



State of Oregon

Housing and Community Services Department

Multiple Award Opportunity

Request for Proposal #1566

For Branding, Website Design/Development, and Marketing Services

RFP Issued Date: **June 14, 2012**

RFP Due Date: **June 29, 2012**

Due Time: **4:00 PM PST**

SECTION 1 INTRODUCTION

1.0 INTRODUCTION

Oregon is in the midst of a foreclosure crisis that is taking a toll on thousands of families throughout our state every month. An estimated 23,000 households in Oregon are currently at some stage of the foreclosure process, with thousands more are at-risk of foreclosure or already foreclosed upon.

To combat this crisis, Oregonians have two new tools: provisions of the newly passed Senate Bill 1552, and funding made available to the state as the result of a Multi-State Settlement with major servicers. Through these tools, homeowners now have access to a mediator prior to being foreclosed upon, access to a foreclosure counselor, to prepare for the mediation, and access to funding, in order to modify or re-finance a distressed loan. To ensure that Oregonians are aware of these services, that they understand these services, and they trust these services, Oregon Housing and Community Services (Agency) is seeking a qualified contractor and/or multiple contractors to: 1. Develop an identity/branding package for a public awareness campaign related to foreclosure prevention services; 2. Design and develop new website that serves as a comprehensive gateway to multiple new and pre-existing programs; and 3. Draft a public awareness and marketing plan to raise awareness about the new website and associated services with households who are going through, have been through, or are at-risk of foreclosure in Oregon.

The main objectives of this public awareness campaign and the website are:

- Reduce the number or preventable foreclosures in Oregon by directing distressed homeowners to available resources (or providing resources directly)
- Help homeowners identify and avoid foreclosure scams and fraud
- Coordinate program information, service delivery, capacity building, and information sharing among related partners
- Educate consumers about new foreclosure rules and processes related to Senate Bill 1552
- Educate previously foreclosed upon households about the Multi-State Settlement and related claims
- Develop tools related to the online provision of foreclosure counseling

The target audience for the campaign and the website are Oregon homeowners who are currently in the midst of the foreclosure process, those that are at-risk of foreclosure, and those that have already been foreclosed upon. This audience will not likely be eager to come forward and request or access services due to the stigma attached to potentially losing or having lost their home, and may be fatigued, to the high volume of pre-existing communications and news items related to foreclosure prevention resources (typically from for-profit companies) Additional relevant audiences include related partners such as the non-profit housing counseling agencies, for-profit loan servicers, other state agencies, mediators (required by Senate Bill 1552), policy advocates, legislators, and the media. Agency and the Oregon Department of Justice (DOJ) are working collaboratively with key stakeholders to prepare for, and to implement several key components of foreclosure prevention programs related to Senate Bill 1552 and the multi-state settlement. Informing our work has been the extensive research and analysis performed by a 16-member work group convened by DOJ, as well as expertise from community advocates, state agency staff, and lessons learned from other states.

The Agency is seeking proposals from qualified professional firms to provide branding, website development, marketing, and services related to the online provision of pre-mediation counseling for the Agency. The services to be provided are described in Attachment B, Exhibit A to this Request for Proposal (“RFP”) and will hereafter be referred to as the “Services.” All firms submitting proposals are referred to as Proposers in this document; after negotiations, the awarded Proposer will be designated as Contractor.

This is a multiple award opportunity. The term of the Agreement to Agree (ATA(s)) is three (3) years from the effective date with the option to extend for two additional one-year terms. No minimum amount of work or compensation is guaranteed with the ATA(s).

1.2 OVERVIEW

The ATA(s) established will summarize the Statement of Services needed by Agency for its various projects (see Exhibit A). Agency will request Services for specific projects by issuing a Work Order Contract (WOC) (see Exhibit

D), which will detail the Statement of Services required for the specific project. Specific projects may be identified throughout the duration of the ATA(s).

1.3 DEFINITIONS

“Agreement to Agree” or “ATA” means the entire price agreement between the Proposer and the Agency and may include the RFP and the successful Proposer’s Proposal, and any other terms and conditions and documents that set forth the obligations of the parties with respect to the services and deliverables described in this RFP and that are incorporated into the agreement.

“Agency” means the Oregon Department of Housing and Community Services.

"Contractor" means the Entity(s) with whom the Agency enters into ATA (s), if any, pursuant to the RFP.

"Entity" means a natural person with legal capacity to contract, sole proprietorship, limited liability company, corporation, partnership, limited liability partnership, limited partnership, profit or non-profit unincorporated association, business trust, two or more persons each with legal capacity to contract and having a joint or common economic interest, or any other person with legal capacity to contract, or a government or governmental subdivision. Entity does not include a State Agency.

“OAR” means Oregon Administrative Rule.

“ORPIN” means the Oregon Procurement Information Network at <http://orpin.oregon.gov>.

