

**STATE OF WASHINGTON
STATE BOARD OF EDUCATION
OLYMPIA, WASHINGTON**

**REQUEST FOR PROPOSALS
RFP #SBE – 09**

This RFP is available at the State Board of Education (SBE) website located at <http://www.sbe.wa.gov/> or the Office of Superintendent of Public Instruction website located at <http://www.k12.wa.us/RFP/>. It is also available at the Office of General Administration, Washington Electronic Business Solution (WEBS) Procurement Website at <http://www.ga.wa.gov/webs/>. All RFP amendments or bidder questions/SBE answers will be posted to these sites. All interested proposers must be registered with WEBS under the following commodity codes in order to receive notifications: 9862, Graphic Design Services.

PROJECT TITLE: Graphic Artist Services – The Washington State Board of Education

PROPOSAL DUE DATE:

Proposals must be received by 4:30 p.m. (local time in Olympia, Washington), Wednesday, July 22, 2009. Proposals received after this time will be considered non-responsive.

EXPECTED TIME PERIOD FOR CONTRACT:

August 15 through December 31, 2009. The SBE reserves the right at its discretion, to extend the contract for an additional six month period.

CONSULTANT ELIGIBILITY:

This procurement is open to those Consultants that satisfy the minimum qualifications stated herein and that are available for work in Washington State.

CONTENTS OF THE REQUEST FOR PROPOSALS:

1. Introduction
2. General Information for Consultants
3. Proposal Contents
4. Evaluation and Award
5. Exhibits
 - A. Certifications and Assurances
 - B. Personal Service Contract with General Terms and Conditions

Message to Consultants:

Effective November 1, 2008, the State of Washington is required to publish all bidding opportunities on the Office of General Administration's Washington Electronic Business Solution (WEBS) website. Please register at <http://www.ga.wa.gov/webs/>, under the specific commodity codes listed above and any other commodity code for which you would like to receive notification of future bidding opportunities.

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1. INTRODUCTION

1.1. PURPOSE AND BACKGROUND

The Washington State Board of Education hereafter called "SBE" or "Board," is initiating this Request for Proposals (RFP) to solicit proposals from Consultants interested in providing assistance in developing graphic design in support of SBE's CORE 24 graduation requirements framework and accountability framework. Additional information is as follows:

The Board provides a broad leadership role for K-12 education by establishing policy and providing strategic oversight. Its work occurs in the context of a state with a standards-based system of accountability, instructional leadership and support that has evolved over more than a decade. The continuity and consistency of this system over time represent major investments in funding, teaching and learning in the K-12 system.

The SBE is independent of the Office of State Superintendent of Public Instruction (OSPI), but the OSPI acts as fiscal agent for the SBE.

The Board continues to develop two major proposals for the 2009 Legislative Session: the first being a revised set of high school graduation requirements "CORE 24" and the second, a proposal on ways to identify schools and districts that are successful as well as those that need additional targeted assistance through a new Accountability Framework.

Thus, the Board is initiating this Request for Proposals (RFP) to solicit proposals from firms or individuals interested in assisting the Board in developing graphic/electronic pieces that help convey the Board's work to a variety of educational stakeholders.

CORE 24 Graduation Requirements Policy Framework.

The passage of ESHB 2261 mandates that all schools provide students the opportunity to earn 24 credits for graduation (by 2018). The impetus behind this mandate is the necessity that Washington public schools graduate students who are equipped for post secondary education, work, and citizenship.

State law currently mandates 19 credits for graduation, and as a result many schools are going to be looking for how they can adapt their own curricular offerings to match the new state requirements. To better help schools in the implementation of the 24 credit mandate, the State Board formed a twenty member task force to explore and problem solve issues related to the development and phase in of a 24-credit diploma.

In response to that need, the Board developed an academic credit framework called CORE 24. The central tenet of CORE 24 is preparation of *all* students for *all* options—whatever they choose to do after high school. Many students of high school age are not certain of their future path, and change their minds frequently. For this reason, students need to keep all options open so they do not foreclose possibilities too early. CORE 24 represents the allocation of credits that the Board believes will best lead our graduating students for the challenges that lie ahead. The CORE 24 Implementation Task Force will continue to meet through 2009, providing valuable insight for how best to implement the CORE 24 framework.

The graphic artist will play an essential role in displaying the CORE 24 framework and outlining the work of the CORE 24 Task Force regarding phase in and implementation (through a one to two page handout/flyer, and possibly PowerPoint's). The audience for the work includes legislators, education stakeholders, school board members, school administrators, and more. As such, the pieces generated should be tailored accordingly

For additional information on this initiative, see: <http://www.sbe.wa.gov/mhsd.htm>

Accountability Framework.

The 2001 No Child Left Behind Act (NCLB) instituted a federal system of education accountability. Schools/districts since that time have been stratified based on their performance on statewide assessments (in our case, the Washington Assessment of Student Learning (WASL)).

Washington State Statute¹ empowered the Board with the authority to create its own statewide accountability system. The mandate to continue that work was reinforced with the passage of ESHB 2261.

In 2009, the Board adopted a new, provisional Accountability Framework. Included in that framework is a new Accountability Matrix, a new Accountability Index, and multi-staged plans to help schools that are struggling to meet standard in one or more areas.

The new Accountability Index is used to identify successful schools and districts as well as those in need of greater assistance. The proposed Index is based on how schools and districts perform on a set of indicators and outcomes. The recommended index uses a matrix of four indicators and five outcomes. The four indicators are: achievement of non-low income and low income students, achievement vs. peers (those with similar student demographics), and improvement from the previous year. The five outcomes are: the results of state assessments in four subjects (reading, writing, mathematics, science) and the "extended" graduation rate (for high schools and districts).

The Board, in conjunction with the Office of the Superintendent of Public Instruction (OSPI), will use this new Accountability Matrix to recognize successful schools in the fall of 2009. The Board also intends to promote the New Accountability Framework to the U.S. Department of Education (in the hopes that this new matrix can replace the older AYP (Adequate Yearly Progress) matrix that is used to evaluate schools.

Although the new Accountability Framework may be easier to understand than the Federal AYP program, the building block concepts are still difficult ones to explain in layman's terms. The Consultant will play a vital role in taking complicated ideas and presenting them in a layout and medium well suited to the audience in question. Several one to two page flyers will be required for this work, and the audience will range from the general public, to Washington educators and legislators, to federal education authorities.

Additional information about this work can be found on the State Board of Education Web site: www.sbe.wa.gov

¹ RCW 28A.305.130 (4). See Exhibit C for full statutory language.

