, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR THE CONTINUOUS, UNINTERRUPTED, ERROR-FREE, VIRUS-FREE, OR SECURE ACCESS TO OR OPERATION OF THE PRODUCTS AND/OR "BIDDER" SERVICES. "BIDDER" EXPRESSLY DISCLAIMS ANY WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION OR DATA ACCESSED OR USED IN CONNECTION WITH THE PRODUCTS.

9. INDEMNIFICATION.

9.1 "Bidder" agrees to indemnify, defend and hold harmless OFM/K-20 Network from any third party suits, losses, claims, demands, liabilities, costs and expenses (including reasonable attorney and accounting fees) that OFM/K-20 Network may sustain or incur arising from infringement or misappropriation by "Bidder" of any copyright, trademark or trade secret of a third party, or any US patent issued or existing on or before the Effective Date; provided that OFM/K-20 Network complies with the terms of Section 9.3 below. In the event that the licensed Products are, or in "Bidder's sole opinion is likely to be, enjoined due to the type of infringement described in this Section 8, "Bidder", at its option and expense, may (a) replace the applicable Products with functionally equivalent non-infringing technology or (b) obtain a license for OFM/K-20 Network's continued use of the applicable Products, or, if the foregoing alternatives are not reasonably available to "Bidder" (c) terminate this Agreement and refund any sums prepaid for the unused Term, if any.

9.2 Provided that "Bidder" complies with the terms of Section 9.3 below, OFM/K-20 Network agrees to the extent permitted by the law applicable to OFM/K-20 Network and without waiving sovereign immunity, to indemnify, defend and hold harmless "Bidder", its affiliates, officers, directors, employees, consultants, agents, suppliers and resellers from any and all third party claims, liability, damages and/or costs (including, but not limited to, attorney's fees) arising from End Users use of the Products, OFM/K-20 Network's violation of this Agreement or the infringement or violation by OFM/K-20 Network or any End User, of any intellectual property or other right of any person or entity.

9.3 In claiming any indemnification under this Section 9, the indemnified party shall promptly provide the indemnifying party with notice of any claim that the indemnified party believes is within the scope of the obligation to indemnify. The indemnified party may, at its own expense, assist in the defense if it so chooses, but the indemnifying party shall control the defense and all negotiations relative to the settlement of any such claim. Any settlement intended to bind the indemnified party shall not be final without the indemnified party's written consent, which consent shall not be unreasonably withheld or delayed.

10. LIMITATION OF LIABILITY.

10.1 "BIDDER" SHALL NOT BE LIABLE TO OFM/K-20 NETWORK OR ANY THIRD PARTY FOR (i) ANY UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF THE WEB SITE, ANY CONTENT, OFM/K-20 NETWORK DATA, SYSTEM DATA, OTHER DATA FILES, PROGRAMS OR INFORMATION THROUGH ERROR, OMISSION, ACCIDENT OR FRAUDULENT MEANS OR DEVICES NOT DIRECTLY ATTRIBUTABLE TO "BIDDER"'S NEGLIGENT ACTS OR OMISSIONS, OR FOR OTHER CIRCUMSTANCES OUTSIDE OF "BIDDER"'S REASONABLE CONTROL, OR (ii) ANY MALFUNCTION OR CESSATION OF INTERNET SERVICES BY INTERNET SERVICE PROVIDER OR OF ANY OF THE NETWORKS THAT FORM THE INTERNET WHICH MAY AFFECT THE OPERATION OF THE "BIDDER" SOLUTION.

10.2 IN NO EVENT SHALL EITHER PARTY OR ITS LICENSORS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, EXCEPT A CLAIM RELATED TO BODILY INJURY OR DEATH, OR DAMAGES FOR LOSS OF REVENUES OR PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY AGREES TO TAKE REASONABLE ACTION TO MITIGATE ITS DAMAGES.

10.3 IN NO EVENT SHALL "BIDDER"'S LIABILITY FOR ANY DAMAGES EXCEED AN AMOUNT EQUAL TO THE TOTAL FEES PAID TO "BIDDER" UNDER THIS AGREEMENT IN THE PRIOR 12 MONTHS. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, MISREPRESENTATIONS, NEGLIGENCE, STRICT LIABILITY AND OTHER TORTS. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

11. FORCE MAJEURE. Neither party hereto will be liable for defaults or delays due to Acts of God, or the public enemy, acts or demands of any government or governmental OFM, fires, floods, accidents, or other unforeseeable causes beyond its control and not due to its fault or negligence.

12. MISCELLANEOUS

12.1 Choice of Law. This Agreement shall be governed by and construed under the laws of the State of Washington, U.S.A., as applied to agreements entered into and to be performed in Washington.

12.2 Waiver and Severability. Failure by either party to exercise any of its rights under, or to enforce any provision of, this Agreement will not be deemed a waiver or forfeiture of such rights or ability to enforce such provision. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision will be amended to achieve as nearly as possible the same economic effect of the original provision and the remainder of this Agreement will remain in full force and effect.

12.3 General Provisions. This Agreement embodies the entire understanding and agreement between the parties respecting the subject matter of this Agreement and supersedes any and all prior understandings and agreements between the parties respecting such subject matter. Any and all rights and remedies of either parties upon breach or other default under this Agreement will be deemed cumulative and not exclusive of any other right or remedy conferred by this Agreement or by law or equity on either party, and the exercise of any one remedy will not preclude the exercise of any other. The captions and headings appearing in this Agreement are for reference only and will not be considered in construing this Agreement. No text or information set forth on any other purchase order, preprinted form or document shall add to or vary the terms and conditions of this Agreement. No joint venture, partnership, employment, or OFM relationship exists between the parties as a result of this agreement or use of the Products.

12.4 Assignment; Change in Control. This Agreement may not be assigned by either party without the prior written approval of the other but may be assigned or transferred without such consent to (i) a parent or subsidiary of that parent, (ii) an acquirer of assets, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void.

12.5 Marketing. "Bidder" and OFM/K-20 Network may, upon the parties' mutual agreement, issue a joint press release to announce the relationship of the parties hereunder. Neither party will issue any separate press release related to this Agreement without obtaining the other party's prior approval, which shall not be unreasonably withheld.

12.6 Notice. "Bidder" may give notice by electronic mail to OFM/K-20 Network's e-mail address on record in OFM/K-20 Network's account information, or by written communication sent by first class mail or pre-paid post to OFM/K-20 Network's address on record in OFM/K-20 Network's account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). OFM/K-20 Network may give notice to "Bidder" (such notice shall be deemed given when

received by "Bidder") at any time by any of the following: letter sent by confirmed facsimile to "Bidder"; letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to "Bidder" or by email.

12.7 Modifications. Any modification to this agreement must be in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by duly authorized officers or representatives as of the date first above written.

OFM/K-20 NETWORK:

BIDDER

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SAMPLE