"Proposal" means the Proposer's written offer submitted in response to the RFP, including all necessary attachments.

"Proposer" means the Entity that submits a Proposal in response to the RFP.

"Request for Proposals" or "RFP" means the entire solicitation document, including all parts, sections, exhibits, attachments, and Addenda.

"State" means the State of Oregon and its boards, commissions, departments, institutions, branches, and agencies.

“WOC” means the resulting Work Order Contracts issued under the resulting ATA.

1.4 TIMELINES

Anticipated Procurement Timetable

The following table provides the anticipated procurement timetable. The Agency reserves the right to modify the timetable at its sole discretion.

Solicitation Deliverable	Date
Issue RFP	June 14, 2012
Optional Pre-Proposal Conference Call	June 18, 2012 10:00 AM PST
Questions regarding Proposal Due Date	June 21, 2012 12:00 PM PST
Deadline for Request for Change	June 25 2102 12:00 PM PST
Proposal Due Date	June 29, 2012 4:00 PM PST
Proposal Evaluations	July 2- July 6, 2012
Selected Proposers’ Presentations	July 9-10, 2012 (tentatively)
Notice of Intent to Award	July 13, 2012

1.5 Consideration

Payment will be based on hourly rate fee for service reimbursement. There is no guarantee of work or of compensation under the resulting ATA, if any. The anticipated task and deliverables are described in Scope of Work (Exhibit A), within this RFP. The selected Proposer and the Agency may negotiate the final description of work tasks, deliverables and specific terms and conditions of the sample ATA, within the scope of what is advertised here, for inclusion in the resulting ATA.

SECTION 2
PROPOSAL INSTRUCTIONS AND INFORMATION

2.1 PROPOSAL CLOSING DATE AND TIME

PROPOSAL CLOSING DATE: Friday, June 29 2012
PROPOSAL CLOSING TIME: 4:00 PM PST

Proposals must be received and date and time stamped by the Agency receptionist, no later than the Proposal closing date and time. Proposals must be delivered in a sealed envelope, which clearly identifies the RFP number, the proposal name, the contact person name, agency name and address, and the proposal closing time and date. Mis-deliveries and late submittals shall not be accepted or considered. Post-marked dated Proposals will not be considered unless actually received by the Agency by the Proposal Closing Date and Time specified herein.

Proposals received after the Proposal closing date and time will be rejected. Such stamped evidence is not subject to protest or otherwise refutable.

2.2 PROPOSAL DELIVERY

Oregon Housing and Community Services
Attn: Connie Lelack
725 Summer Street NE, Suite B
Salem, OR 97301

No oral, telegraphic, telephone or facsimile Proposals will be accepted. Cost of the delivery of the Proposals shall be the responsibility of the Proposer. Agency will not accept responses that require payment by Agency. All Proposals shipped by any means other than regular mail should instruct the shipper to deliver them, prepaid, to the address, date and time as shown above.

2.3 PROPOSAL COSTS

The Proposer is solely responsible for all costs associated with the preparation and delivery of the responses to this RFP. All Cost Proposals shall be valid for ninety (90) days from the RFP closing date.

2.4 ORPIN

RFPs, including all Addenda and attachments, are posted on the Oregon Procurement Information Network ("ORPIN") at <http://orpin.oregon.gov>. Proposers who do not have access to ORPIN may request copies from the Agency. Agency will not be held responsible for any error or omissions from downloading the RFP. The official solicitation document is the one held at the Agency. Proposers should consult ORPIN regularly until closing to ensure they have not missed any Addenda announcements.

2.5 NUMBER OF PROPOSAL COPIES TO SUBMIT

One (1) original signed proposal by an authorized signer and four (4) copies must be submitted. The proposal must not exceed ten (10) double-sided pages; 12 pt. font; 1" margins, **excluding** Cover Sheet, Cost Proposal, Similar Work Products, and Resumes.

Those proposals which are incomplete or which do not meet all requirements of the RFP, will be deemed by Agency to be "non-responsive" and will be rejected. Proposals considered complete, or "responsive," will be evaluated to determine if they comply with the administrative, contractual, and technical requirements of the RFP. If the proposal is unclear, the proposer may be asked to provide written clarification to assist Agency in determining the issue of the proposal's responsiveness.

2.6 RFP QUESTIONS

2.6.1 All inquiries relating to the RFP process, administration, deadline or award, or to the substantive technical portions of the RFP, should be directed to the following point of contact:

Oregon Housing and Community Services
Attn: Connie Lelack
725 Summer Street NE, Suite B
Salem, OR 97301
Telephone: 503-986-0974
FAX: 503-986-2020
connie.lelack@state.or.us

- 2.6.2 All questions regarding the intent of the Services or technical aspects of the Services must be submitted in writing (mail, fax, or e-mail). When appropriate, revisions, substitutions, or clarifications shall be issued as addenda to this RFP. Changes/modifications to the RFP requirements shall **ONLY** be recognized if in the form of written addenda issued by Agency. The Agency shall provide copies of any addenda to all known RFP recipients and advertise the response on the ORPIN. Anyone who has received a copy of this RFP from somewhere else will only be alerted to the existence of any addenda by checking the ORPIN system.
- 2.6.3 Questions regarding this RFP will be accepted until 12:00 p.m. PST on June 21, 2012. Questions from and answers to any one Proposer will be forwarded to all Proposers (as soon as resolved and before the submission deadline), if such questions will clarify any part of this RFP.