1.2. OBJECTIVE

The Board needs assistance in graphically presenting the key concepts of CORE 24 and Accountability in a manner that's visually pleasing, concise, clear, and correct. The scope of the work would involve the production of 8-10 graphical pieces including, but not necessarily limited to, the development of the following:

1. One to two page flyers on the new Accountability Framework, the New Accountability Index, the Recognition System, Voluntary Action for Struggling Schools, Required Action for Struggling Schools, Core 24 Overview, CORE 24 Implementation Strategies and Timeline.
2. PowerPoint's centering on the messages from each of the areas mentioned above.
3. A longer 8-16 page report card on the work of the State Board of Education.

No printing will be required, and all documents must be produced in Indesign or PowerPoint, and must be produced in a timely, efficient manner, as specified in the contract.

SBE will work directly with the consultant to ensure the messaging is on point. All productions will be the property of SBE from the contract's onset, and subject to alterations both during and after the contractual time.

1.3. MINIMUM QUALIFICATIONS

Minimum Qualifications:

- a. Be licensed to do business in the state of Washington.
- b. Have at least five (5) years of experience in graphic design.
- c. Have expertise in Adobe Photoshop and Adobe Indesign.
- d. Possess a portfolio of past work

Desirable Qualifications

- a. Demonstrated superior writing and editing skills.
- b. Ability to understand complicated concepts and restructure the language to best suit a variety of audiences.
- c. Possess a portfolio of past work.

1.4. FUNDING

OSPI has budgeted an amount not to exceed **\$25,000** for this project. Proposals in excess of **\$25,000** will be rejected as non-responsive and will not be evaluated.

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

The Consultant shall provide their most favorable and competitive cost estimate to perform the work.

1.5. PERIOD OF PERFORMANCE

The period of performance of any contract resulting from this RFP is tentatively scheduled to begin on or about August 15, 2009 and to end on December 31, 2009. Amendments extending the period of performance, if any, shall be at the sole discretion of the SBE.

1.6. DEFINITIONS

Definitions for the purposes of this RFP include:

Consultant – Individual or company submitting a proposal in order to attain a contract with the SBE.

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

OSPI – Washington State Office of Superintendent of Public Instruction

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

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

SBE – The State Board of Education is the BOARD of the state of Washington that is issuing this RFP.

1.7. ADA

The SBE complies with the Americans with Disabilities Act (ADA). Consultants may contact the RFP Coordinator to receive this RFP in Braille or on tape.

2. GENERAL INFORMATION FOR CONSULTANTS

2.1. RFP COORDINATOR

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

Name	Loy McColm
Address	P. O. Box 47206
City, State, Zip Code	Olympia, WA 98504-7206
Phone Number	360.725.6027
Fax Number	360-586-2357
E-Mail Address	loy.mccolm@k12.wa.us

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

2.2. ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Issue Request for Proposals	June 24, 2009
Question and answer period	June 24 – July 20, 2009
Issue addendum to RFP	As necessary by July 20, 2009
Proposals due	July 22, 2009
Evaluate proposals	July 22, 2009

Announce "Apparent Successful Contractor" and send notification via fax or e-mail to unsuccessful proposers	July 23, 2009
Hold debriefing conferences (if requested)	July 27 - 28, 2009
Negotiate and finalize contract	July 24-31, 2009
File contract with the Office of Financial Management (if required)	August 5, 2009
Begin contract work	August 24, 2009

The SBE reserves the right to revise the above schedule.

2.3. SUBMISSION OF PROPOSALS

Proposals must be submitted via email only. Proposals may not be transmitted via facsimile.

Consultants shall submit proposals electronically as an attachment to an e-mail to **Loy McColm** at **loy.mccolm@k12.wa.us**. Proposals must arrive by 4:30 p.m. local time in Olympia, Washington on July 22, 2009. Attachments to e-mail shall be on Microsoft Word software or in PDF. Zipped files may be received by SBE and can be used for submission of proposals. Consultants submitting proposals via e-mail shall also send copies of the cover submittal letter and the certifications and assurances with original signatures to the RFP Coordinator. The SBE does not assume responsibility for any problems in the e-mail.

Late proposals will not be accepted and will be automatically disqualified from further consideration. The proposals must respond to the procurement requirements. Do not respond by referring to material presented elsewhere. The proposal must be complete and must stand on its own merits.

Failure to respond to any portion of the procurement document may result in rejection of the proposal as non-responsive. All proposals and any accompanying documentation become the property of the SBE and will not be returned.

2.4. PROPRIETARY INFORMATION/PUBLIC DISCLOSURE

Proposals submitted in response to this competitive procurement shall become the property of SBE.

All proposals received shall remain confidential until the contract, if any, resulting from this RFP is signed by the Director of OSPI and the apparent successful Contractor; thereafter, the proposals shall be deemed public records as defined in RCW 42.56.

Any information in the proposal that the Consultant desires to claim as proprietary and exempt from disclosure under the provisions of RCW 42.56 must be clearly designated. The page must be identified and the particular exception from disclosure upon which the Consultant is making the claim. Each page claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on the lower right hand corner of the page.

SBE will consider a Consultant's request for exemption from disclosure; however, SBE will make a decision predicated upon RCW 42.56. Marking the entire proposal exempt from disclosure will not be honored. The Consultant must be reasonable in designating information as confidential. If any information is marked as proprietary in the proposal, such information will not be made available until the affected proposer has been given an opportunity to seek a court injunction against the requested disclosure.

A charge will be made for copying and shipping, as outlined in RCW 42.56. No fee shall be charged for inspection of contract files, but twenty-four (24) hours' notice to the RFP Coordinator is required. All requests for information should be directed to the RFP Coordinator.

2.5. REVISIONS TO THE RFP

In the event it becomes necessary to revise any part of this RFP, addenda will be provided via e-mail to all who were sent the RFP directly.

In the event it becomes necessary to revise any part of this RFP, addenda will be published on the SBE website at <http://www.sbe.wa.gov/> and OSPI web site, at <http://www.k12.wa.us/RFP/>. For this purpose, the published questions and answers from the pre-proposal conference, the published bidder question/agency answers, and any other pertinent information shall be considered an addendum to the RFP and also placed on the web site. Additionally, all addenda referred to above will be released on WEBS for all Consultants who are registered.

It will be the responsibility of interested vendors to check the website periodically to RFP addenda and updates. For this purpose, the published bidder questions/agency answers and any other pertinent information shall be considered an addendum to the RFP and also placed on the website.

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

2.6. MINORITY & WOMEN-OWNED BUSINESS PARTICIPATION

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

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

2.7. ACCEPTANCE PERIOD

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

2.8. RESPONSIVENESS

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

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

2.9. MOST FAVORABLE TERMS

The SBE 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 that the Consultant can propose. There will be no best and final offer procedure. The SBE does reserve the right to contact a Consultant for clarification of its proposal during the evaluation process. In addition, if the Consultant is selected as the apparent successful contractor, the SBE reserves the right to enter into contract negotiations with the apparent successful Contractor, which may include discussion regarding the terms of the proposal. Contract negotiations may result in incorporation of some or all of the Consultant's proposal. The Consultant should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. It is also understood that the proposal will become part of the official procurement file.

2.10. CONTRACT AND GENERAL TERMS & CONDITIONS

The apparent successful Contractor will be expected to enter into a contract that is substantially the same as the sample contract and its general terms and conditions attached as Exhibit B. In no event is a Consultant to submit its own standard contract terms and conditions in response to this solicitation. The Consultant may submit exceptions as allowed in the Certifications and Assurances section, Exhibit A to this solicitation. The SBE will review requested exceptions and accept or reject the same at its sole discretion.

2.11. COSTS TO PROPOSE

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

2.12. NO OBLIGATION TO CONTRACT

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

2.13. REJECTION OF PROPOSALS

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

2.14. COMMITMENT OF FUNDS

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

2.15. STATEWIDE VENDOR REGISTRATION AND ELECTRONIC PAYMENT

Consultants awarded contracts as a result of this RFP will be required to register as a statewide Vendor (SWV). The SWV file is a central vendor file maintained by the Office of Financial Management for use by Washington State agencies in processing vendor payments. This allows the Consultant to receive payments from the SBE by direct deposit, the State's preferred method of payment. While registration in the SWV is mandatory, the Consultant is NOT required to participate in the direct deposit program and therefore is not required to submit banking information. Please go to

<http://www.ofm.wa.gov/accounting/vendors.asp> for online registration and additional information.

2.16. INSURANCE COVERAGE

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

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

Liability Insurance

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

Additionally, the Contractor is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts. Business Auto Policy: As applicable, the Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto." Business auto coverage shall be written on ISO form CA 00 01, 1990 or later edition, or substitute liability form providing equivalent coverage.

Additional Provisions

Above insurance policy shall include the following provisions:

Additional Insured. The state of Washington, SBE, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella and property insurance policies. All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State.

Cancellation. State of Washington, SBE, shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications. Insurers subject to 48.18 RCW (Admitted and Regulation by the Insurance Commissioner): The insurer shall give the State forty five (45) days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the State shall be given ten (10) days advance notice of cancellation. Insurers subject to 48.15 RCW (Surplus lines): The State shall be given twenty (20) days advance notice of cancellation. If cancellation is due to non-payment of premium, the State shall be given ten (10) days advance notice of cancellation.

Identification. Policy must reference the State's contract number and the BOARD name.

Insurance Carrier Rating. All insurance and bonds should be issued by companies admitted to do business within the state of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by The State Board of Education Contract Administrator/Risk Manager or the Risk Manager for the state of Washington, before the contract is accepted or work may begin. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.

Excess Coverage. By requiring insurance herein, the State does not represent that coverage and limits will be adequate to protect Contractor and such coverage and limits shall not limit Contractor's liability under the indemnities and reimbursements granted to the State in this contract.

Worker's Compensation Coverage

The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable. The State will not be held responsive in any way for claims filed by the Contractor or their employees for services performed under the terms of this contract.

3. PROPOSAL CONTENTS

Proposals must be submitted electronically and via regular mail, on eight and one-half by eleven (8 1/2 x 11) inch paper with tabs separating the major sections of the proposal. The four (4) major sections of the proposal are to be submitted in the order noted below:

- a. Signed or Certified Letter of Submittal, including signed Certifications and Assurances (Exhibit A to this RFP). These documents must be submitted as hardcopy originals and electronically.
- b. Technical Proposal. Submit electronically.
- c. Management Proposal. Submit electronically.
- d. Cost Proposal. Submit electronically.

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

Items in this section marked "mandatory" must be included as part of the proposal for the proposal to be considered responsive; however, these items are not scored. Items marked "scored" are those that are awarded points as part of the evaluation conducted by the evaluation team.

3.1. LETTER OF SUBMITTAL (MANDATORY)

The Letter of Submittal and the attached Certifications and Assurances form (Exhibit A to this RFP) must be signed and dated by a person authorized to legally bind the Consultant to a contractual relationship, e.g., the President or Executive Director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Along with introductory remarks, the Letter of Submittal is to include by attachment the following information about the Consultant and any proposed subcontractors:

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

3.2. TECHNICAL PROPOSAL (SCORED/MANDATORY)

The Technical Proposal must contain a comprehensive description of services including the following elements:

- a. **Project Approach/Methodology** – Include a complete description of the Consultant's proposed approach and methodology for the project. This section should convey the Consultant's understanding of the proposed project.
- b. **Work Plan** – Include all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project defined in this RFP. This section of the technical proposal must contain sufficient detail to convey to members of the evaluation team the Consultant's knowledge of the subjects and skills necessary to successfully complete the project. Include any required involvement of SBE staff. The Consultant may also present any creative approaches that might be appropriate and may provide any pertinent supporting documentation.
- c. **Deliverables** – Fully describe deliverables to be submitted under the proposed contract.
- d. **Outcomes and Performance Measurement** – Describe the impacts/outcomes the Consultants propose to achieve as a result of the delivery of these services including how these outcomes would be monitored, measured and reported to the Board.

3.3. MANAGEMENT PROPOSAL

A. Project Management (SCORED/MANDATORY)

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

show lines of authority to the next senior level of management. Include who within the firm will have prime responsibility and final authority for the work.

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

B. Experience of the Consultant (SCORED/MANDATORY)

1. Indicate the experience the Consultant and any subcontractors have in the following areas:
 - Developing graphical pieces, especially those revolving around complex ideas.
 - Working in coordination with other professionals in producing those products.
2. Indicate other relevant experience that indicates the qualifications of the Consultant, and any subcontractors, for the performance of the potential contract.
3. Include a list of contracts the Consultant has had during the last five (5) years that relate to the Consultant's ability to perform the services needed under this RFP. List contract reference numbers, contract period of performance, contact persons, telephone numbers, and fax numbers/e-mail addresses.

C. References (SCORED/MANDATORY)

List names, addresses, telephone numbers, and fax numbers/e-mail addresses of three (3) business references for whom work has been accomplished and briefly describe the type of service provided. The Consultant and staff proposed to provide the services must grant permission to the SBE to contact references, and others for whom services have been provided. Do not include current SBE staff as references. References will be contacted and scored for the top-ranking proposal(s) only.