2.7 RFP PROTEST AND REQUEST FOR CHANGES

Proposers may submit a written protest of anything contained in an RFP and may request a change to any provision, specification, term, or condition contained in an RFP, no later than 12:00 p.m. PST on June 25, 2012. Each protest and request for change must include the reasons for the protest or request, and any proposed changes to the RFP provisions, specifications, terms, or conditions. Contracting Agency will not consider any protest or request for change that is submitted after the submission deadline.

2.8 WITHDRAWALS/MODIFICATIONS OF PROPOSALS

- 2.8.1 Proposals may be withdrawn at any time prior to the scheduled closing date for the receipt of Proposals. This can be accomplished by written notification on company letterhead signed by an authorized representative and received by Agency prior to Closing. This notice may be delivered in person or mailed. Agency will not be responsible for any costs associated with returning withdrawn Proposals. If the Proposer chooses to pick up the Proposal in person, appropriate identification and the requisite letter must be presented before Agency will release the Proposal.
- 2.8.2 Modifications to previously submitted Proposals which are made prior to the closing date for Proposal acceptance will be considered by Agency, if received prior to that scheduled closing date. Envelopes must be clearly marked as to MODIFICATION, the RFP number, and the Proposal closing time and date. Oral or telephone modifications or corrections will not be recognized or considered.

2.9 ACCEPTANCE OF PROPOSAL CONTENT

Those Proposals which are incomplete or which do not meet all requirements of the RFP, will be deemed by Agency to be "non-responsive" and will be rejected. Proposals considered complete, or "responsive," will be evaluated to determine if they comply with the administrative, contractual, and technical requirements of the RFP. If the Proposal is unclear, the Proposer may be asked to provide written clarification to assist Agency in determining the issue of the Proposal's responsiveness.

2.10 INVESTIGATION OF REFERENCES

Agency reserves the right to investigate the references and the past performance of any Proposer with respect to its successful performance of similar projects, compliance with specifications and contractual obligations, its completion of service on schedule, and its lawful payment of employees.

2.11 SUSTAINABILITY

Proposers shall use recyclable products to the maximum extent economically feasible in the performance of the Services set forth in this document.

SECTION 3
SCOPE OF SERVICES

Agency is seeking to enter into one or more ATAs with one or more Contractors to provide one or more of the below Services as further described in Exhibit A. Proposers must submit a proposal, cost proposal, and similar work project for each of the Services proposed. Contractor may submit proposals on one or more of the following Services:

- 3. A Branding and Identity Package
 - 3.A.1 URL, Logo and Tag Line
 - 3.A.2 Branding Guide and Templates

- 3.B Website Design, Development, and Maintenance
 - 3.B.1 Web Design
 - 3.B.2 Web Development/Programming
 - 3.B.3 Development of other online tools, forms,
 - 3.B.4 CMS Training/Technical Assistance
 - 3.B.5 Ongoing maintenance and hosting

- 3.C Marketing Plan
 - 3.C.1 Marketing Plan

If any Proposer, in its Proposal, or in its presentation, provides any creative ideas, themes, artwork, etcetera, the Agency will not be held liable for any subsequent or future creative ideas, themes, artwork, etcetera provided and used by Agency that are in any way similar.

SECTION 4
PROPOSAL REQUIREMENTS

4.1 GENERAL

Proposals must provide a concise description of the Proposer's ability to satisfy the requirements of this RFP with emphasis on completeness and clarity of content. Proposals should double-sided in 12-point font. Proposals shall be typewritten and shall be signed by a representative of the company authorized to commit the company to legal contracts. The person signing the Proposal to the RFP shall initial alterations or erasures in ink. No oral, e-mail, telegraphic, telephone, or facsimile Proposals will be accepted. All documents shall be clearly labeled or otherwise identified and referenced in a clear and consistent manner throughout the Proposal response.

4.2 PROPOSAL FORMAT

At a minimum, responses to the RFP shall clearly identify and include:
(Proposer may use this section of minimum requirements as a checklist to ensure the Proposal is complete)

- 4.2.1 Cover Sheet (Attachment A)
- 4.2.2 Proposal
- 4.2.3 Similar Work Product
- 4.2.4 Cost Proposal
- 4.2.5 Resumes

4.2.1 Cover Sheet

The Proposal must include a completed, signed Proposal Cover Sheet (refer to Exhibit A). (Not counted in the page limitation)

4.2.2 Proposal

The Proposal must be organized in accordance with the list of scored criteria in this section.