D. Related Information (MANDATORY)

1. If the Consultant or any subcontractor contracted with the state of Washington during the past twenty four (24) months, indicate the name of the BOARD, the contract number and project description and/or other information available to identify the contract.
2. If the Consultant's staff or subcontractor's staff was an employee of the state of Washington during the past twenty four (24) months, or is currently a Washington State employee, identify the individual by name, the BOARD previously or currently employed by, job title or position held and separation date.
3. If the Consultant has had a contract terminated for default in the last five (5) years, describe such incident. Termination for default is defined as notice to stop performance due to the Consultant'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.
4. Submit full details of the terms for default including the other party's name, address, and phone number. Present the Consultant's position on the matter. The SBE 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 Consultant in the past five (5) years, so indicate.

3.4. COST PROPOSAL

The evaluation process is designed to award this procurement not necessarily to the Consultant of least cost, but rather to the Consultant whose proposal best meets the requirements of this RFP. However, Consultants are encouraged to submit proposals that are consistent with State government efforts to conserve state resources. **Proposals exceeding \$25,000 shall be considered non-responsive.**

A. Identification of Costs (SCORED)

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

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

B. Computation

The score for the cost proposal will be computed by dividing the lowest cost bid received by the Consultant's total cost. Then the resultant number will be multiplied by the maximum possible points for the cost section.

4. EVALUATION AND CONTRACT AWARD

ALL MANDATORY REQUIREMENTS MUST BE MET IN ORDER TO BE EVALUATED.

4.1. EVALUATION PROCEDURE

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

The SBE, at its sole discretion, may elect to select the top-scoring firms as finalists for an oral presentation.

4.2. CLARIFICATION OF PROPOSAL

The RFP Coordinator may contact the Consultant for clarification of any portion of the Consultant's proposal.

4.3. EVALUATION WEIGHTING AND SCORING

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

Technical Proposal – 35%	70 points
• Clear, detailed description of project approach/methodology that conveys understanding of the particular challenges/opportunities this project presents	15
• Detailed work plan that describes knowledge, skills, and strategies needed to complete the project	15
• Realistic schedule that meets designated targets and deadlines	10
• List of deliverables matches the stated needs of the project	15
• Sample documents/media from other projects demonstrate consultant's ability to produce deliverables of high quality	15
Management Proposal – 30%	60 points
• Clear description of the team that will be working on this project—how it's structured, what resources the team will bring to the project	15
• Resumes are present for each named member of the team, and collectively demonstrate a depth of experience that is relevant to current project.	10
• Experience of consultant nationally and in Washington State is provided, with a list of contracts held within the last five years and contact information for references associated with those contracts	5
• Consultant demonstrates K-12 Education experience nationally and/or in Washington	10
• Consultant demonstrates an understanding of political and educational considerations relevant to project	10
• Consultant provides evidence of ability to create and execute a coherent, effective strategic communications and outreach plan	10
Cost Proposal – 35%	70 points
• Budget proposal is connected to specific elements of work plan	40
• Budget clearly identifies by category (e.g., staff costs, administrative costs, travel costs, etc.) all costs associated with the project.	30
Sub-Total	200 points

References (for top-scoring proposals only) 10 points

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

GRAND TOTAL FOR WRITTEN PROPOSAL 210 points

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

4.4. ORAL PRESENTATIONS MAY BE REQUIRED

Written submittals and oral presentations, if considered necessary, will be utilized in selecting the winning proposal. The BOARD, at its sole discretion, may elect to select the top scoring finalists from the written evaluation for an oral presentation and final determination of contract award. Should the BOARD elect to hold oral presentations, it will contact the top-scoring firm(s) to schedule a date, time and location. Commitments made by the Consultant at the oral interview, if any, will be considered binding.

The score from the oral presentation will determine the apparently successful proposer.

4.5. NOTIFICATION TO PROPOSERS

Firms whose proposals have not been selected for further negotiation or award will be notified via FAX or by email.

4.6. DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Upon request, a debriefing conference will be scheduled with an unsuccessful Proposer. The request for a debriefing conference must be received by the RFP Coordinator by **Friday, July 24, 2009**. Debriefings will be held on Monday through Tuesday, June 27-28, 2007. Exceptions to this schedule will be considered on a case-by-case basis. Under no circumstances will debriefings take place later than July 30, 2009.

Discussion will be limited to a critique of the requesting Consultant's proposal. 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.

4.7. PROTEST PROCEDURE

This procedure is available to Consultants who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Consultant is allowed three (3) business days to file a protest of the acquisition with the RFP Coordinator. Protests may be submitted by facsimile, but should be followed by the original document.

Consultants 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 Consultants under this procurement.

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

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

- A matter of bias, discrimination or conflict of interest on the part of the evaluator.
- Errors in computing the score.
- Non-compliance with procedures described in the procurement document or SBE 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) SBE'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 SBE. The SBE 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 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 Consultant that submitted a proposal, such Consultant will be given an opportunity to submit its views and any relevant information on the protest to the RFP Coordinator.

The final determination of the protest shall:

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

If the SBE determines that the protest is without merit, the SBE 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.

5. RFP EXHIBITS

- 5.1. Exhibit A Certifications and Assurances
- 5.2. Exhibit B Personal Service Contract Format including General Terms and Conditions (GT&Cs)
- 5.3. Exhibit C RCW 28A.305.130

EXHIBIT A

CERTIFICATIONS AND ASSURANCES

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

1. I/we declare that all answers and statements made in the proposal are true and correct.
2. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
3. The attached proposal is a firm offer for a period of sixty (60) days following receipt, and it may be accepted by the SBE without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the sixty (60) day period.
4. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
5. I/we understand that the SBE will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of the SBE, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Proposer or to any competitor.
7. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
8. No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
9. I/we grant the SBE the right to contact references and others, who may have pertinent information regarding the Proposer's prior experience and ability to perform the services contemplated in this procurement.

Signature of Proposer

Title

Date

EXHIBIT B
CONTRACT FOR PERSONAL SERVICES
Contract No. _____

between

THE STATE BOARD OF EDUCATION
STATE OF WASHINGTON
(hereinafter referred to as the BOARD)
Old Capitol Building, P. O. Box 47200
Olympia, WA 98504-7200

and

NAME OF CONTRACTOR
(hereinafter referred to as Contractor)
Address of Contractor

Social Security #
or
Federal Identification #
and
Unified Business Identifier #

In consideration of the promises and conditions contained herein, the BOARD and Contractor do mutually agree as follows:

I. DUTIES OF THE CONTRACTOR

A. The general objective(s) of this contract are as follows:

(Enter a brief description of the agreed upon services here)

B. In order to accomplish the general objective(s) of this contract, Contractor shall perform the following specific duties to the satisfaction of the BOARD's designee, _____:

(Describe the work to be performed by Contractor in detail, including a breakdown of the quantifiable steps or components of what Contractor is to do or attach and incorporate proposal)

**II. CONDITIONS OF COMMENCEMENT OF PERFORMANCE
AND
SCHEDULE OF PERFORMANCE**

Contractor shall not commence performance, or be entitled to compensation or reimbursement for any services rendered, prior to the occurrence of each of the following conditions: (1) This contract must be executed by a representative of the Contractor and the BOARD; (2) This contract must be filed with, and approved by, the Office of Financial Management, if and to the extent required by state personal service contract laws; and, (3) the BOARD's designee must confirm the occurrence of conditions number one and two and notify the contractor to commence performance.