Submit one (1) original signed proposal and four (4) copies.
(not to exceed ten (10) double-sided pages, excluding Cover Sheet, Cost Proposal, and Resumes)

4.2.3 Similar Work Product

Proposer shall submit at least two (2) copies of similar projects reflecting their work experience for each proposed Service, including reference contact information. (Not counted in the page limitation)

4.2.4 Cost Proposal

Proposer shall submit an hourly rate schedule for their key personnel and cost proposals for Services being proposed.

Cost Proposals and rates must be inclusive of all services, expenses and fees (i.e., Payroll expenses – hours/rate/title, Admin, Overhead, etc.) (Not counted in the page limitation)

4.2.5 Resumes

Proposer shall submit resumes of their key personnel that will be assigned to the work under the resulting ATA. (Not counted in the page limitation)

SECTION 5 **EVALUATION/SCORING CRITERIA**

5.1 REQUIREMENTS

Proposers shall submit a proposal for each Service being proposed on and respond to all applicable criteria in this Section 5 for those Services. Only those Proposers submitting proposals for Section 3.B Services need answer Section 5.2.4 in addition to the other criteria.

5.2 PROPOSAL CRITERIA

Mandatory Requirements. Proposers shall address the following mandatory requirements citing the requirement number before each answer. Failure to respond to any mandatory requirement may cause that Proposal to be rejected. **(Maximum 100 points available)**

5.2.1 Firm Qualifications, Experience and Approach - Proposer must have been established and providing all or a portion of the Scope of Services described in Section 3 above and in Exhibit B, Statement of Services and must specifically identify which of the Services it feels it is qualified, prepared, and desires to perform. The Proposer's firm must have a minimum of at least three (3) years of direct experience delivering the proposed Services and must provide a written statement that details the following:

- a. List the date the firm was established and confirms that the firm was providing the applicable services during the required timeframe.
- b. Describe the firm's relevant qualifications, certifications, awards, and other documentation that demonstrate that it is qualified and experienced in delivering all or some of the Scope of Services.
- c. Illustrate the firm's creative abilities in proposing how it will work with Agency
- d. Describe the firm's evolving strategy through new and changing technologies.
- e. Describe the firm's creative approach including information on the agency's creative process, corporate culture.
- f. Describe the firm's experience working with public sector clients with volunteer advisory committees from a broad variety of backgrounds and interests.
- g. Describe how the firm intends to establish and maintain functional, productive working relationships with Agency, staff and related workgroups
- h. Describe the steps that the firm would take to deliver the Services that the Proposer feels it is qualified to perform.
- i. Describe how quickly the firm can begin working on this project if selected

Provide information in enough detail so that Agency can determine that the Proposer has a thorough understanding and extensive experience delivering some or all of the services required by this project. **(Total maximum 30 points.)**

5.2.2 Project Team's Qualification, Role on the Team, and Years of Experience and Expertise - The Proposer's firm must provide written statements that address the following:

Describe the firm's proposed project team and summarize the qualifications of the each staff person who will be assigned to this project including the role of each staff member, the numbers of years of related experience, and their expertise. **(Total maximum 30 points.)**

5.2.3 Recent and Related Work - The Proposer's firm must provide a written statement and related samples of work that describe and address the following:

List clients and show examples of related Services and work product that the firm has performed, completed and were accepted by the firm's clients. Make sure to include a minimum of two (2) examples that relate to each and all of the Services proposed to be delivered. Proposer must include the following information: client name, address, type of Services delivered, list of team members who delivered the related Services, contact person, contact person's title, phone and fax numbers, email address, samples of work delivered, date services were performed, clients' industry type, summary of work performed (i.e., website URL, logos, tag lines, color schemes, branding, marketing, etc.) **(Total maximum 30 points.)**

5.2.4 If the Proposer is requesting to deliver Web Design and Development Services - The Proposer's firm must provide a written statement that describe and address the following:

- a. Describe the content management system (CMS) the firm proposes to use
- b. Explain why the firm proposes to use this specific system.
- c. Describe the Proposer's web hosting service and the monthly hosting fee.
- d. Describe the Proposer's web maintenance package including hourly rate to be included in the services. (Include the term and description of services to be covered).
- e. Describe similar websites designed and built by the Proposer that successfully employ the state of the art search engine optimization strategies and techniques and get exceptional organic search results.

(Total maximum 10 points.)