The schedule of performance of contractor's duties is as follows subject, however, to the three prior conditions to commencement of performance set forth immediately above:

> (Insert beginning and ending date here)

III. DUTIES OF THE BOARD

- A. In consideration of Contractor's satisfactory performance of the duties set forth herein, the BOARD shall compensate Contractor > at an hourly rate of \$> not to exceed a total of > dollars (\$>) OR > not to exceed a total of > dollars (\$>) as noted below in part B, Schedule of Payments OR > in an amount equal to Contractor's actual cost, plus overhead or indirect costs at a rate of > percent of actual costs not to exceed a total of > dollars (\$>) as per Attachment B, Budget, attached hereto and incorporated by this reference.

>Funds for the payment of this contract are provided by federal program(s) _____, CFDA #(s) _____.

- B. Payment shall be made to the Contractor as follows:

>Periodically in the form of progress payments in the amounts and for the stages of partial performance set forth below:

Schedule of Payments

>Periodically based on invoices submitted by the Contractor for actual costs incurred to date based on receipts or other documentation.

- C. Contractor shall be entitled to reimbursement for expenses incurred, as follows:

1. Travel and per diem expenses for > person(s) in the amounts and for the purposes otherwise established for state employees at the time of incurrence by the rules and regulatory policies of the Office of Financial Management (OFM) not to exceed > dollars (\$>). Contractor's "official duty station" (i.e., the origin of reimbursable travel and/or per diem) shall be > and /or,
2. Expenses incurred for the following specified purposes not to exceed a total of > dollars (\$>). Contractor must submit receipts or other documentation.

IV. RENEWAL (OPTIONAL CLAUSE)

The BOARD has the right to renew this contract in whole or in part for the year(s)_____ by giving notice on or before _____ to the Contractor. If the BOARD provides such notice to the Contractor, the Contractor shall be obligated to enter into a contract with the same fiscal obligations as the previous contract year, provided that the BOARD and Contractor shall negotiate any revision of additional services or goals beyond those encompassed in the previous contract.

V. INCORPORATION OF GENERAL TERMS AND CONDITIONS

This contract includes and incorporates as if fully set forth herein the GENERAL TERMS AND CONDITIONS, which are attached hereto and marked "Attachment A".

We the undersigned agree to the terms of the foregoing contract.

CONTRACTOR STATE BOARD OF EDUCATION
State of Washington

(type name) Edie Harding, Executive Director

Who certifies that he/she is the Contractor identified herein, OR a person duly qualified and authorized to bind the Contractor so identified to the foregoing Agreement. Signed this ____ day of _____, 2007.

Signed this ____ day of _____, 2007. Melanie S. Buechel, Contracts Administrator

Non-profit organization? ☐ yes* ☐ no Signed this ____ day of _____, 2007
If yes, under what IRS section?

Approved as to FORM ONLY
Assistant Attorney General

EXHIBIT B
Attachment A
GENERAL TERMS AND CONDITIONS

1. **Access to Data.** In compliance with chapter 39.29 RCW, the Contractor shall provide access to data generated under this contract to the BOARD, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This included access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those models.
2. **Alterations and Amendments.** This agreement may be amended only 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.
3. **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.
4. **Assignment.** Neither the BOARD nor the Contractor shall assign this Contract, either in whole or in part, without the prior written consent of the other party, which shall not be unreasonably withheld. Any assignment permitted under this clause does not relieve either party from its duties or obligations under this contract.
5. **Budget Revisions.** Any monetary amount of an interlocal agreement budgeted by the terms of this contract for various activities and line item objects of expenditure may be revised without prior written approval of BOARD, so long as the revision is no more than ten percent (10%) of the original line item amount and the increase in an amount is offset by a decrease in one or more other amounts equal to or greater than the increase. All other budget revisions exceeding ten percent (10%) shall only be made with the prior written approval of the BOARD.
6. **Certification Regarding Debarment, Suspension, and Ineligibility.** If federal funds are the basis for this contract, the Contractor certifies that neither it nor its principals are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions by any federal department of the BOARD.
7. **Change in Status.** In the event of substantive change in the legal status, organizational structure, or fiscal reporting responsibility of the Contractor, Contractor agrees to notify the BOARD of the change. Contractor shall provide notice as soon as practicable, but no later than thirty (30) days after such a change takes effect.
8. **Confidentiality.** The Contractor acknowledges that all of the data, material and information which originates from this contract, and the student assessment data, material and information which will come into its possession in connection with performance under this contract, consists of confidential data owned by the BOARD or confidential personally identifiable data subject to the federal Family Educational Rights and Privacy Act or other privacy laws, and that disclosure to or use by third parties would be damaging. The Contractor, therefore, agrees to hold all such material and information in strictest confidence, not to make use thereof other than for the performance of this contract, to release it only to authorized employees and agents requiring such information and not release or disclose it to any other party. The Contractor agrees to release such information or material only to employees and agents who have signed a written agreement expressly prohibiting disclosure.
9. **Disputes.** In the event that a dispute arises under this contract, it shall be determined in the following manner: (1) The BOARD shall appoint a member to the Dispute Board; (2) the Contractor shall appoint a member to the Dispute Board; (3) the BOARD and the Contractor shall jointly appoint a member to the Dispute Board; (4) the Dispute Board shall evaluate the dispute and make a determination of the dispute; and, the determination of the Dispute Board shall be final and binding on the parties hereto.

As alternatives to the above Dispute Board process: (1) if the dispute is between two or more state agencies, any one of the agencies may request intervention by the Governor, as provided by 43.17.330 RCW, in which event the Governor's process shall control; and, (2) if the dispute is between a non-state agency and another state agency or non-state agency party to this contract, all the disputing parties may mutually agree to mediation prior to submitting the dispute to a Dispute Board in the event the dispute is not resolved pursuant to mediation within an agreed upon time period.