5.3 **Cost Proposal Content.** List Proposer's hourly fees for the respective proposed Services. Each category below will be awarded up to 5 possible points with the maximum points possible awarded to the lowest hourly fee for each service: **(Total maximum 40 points)**

5.3.1 Account Management (cost per hour) (Maximum 5 points)

5.3.2 Creative Director (cost per hour) (Maximum 5points)

5.3.3 Art Director (cost per hour) (Maximum 5 points)

5.3.4 Copywriting (cost per hour) (Maximum 5points)

5.3.5 Production Management (cost per hour) (Maximum 5 points)

5.3.6 Media Placement Commission (percentage of media costs) (Maximum 5 points)

5.3.7 Website designer (Maximum 5 points)

5.3.8 Website programmer (Maximum 5 points)

The Cost Proposal hourly-based pricing must be inclusive of all Services, expenses and fees (i.e., Payroll expenses – hours/rate/title, Admin, Overhead, etc.). The rate schedule will be evaluated for reasonableness and competitiveness.

The lowest fee proposed for each category will be awarded the maximum number of cost points. Cost Proposals with higher fees proposed will be awarded a percentage of the maximum cost points available based on the percentage of their proposed fee relative to the lowest fee proposed.

5.4 **Reference Checks.** Agency reserves the right to check the firm's references listed in response to Section 4.2.3 of any firms who meet the top scoring threshold as determined by Agency. (not scored)

5.5 **Subcontractors.** Proposer shall identify any subcontractors it may intent to use for any of the work for the resulting ATA, if any, and shall describe the work. All subcontractors must be prior approved by the Agency. (not scored)

**SECTION 6
PROPOSAL EVALUATION AND AWARD**

6.1 GENERAL INFORMATION

Agency may award ATA's to the Proposers whose Proposals score the highest. A selection committee will be appointed to evaluate the Proposals received. The committee will use the criteria described in this section to evaluate and rank the Proposals, in conformance with OAR 137-047-0600.

MANDATORY CRITERIA

Section 5.2	Mandatory Requirements	100 points possible
5.2.1	Firm's Qualifications:.....	0 – 30 points
5.2.2	Project Team's Qualifications	0 – 30 points
5.2.3	Recent and Related Work.....	0 – 30 points
5.2.4	Web Design and Development Services	0 – 10 points

Section 5.3	Cost Proposal	40 points possible
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Total Points 140 points possible

NOTE: Proposers failing to meet any and all of the Mandatory Criteria will be rejected.

Agency may seek clarification from Proposers of any portion of their Proposals, and reserves the right to negotiate final ATA(s), which are in the best interest of Agency, considering cost effectiveness, and the level of Proposer time and effort required to fulfill project needs.

Only those Proposals determined to be responsive to the minimum Proposal requirements will be considered. Agency reserves the right to reject any or all Proposals if it is deemed in the public interest to do so.

Scoring is based on the categories described above, and the Proposer must describe how they meet any other requirements that may be specified in this document. If the proposal is unclear, Proposers may be asked to provide written clarification.

6.2 EVALUATION COMMITTEE REQUEST FURTHER CLARIFICATION

Proposers must remain available during the evaluation period to respond to requests for additional clarification. The Evaluation Committee may request additional clarification from Proposers of any portion of the Proposal. Proposers must submit written signed clarification(s) by the time and date indicated in the request, or the Proposal may be rejected as non-responsive.

6.3 PRESENTATION OF PROPOSAL

Proposers meeting the top scoring threshold as solely determined by Agency may be asked to provide an in-person proposal presentation to Agency staff and potential stakeholders. Due to time constraints, Proposers must tentatively plan on making presentations July 9th and 10th, 2012 at the Agency located at 725 Summer Street NE, Suite B, Salem, OR 97301.

6.4 NOTICE OF INTENT TO AWARD

Proposers will be notified in writing of Agency's intent to award, as well as be posted on the ORPIN network. The Intent to Award announcement shall serve as notice to all Proposers that Agency intends to make an award.

Any protests of Intent to Award will be conducted in accordance with OAR 137-048-0240,.

6.5 ATA NEGOTIATIONS AND AWARD

Agency reserves the right to negotiate the Menu of Services as described in this RFP, and any terms and conditions with the selected Proposer. If negotiations are not successful and an ATA is not executed within 90 days, Agency may either: (a) terminate negotiations with the top selection and begin negotiations with the next highest ranked Proposer, (b) cancel the solicitation, or (c) continue negotiations with the highest ranked Proposer.

Agency intends to enter into multiple ATA negotiations with the highest ranked Proposers. ATA negotiations will be directed toward obtaining final written agreement on Proposer's tasks, staffing, performance schedule, and hourly rate schedule leading to a maximum, not-to-exceed ATA price. The Proposer Rate Schedule will be consistent with a final agreed upon Menu of Service, within the Services established in this RFP, which is considered by the Agency and Proposer to be fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the professional services.

Agency reserves the right to amend the ATA(s) and its WOC(s), resulting from this RFP. Amendments may include increase in time, or adding, modifying or deleting services described in or directly related to the Menu of Services or Statements of Service, and shall occur only upon mutual consent and signature by all parties to the ATA. All amendments shall be in writing and shall contain all requisite approvals.