10. **Entire Agreement.** This written contract constitutes the mutual agreement of the Contractor and the BOARD in whole. No alteration or variation of the terms of this contract and no oral understandings or agreements not incorporated herein shall be binding.
11. **Ethical Conduct.** Neither the Contractor nor any employee or agent of the Contractor shall participate in the performance of any duty or service in whole or part under this contract in violation of, or in a manner that violates any provision of the Ethics in Public Service law at chapter 42.52 RCW, RCW 42.17.130 and 41.06.250 prohibiting the use of public resources for political purposes.
12. **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 Superior Court for Thurston County.
13. **Indemnification.** Each party to this agreement shall be responsible for its own acts and/or omissions and those of its officers, employees and agents. No party to this agreement shall be responsible for the acts and/or omissions of entities or individuals not a party to this agreement.
14. **Independent Capacity.** The parties intend that an independent contractor relationship will be created by this contract. The Contractor and his/her employees or agents performing under this contract are not employees or agents of the BOARD. The Contractor will not hold himself/herself out as nor claim to be an officer or employee of the BOARD or of the state of Washington by reason hereof, nor will the contractor make any claim or right, privilege, or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Contractor. Contractor further acknowledges and agrees to be fully responsible for all income and other taxes arising from income derived pursuant to this agreement.
15. **Insurance.**
 - a. **Worker's Compensation Coverage.** The Contractor shall at all times comply with all applicable worker's compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the fullest extent applicable. This requirement includes the purchase of industrial insurance coverage for the Contractor's employees, as may now hereafter be required of an "employer" as defined in Title 51 RCW. Such worker's compensation and occupational disease requirements shall include coverage for all employees of the Contractor, and for all employees of any subcontract retained by the Contractor, suffering bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this contract. Satisfaction of these requirements shall include, but shall not be limited to:
 - 1) Full participation in any required governmental occupational injury and/or disease insurance program, to the extent participation in such a program is mandatory in any jurisdiction;
 - 2) Purchase worker's compensation and occupational disease insurance benefits to employees in full compliance with all applicable laws, statutes, and regulations, but only to the extent such coverage is not provided under mandatory governmental program an in "a" above, and/or;
 - 3) Maintenance of a legally permitted and governmentally approved program of self-insurance for worker's compensation and occupational disease.

Except to the extent prohibited by law, the program of the Contractor's compliance with worker's compensation and occupational disease laws, statutes, and regulations in 1), 2), and 3) above shall provide for a full waiver of rights of subrogation against the BOARD, its directors, officers, and employees.

If the Contractor, or any subcontractor retained by the Contractor, fails to effect and maintain a program of compliance with applicable worker's compensation and occupational disease laws, statutes, and regulations and the BOARD incurs fines or is required by law to provide benefits to such employees, to obtain coverage for such employees, the Contractor will indemnify the BOARD for such fines, payment of benefits to Contractor or subcontractor employees or their heirs or legal representatives, and/or the cost of effecting coverage on behalf of such employees. Any amount owed the BOARD by the Contractor pursuant to the indemnity may be deducted from any payments owed by the BOARD to the Contractor for the performance of this contract.

- b. **Proof of Insurance.** Certificates and or evidence satisfactory to the BOARD confirming the existence, terms and conditions of all insurance required above shall be delivered to the BOARD within five (5) days of the Contractor's receipt of Authorization to Proceed. The policy (ies) of insurance required to be maintained in accordance with this contract shall not be cancelled or given notice of non-renewal nor shall the terms and conditions thereof be altered or amended without forty-five (45) days written notice being given to the BOARD.
- c. **Public Liability Insurance.** The Contractor shall at all times during the term of this contract, at its cost and expense, carry and maintain general public liability insurance, including contractual liability, against claims for bodily injury, personal injury, death, or property damage occurring or arising out of services provided under this contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or servants. The limits of liability insurance, which may be increased from time to time as deemed necessary by the BOARD, with the approval of the Contractor (which shall not be unreasonably withheld), shall not be less than as follows:

Each Occurrence	\$1,000,000
General Aggregate Limits (other than products-completed operations)	\$2,000,000
Products-Completed Operations Limit	\$2,000,000
Personal and Advertising Injury Limit	\$1,000,000
Fire Damage Limit (any one fire)	\$50,000
Medical Expense Limit (any one person)	\$10,000

- d. **Additional Insured.** The State of Washington and the BOARD shall be specifically named as an additional insured on all policies, and all policies shall be primary to any other valid and collectible insurance. At its option, the BOARD may waive this requirement where insurance carriers will not under any circumstances extend secondary insurance coverage for physicians' professional liability, or Architects' and Engineers' insurance. The BOARD may also waive this requirement where insurance carriers will not under any circumstances extend secondary fidelity bonding coverage for private non-profit organizations.
16. **Licensing and Accreditation Standards.** The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary to the performance of this contract.
17. **Non-Discrimination.** The Contractor shall comply with all the federal and state non-discrimination laws, regulations and policies, which are otherwise applicable to the BOARD. Accordingly, no person shall, on the ground of race, creed, color, national origin, sex, marital status, or the presence of any sensory, mental, or physical disability, be unlawfully excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any activity performed by the Contractor and its agents under this contract. The Contractor shall notify the BOARD immediately of any allegations, claims,

disputes, or challenges made against it under the Americans with Disabilities Act. In the event of the Contractor's noncompliance or refusal to comply with this nondiscrimination provision, this contract may be rescinded, cancelled or terminated in whole or part, and the Contractor may be declared ineligible for further contracts with the BOARD.

18. **Payments.** No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the BOARD. All payments to the Contractor are conditioned upon (1) Contractor's submission of a properly executed and supported voucher for payment, including such supporting documentation of performance and supporting documentation of costs incurred or paid, or both as is otherwise provided for in the body of this contract under "Duties of the BOARD", and (2) Acceptance and certification by the BOARD or designee of satisfactory performance by the Contractor.

Except as otherwise provided in this contract, (1) All approvable vouchers for payment due to the Contractor shall be paid within thirty (30) calendar days of their submission by the Contractor, and (2) All expenses necessary to the Contractor's performance of this contract shall be borne in full by the Contractor.

19. **Registration with Department of Revenue.** The Contractor shall complete registration with the Department of Revenue, General Administration Building, Olympia, WA, 98504, and be responsible for payment of all taxes due on payments made under this contract.
20. **Rights in Data.** Data that originates under this contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the BOARD. In the event any data which originates under this contract is not considered a "work for hire" under the U.S. Copyright laws, Contractor hereby, irrevocably assigns all rights, title, and interest in such data, including all intellectual rights, to the BOARD effective from the moment of creation of such data. Data shall include, but not be limited to, notes, minutes, reports, documents, pamphlets, articles, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, photographs, and other items in any format, form, or medium. Ownership includes ownership of all intellectual concepts and properties embodied in data, the right to copyright, patent or register data, and the right to transfer these rights.