6.6 INSURANCE REQUIREMENTS

Proposer(s) will be required to provide certificates of insurance and endorsements to Agency per Exhibit B of Attachment A, the Sample Agreement to Agree prior to execution of ATA.

6.7 ATA AWARD AND WORK ORDER CONTRACTS

ATA Award

Agency will enter into an ATA with the selected Proposer, thereafter referred to as "Contractor". The Contractor shall only perform the services when authorized to do so by a WOC. WOC will be issued for specific projects that describe the statement of services and schedule for the project.

The ATA's are strictly for convenience and does not provide Contractor (s) exclusivity to provide the services. Agency, at its sole discretion, may procure services outside of the ATA(s).

Work Order Assignments

Upon receiving written or verbal notification by the Agency that a WOC needs to be issued, the Contractor (s) shall submit Proposals within no more than fifteen calendar days, unless otherwise allowed by the Agency. Contractor (s) shall have availability of a local office or ability to obtain a local office where the WOC services are to be performed, unless otherwise allowed by Agency.

SECTION 7 **GENERAL SOLICITATION TERMS**

7.1 Agency may require clarification to understand any of the selected Proposers' scored criteria. Any necessary clarifications or modifications will be made before executing the ATA and may become part of the final ATA.

7.2 Agency reserves the sole right and option to amend the ATA, which results from this RFP. ATA amendments may include increase in time, consideration or changes within the Statement of Work, and shall occur only upon mutual consent and signature by all parties to the ATA. All amendments shall be in writing and shall conform to the amendment process.

7.3 By submitting a proposal to this RFP, proposer shall accept all terms and conditions of the ATA as show in Exhibit A (Statement of Services), Exhibit B (Insurance Requirements), Exhibit C (OHCS Standard Invoice), and Exhibit D (Sample Work Order Contract). Exhibits A-D are attached hereto and incorporated herein by reference.

7.4 Contractor shall be required to provide certificates of insurance and any applicable endorsements to Agency prior to execution of the ATA.

7.5 ORS 60.701 requires that foreign corporations be registered by the State of Oregon, Office of the Secretary of State, before conducting business in the state. A foreign corporation (ORS 60.001) means a corporation-for-profit incorporated under a law other than the law of the State of Oregon. If a firm is selected for the Contract as a result of this solicitation they must register to do business in Oregon.

7.6 Agency reserves the right, at its sole discretion: (1) to amend the RFP prior to the closing date (2) to amend the deadline for submitting proposals; (3) to determine whether a proposal does or does not substantially comply with the requirements of this RFP; (4) to waive any minor irregularity, informality, or nonconformance with this RFP; (5) to obtain from and/or provide to other public agencies, upon request, references, regarding the Proposer's contract performance; (6) at any time prior to Contract execution (including after announcement of the apparent awardee): (a) to reject any proposal that fails to substantially comply with all prescribed RFP procedures and requirements; and (b) to reject all proposals received and cancel this RFP upon a finding by Agency that there is good cause and that such cancellation would be in the best interests of the State; (7) seek clarification on any or all proposals; and (8) negotiate the Statement of Services within the scope of the services described in this Request for Proposal.

7.7 This RFP and each original response received, together with copies of all documents pertaining to the award of a ATA, shall be kept by Agency and made a part of a file or records, which shall be open to public inspection. If a proposal contains any information that is considered a trade secret under ORS 192.501 (2), each sheet of such information must be marked with the following legend:

“This Contract constitutes a trade secret under ORS 192.501 (2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only “unless the public interest requires disclosure in the particular instance” ORS 192.501 (2). Therefore, non-disclosure of documents or any portion of a document submitted as part of a proposal may depend upon official or judicial determination made pursuant to the Public Records Law.

If a Proposal contains any information that may be considered exempt from disclosure under the various grounds specified in Oregon Public Records Law, ORS 192.430 through 192.505, Proposers must clearly designate any portion of its Proposal as exempt, along with a citation to the authority relied upon. Application of the Oregon Public Records Law shall determine whether any information is actually exempt from disclosure. Identifying a Proposal in whole as exempt from disclosure is not acceptable. Failure to identify a portion of the Proposal as exempt from disclosure, and the authority used, shall be deemed a waiver of any future claim of non-disclosure of that information.

7.8 The Contractor will be required to assume responsibility for all services outlined and finalized in the ATA, whether the contractor, a representative or subcontractor produces them. Agency considers the prime Contractor responsible for any and all contractual matters, including performance of work and the stated deliverables.

7.9 In accordance with the 2003 Oregon Sustainability Executive Order, Proposers must use recyclable products to the maximum extent economically feasible in the performance of the work set forth in this document and ORS 279A.125.

7.10 The cost, statement of work of the project and any terms and conditions as noted herein, may be negotiated, within the overall intent described in this RFP, with the selected Proposer. If negotiations are not successful and an ATA is not executed within 60 days, Agency may either: (a) terminate negotiations with the top selection and begin negotiations with the next highest ranked Proposer, (b) cancel the solicitation, or (c) continue negotiations with the highest ranked proposer.

7.11 Proposers submitting proposals may be afforded an opportunity for discussion and revision of proposals. Revisions may be permitted after submissions of proposals and prior to award for the purpose of obtaining best and final offers. Proposers that do not submit a notice of withdrawal or another best and final offer, their immediate previous offer will be construed as their

best and final offer. Negotiations may be conducted with responsible proposers who submit proposals found to be reasonably likely to be selected for award.

SECTION 8
ATTACHMENTS

Attachment A:	Cover Sheet
Attachment B:	Agreement to Agree SAMPLE
Exhibit A:	Statement of Services
Exhibit B:	Insurance Requirements
Exhibit C:	OHCS Standard Invoice form
Exhibit D:	SAMPLE Project Work Order Contract form

**ATTACHMENT A
COVER SHEET**

Legal Entity name: _____

DBA: _____

Mailing Address: _____

Oregon Secretary of State Business Registration No. _____ (type; check one):

- Corporation Professional Corporation Partnership Limited Partnership
 Limited Liability Company Limited Liability Partnership Sole Proprietorship
 Other _____

Check all of the Services that your firm is proposing to perform in response to this RFP:

- Branding Website Design and Development Marketing Plan

Voluntary information:

a. Office of Minority, Women, and Emerging Small Business Registration No. _____ (type; check one):

- Women Owned Business Minority Owned Business Emerging Small Business

b. Disabled Veteran Owned Business: **Yes** **No**

Oregon Resident proposer: **Yes** **No**

DUNS # (if applicable): _____

(insert proposer name)

- accepts all the terms and conditions contained in Request for Proposal #1566 and Attachment B (sample Agreement to Agree;
- certifies to having a formal Affirmative Action policy;
- is an equal employment opportunity employer;
- is a legal entity and is authorized to enter into a Contract.
- is currently or will be authorized to do business in the State of Oregon at the time of Contract award;
- has authority to represent the entity and answer questions or provide clarification concerning the proposal.

Signature of authorized representative

Date

Print name of authorized representative

Title

Project Manager

Contact Person _____

Title _____

Telephone # _____

Fax# _____

Email address _____

ATTACHMENT B

STATE OF OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT

SAMPLE AGREEMENT TO AGREE

This Agreement to Agree No. _____ (this "Agreement") is entered into by and between the State of Oregon ("State") acting by and through its Housing and Community Services Department hereinafter referred to as "Agency", and _____, a _____, hereinafter referred to as "Contractor".

For good and sufficient consideration, including the terms and conditions herein, the parties agree as follows:

1. Agreement Period. This Agreement shall become effective on the date this Agreement has been fully executed by every party and, when required, approved by the Department of Justice. Unless extended or terminated earlier in accordance with its terms, this Agreement shall terminate when Agency accepts Contractor's completed performance or on _____, _____, *or* the date Contractor has completed all Services in accordance with the requirements of this Agreement, as determined by Agency. The parties may extend the term of this Agreement provided that the total Agreement term does not extend beyond _____. Agreement termination shall not extinguish or prejudice Agency's right to enforce this Agreement with respect to any default by Contractor that has not been cured.

2. Statement of Work. Contractor shall perform the work (the "Work") as set forth in the Statement of Work, which includes the delivery schedule for such Work, and that is attached hereto as Exhibit A. Contractor shall perform the Work in accordance with the terms and conditions of this Agreement.

3. Consideration

a. The maximum, not-to-exceed compensation payable to Contractor under this Agreement and its respective Work Order Contracts, which includes any allowable expenses, is \$ _____. Agency will not pay Contractor any amount in excess of the not-to-exceed compensation of this Agreement for completing the Work, and will not pay for Work performed before the date this Agreement becomes effective or after the termination of this Agreement. If the maximum compensation is increased by amendment of this Agreement, the amendment must be fully effective before Contractor performs Work subject to the amendment.

b. Interim payments to Contractor shall be subject to ORS 293.462, and shall be made in accordance with the payment schedule and requirements in Exhibit A.

c. Agency will pay only for completed Work that is accepted by Agency.

d. Contractor shall submit monthly invoices to Agency's Agreement Administrator for Work performed. The invoices shall describe all Work performed with particularity and by whom it was performed and shall itemize and explain all expenses that this Agreement requires Agency to pay and for which Contractor claims reimbursement. Each invoice also shall include the total amount invoiced to date by Contractor prior to the current invoice. Contractor will specifically note in the appropriate invoice when it has requested payment for one-third and two-thirds of the maximum, not-to-exceed compensation. Contractor shall send invoices to Agency's Agreement Administrator.