Data which is delivered under this contract, but which does not originate thereunder, shall be transferred to the BOARD with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so: PROVIDED, that such a license shall be limited to the extent which the contractor has a right to grant such a license. The contractor shall exert all reasonable effort to advise the BOARD, at the time of delivery of data 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 BOARD shall receive prompt written notice of each notice or claim of copyright infringement received by the Contractor with respect to any data delivered under this contract. The BOARD shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

21. **Records, Documentation and Reports.** The Contractor shall maintain complete financial records relating to this contract and complete records documenting the services rendered under the contract, including all books, records, documents, magnetic media, receipts, invoices, and all other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. These records shall be subject to all reasonable times to inspection, review, or audit by personnel duly authorized by the BOARD, the Office of the State Auditor, and state and federal officials so authorized by law, rule, regulation, or agreement. The Contractor will retain all books records, documents, and other materials relevant to this contract for seven (7) years after the date of final payment by the BOARD, and make them available for inspection by persons authorized under this provision.

If any litigation, claim or audit is started before the expiration of the seven (7) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

22. **Right of Inspection.** The contractor shall provide right of access to its facilities to the BOARD or any of its officers at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract on behalf of the BOARD. All inspections and evaluations shall be performed in such a manner that will not unduly interfere with the Contractor's business or work hereunder.
23. **Severability.** If any provision of this contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect other provisions of this contract which can be given effect without the invalid provision, and to this end the provisions of this contract are declared to be severable.
24. **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 BOARD. In no event shall the existence of the subcontract operate to release or reduce liability of the Contractor to the BOARD 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.
25. **Termination for Convenience.** Except as otherwise provided in this contract, the BOARD or BOARD's Designee may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this contract in whole or in part. The notice shall specify the date of termination and shall be conclusively deemed to have been delivered to and received by the Contractor as of midnight the second day of mailing in the absence of proof of actual delivery to and receipt by the Contractor. If this contract is so terminated, the BOARD shall be liable only for payment required under the terms of the contract for services rendered or goods delivered prior to the effective date of termination.
26. **Termination for Default.** The BOARD or BOARD's Designee may terminate this contract for default, in whole or in part, by written notice to the Contractor if the BOARD has a reasonable basis to believe that the Contractor has:
- a. Failed to meet or maintain any requirement for contracting with the BOARD;
 - b. Failed to ensure the health or safety of any client for whom services are being provided under this contract;
 - c. Failed to perform under, or otherwise breached, any term or condition of this contract; and/or
 - d. Violated any applicable law or regulation.

In such event, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time; provided that if (i) it is determined for any reason the Contractor was not in default, or (ii) the Contractor's failure to perform is without Contractor's and/or subcontractor's control, fault or negligence, then the termination shall be deemed a "Termination for Convenience."

27. **Termination Due to Funding Limitations.** 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 BOARD may, without advance notice and without liability for damages, terminate the contract under the "Termination for Convenience" clause. The BOARD and Contractor may, however, renegotiate this contract under any such new funding limitations and conditions.
28. **Termination Procedure.** Upon termination of this contract the BOARD, in addition to other rights provided in this contract, may require the Contractor to deliver to the BOARD any property specifically produced or acquired for the performance of such part of this agreement as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The BOARD shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by the BOARD and the amount agreed upon by the Contractor and the BOARD

for (a) completed work and services for which no separate price is stated, (b) partially completed work and services, (c) other property or services which are accepted by the BOARD, and (d) the protection and preservation of the property, unless the termination is for default, in which case the BOARD shall determine the extent of the liability. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause for this contract. The BOARD may withhold from any amounts due to the Contractor such sum as the BOARD determines to be necessary to protect the BOARD against potential loss or liability.

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

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

1. Stop work under this contract on the date and to the extent specified, in the notice;
2. Place no further orders or subcontractors for materials, services or facilities except as may be necessary for completion of such portion of the work under the contract this is not terminated;
3. Assign to the BOARD, in the manner, at the times, and to the extent directed by the BOARD, all rights, title, and interest of the Contractor under the orders and subcontracts in which case the BOARD has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the BOARD to the extent the BOARD may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to the BOARD and deliver, in the manner, at the times and to the extent as directed by the BOARD, any property which, if the contract had been completed, would have been required to be furnished to the BOARD;
6. Complete performance of such part of the work not terminated by the BOARD; and
7. Take such action as may be necessary, or as the BOARD may direct, for the protection and preservation of the property related to this agreement which, in is in the possession of the Contractor and in which the BOARD has or may acquire an interest.

29. **Treatment of Assets.** Except as otherwise provided for in the contract, the ownership and title to all real property and all personal property purchased by the Contractor in the course of performing this contract with moneys paid by the BOARD shall vest in the BOARD, except for supplies consumed in performing this contract. The Contractor shall (1) maintain a current inventory of all the real and personal property; (2) label all the property "State of Washington, State Board of Education"; and, (3) surrender property and title to the BOARD without charge prior to settlement upon completion, termination or cancellation of this agreement.

Any property of the BOARD furnished to the Contractor shall, unless otherwise provided herein, or approved by the BOARD, be used only for the performance of the contract.

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

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

All reference to the Contractor under this clause shall include Contractor's employees, agents and subcontractors.

Exhibit C

RCW 28A.305.130

Powers and duties — Purpose.

***** CHANGE IN 2009 *** (SEE 2261-S.SL) *****

The purpose of the state board of education is to provide advocacy and strategic oversight of public education; implement a standards-based accountability system to improve student academic achievement; provide leadership in the creation of a system that personalizes education for each student and respects diverse cultures, abilities, and learning styles; and promote achievement of the goals of RCW 28A.150.210. In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Hold regularly scheduled meetings at such time and place within the state as the board shall determine and may hold such special meetings as may be deemed necessary for the transaction of public business;

(2) Form committees as necessary to effectively and efficiently conduct the work of the board;

(3) Seek advice from the public and interested parties regarding the work of the board;

(4) For purposes of statewide accountability:

(a) Adopt and revise performance improvement goals in reading, writing, science, and mathematics, by subject and grade level, once assessments in these subjects are required statewide; academic and technical skills, as appropriate, in secondary career and technical education programs; and student attendance, as the board deems appropriate to improve student learning. The goals shall be consistent with student privacy protection provisions of RCW 28A.655.090(7) and shall not conflict with requirements contained in Title I of the federal elementary and secondary education act of 1965, or the requirements of the Carl D. Perkins vocational education act of 1998, each as amended. The goals may be established for all students, economically disadvantaged students, limited English proficient students, students with disabilities, and students from disproportionately academically underachieving racial and ethnic backgrounds. The board may establish school and school district goals addressing high school graduation rates and dropout reduction goals for students in grades seven through twelve. The board shall adopt the goals by rule. However, before each goal is implemented, the board shall present the goal to the education committees of the house of representatives and the senate for the committees' review and comment in a time frame that will permit the legislature to take statutory action on the goal if such action is deemed warranted by the legislature;

(b) Identify the scores students must achieve in order to meet the standard on the Washington assessment of student learning and, for high school students, to obtain a certificate of academic achievement. The board shall also determine student scores that identify levels of student performance below and beyond the standard. The board shall consider the incorporation of the standard error of measurement into the decision regarding the award of the certificates. The board shall set such performance standards and levels in consultation with the superintendent of public instruction and after consideration of any recommendations that may be developed by any advisory committees that may be established for this purpose. The initial performance standards and any changes recommended by the board in the performance standards for the tenth grade assessment shall be presented to the education committees of the house of representatives and the senate by November 30th of the school year in which the changes will take place to permit the legislature to take statutory action before the changes are implemented if such action is deemed warranted by the legislature. The legislature shall be advised of the initial performance standards and any changes made to the elementary level performance standards and the middle school level performance standards;

(c) Adopt objective, systematic criteria to identify successful schools and school districts and recommend to the superintendent of public instruction schools and districts to be recognized for two types of accomplishments, student achievement and improvements in student achievement. Recognition for improvements in student achievement shall include consideration of one or more of the following accomplishments:

(i) An increase in the percent of students meeting standards. The level of achievement required for recognition may be

based on the achievement goals established by the legislature and by the board under (a) of this subsection;

(ii) Positive progress on an improvement index that measures improvement in all levels of the assessment; and

(iii) Improvements despite challenges such as high levels of mobility, poverty, English as a second language learners, and large numbers of students in special populations as measured by either the percent of students meeting the standard, or the improvement index. When determining the baseline year or years for recognizing individual schools, the board may use the assessment results from the initial years the assessments were administered, if doing so with individual schools would be appropriate;

(d) Adopt objective, systematic criteria to identify schools and school districts in need of assistance and those in which significant numbers of students persistently fail to meet state standards. In its deliberations, the board shall consider the use of all statewide mandated criterion-referenced and norm-referenced standardized tests;

(e) Identify schools and school districts in which state intervention measures will be needed and a range of appropriate intervention strategies after the legislature has authorized a set of intervention strategies. After the legislature has authorized a set of intervention strategies, at the request of the board, the superintendent shall intervene in the school or school district and take corrective actions. This chapter does not provide additional authority for the board or the superintendent of public instruction to intervene in a school or school district;

(f) Identify performance incentive systems that have improved or have the potential to improve student achievement;

(g) Annually review the assessment reporting system to ensure fairness, accuracy, timeliness, and equity of opportunity, especially with regard to schools with special circumstances and unique populations of students, and a recommendation to the superintendent of public instruction of any improvements needed to the system; and

(h) Include in the biennial report required under RCW 28A.305.035, information on the progress that has been made in achieving goals adopted by the board;

(5) Accredited, subject to such accreditation standards and procedures as may be established by the state board of education, all private schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades kindergarten through twelve: PROVIDED, That no private school may be approved that operates a kindergarten program only: PROVIDED FURTHER, That no private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials;

(6) Articulate with the institutions of higher education, workforce representatives, and early learning policymakers and providers to coordinate and unify the work of the public school system;

(7) Hire an executive director and an administrative assistant to reside in the office of the superintendent of public instruction for administrative purposes. Any other personnel of the board shall be appointed as provided by RCW 28A.300.020. The board may delegate to the executive director by resolution such duties as deemed necessary to efficiently carry on the business of the board including, but not limited to, the authority to employ necessary personnel and the authority to enter into, amend, and terminate contracts on behalf of the board. The executive director, administrative assistant, and all but one of the other personnel of the board are exempt from civil service, together with other staff as now or hereafter designated as exempt in accordance with chapter 41.06 RCW; and

(8) Adopt a seal that shall be kept in the office of the superintendent of public instruction.

[2008 c 27 § 1; 2006 c 263 § 102; 2005 c 497 § 104; 2002 c 205 § 3; 1997 c 13 § 5; 1996 c 83 § 1; 1995 c 369 § 9; 1991 c 116 § 11; 1990 c 33 § 266. Prior: 1987 c 464 § 1; 1987 c 39 § 1; prior: 1986 c 266 § 86; 1986 c 149 § 3; 1984 c 40 § 2; 1979 ex.s. c 173 § 1; 1975-'76 2nd ex.s. c 92 § 1; 1975 1st ex.s. c 275 § 50; 1974 ex.s. c 92 § 1; 1971 ex.s. c 215 § 1; 1971 c 48 § 2; 1969 ex.s. c 223 § 28A.04.120; prior: 1963 c 32 § 1; 1961 c 47 § 1; prior: (i) 1933 c 80 § 1; 1915 c 161 § 1; 1909 c 97 p 236 § 5; 1907 c 240 § 3; 1903 c 104 § 12; 1897 c 118 § 27; 1895 c 150 § 1; 1890 p 352 § 8; Code 1881 § 3165; RRS § 4529. (ii) 1919 c 89 § 3; RRS § 4684. (iii) 1909 c 97 p 238 § 6; 1897 c 118 § 29; RRS § 4530. Formerly RCW 28A.04.120, 28.04.120, 28.58.280, 28.58.281, 28.58.282, 43.63.140.]

Notes:

Findings -- Purpose -- Part headings not law -- 2006 c 263: See notes following RCW 28A.150.230.

Effective date -- 2005 c 497 §§ 104, 302, 402, and 406 through 408: "Sections 104, 302, 402, and 406 through 408 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state

government and its existing public institutions, and take effect July 1, 2005." [2005 c 497 § 410.]

Intent -- Part headings not law -- 2005 c 497: See notes following RCW 28A.305.011.

Findings -- Severability -- Effective dates -- 2002 c 205 §§ 2, 3, and 4: See notes following RCW 28A.320.125.

Effective date -- 1995 c 369: See note following RCW 43.43.930.

Severability -- 1986 c 266: See note following RCW 38.52.005.

Severability -- 1984 c 40: See note following RCW 28A.195.050.

Severability -- 1975-'76 2nd ex.s. c 92: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 92 § 6.]

Child abuse and neglect -- Development of primary prevention program: RCW 28A.300.160.

Districts to develop programs and establish programs regarding child abuse and neglect prevention: RCW 28A.225.200.

Professional certification not required of superintendents or deputy or assistant superintendents: RCW 28A.410.120.

Use of force on children -- Policy -- Actions presumed unreasonable: RCW 9A.16.100.