4. Agreement Documents. This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, attached Exhibit A (the Statement of Work), Exhibit B (Required Insurance), Exhibit C (Standard Invoice), and Exhibit D (sample Work Order Contract). Exhibits A-D are attached hereto and incorporated herein by this reference.

5. Independent Contractor; Responsibility for Taxes and Withholding

a. Contractor shall perform all Work as an independent contractor. The Agency reserves the right (i) to determine and modify the delivery schedule for the Work and (ii) to evaluate the quality of the Work Product, however, the Agency may not and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work.

b. If Contractor is currently performing work for the State of Oregon or the federal government, Contractor by signature to this Agreement, represents and warrants that: Contractor's Work to be performed under this Agreement creates no potential or actual conflict of interest as defined by ORS 244 and no statutes, rules or regulations of the state or federal agency for which Contractor currently performs work would prohibit Contractor's Work under this Agreement.

c. Contractor understands and agrees that it is not an "officer", "employee", or "agent" of the Agency, as those terms are used in ORS 30.265.

d. Contractor shall be responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Agreement and, unless Contractor is subject to backup withholding, Agency will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Agreement, except as a self-employed individual.

6. Subcontracts, Successors, and Assignments

a. Contractor shall not enter into any subcontracts for any of the Work required by this Agreement without Agency's prior written consent. In addition to any other provisions Agency may require, Contractor shall include in any permitted subcontract under this Agreement provisions to ensure that Agency will receive the benefit of subcontractor performance as if the subcontractor were the Contractor with respect to Sections 5, 6, 7, 9, 10, 11, 14, 15, 16, 18, and 24. Agency's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Agreement.

b. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns, if any.

c. Contractor shall not assign, delegate or transfer any of its rights or obligations under this Agreement without Agency's prior written consent.

7. No Third Party Beneficiaries. Agency and Contractor are the only parties to this Agreement and are the only parties entitled to enforce the terms of this Agreement. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

8. Funds Available and Authorized; Payments. Contractor shall not be compensated for Work performed under this Agreement by any other agency or department of the State of Oregon. Agency certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Agreement within the Agency's current biennial appropriation or limitation. Contractor understands and agrees that Agency's payment of amounts under this Agreement is contingent on Agency receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.

9. Representations and Warranties.

a. Contractor's Representations and Warranties. Contractor represents and warrants to Agency that (1) Contractor has the power and authority to enter into and perform this Agreement, (2) this Agreement, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms, (3) Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in Contractor's industry, trade or profession, (4) Contractor shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work, (5) any software products delivered under this Agreement that process date or date-related data shall recognize, store and transmit date data in a format which explicitly and unambiguously specifies the correct century, and (6) Contractor prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

b. Warranties cumulative. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

10. Ownership of Work Product.

a. Definitions. As used in this Section 10, and elsewhere in this Agreement, the following terms have the meanings set forth below:

(i) "Contractor Intellectual Property" means any intellectual property owned by Contractor and developed independently from the Work.

(ii) "Third Party Intellectual Property" means any intellectual property owned by parties other than Agency or Contractor.

(iii) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that Contractor is required to deliver to Agency pursuant to the Work.

b. Original Works. All Work Product created by Contractor pursuant to the Work, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, shall be the exclusive property of Agency. Agency and Contractor agree that such original works of authorship are "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to the Work is not "work made for hire," Contractor hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all original Work Product created pursuant to the Work, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Agency's reasonable request, Contractor shall execute such further documents and instruments necessary to fully vest such rights in Agency. Contractor forever waives any and all rights relating to original Work Product created pursuant to the Work, including without limitation, any and all rights arising

under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

In the event that Work Product created by Contractor under this Agreement is a derivative work based on Contractor Intellectual Property, or is a compilation that includes Contractor Intellectual Property, Contractor hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Contractor Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

In the event that Work Product created by Contractor under this Agreement is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Contractor shall secure on the Agency's behalf and in the name of the Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

c. Contractor Intellectual Property. In the event that Work Product is Contractor Intellectual Property Contractor hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Contractor Intellectual Property, and to authorize others to do the same on Agency's behalf.

d. Third Party Works. In the event that Work Product is Third Party Intellectual Property, Contractor shall secure on the Agency's behalf and in the name of the Agency, an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property, and to authorize others to do the same on Agency's behalf.

11. Indemnity.

a. GENERAL INDEMNITY. CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS, AND INDEMNIFY THE STATE OF OREGON AND AGENCY AND THEIR OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEYS FEES, RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ACTIVITIES OF CONTRACTOR OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS AGREEMENT.

b. INDEMNITY FOR INFRINGEMENT CLAIMS. WITHOUT LIMITING THE GENERALITY OF SECTION 11.a, CONTRACTOR EXPRESSLY AGREES TO DEFEND, INDEMNIFY, AND HOLD AGENCY, THE STATE OF OREGON AND THEIR AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES HARMLESS FROM ANY AND ALL CLAIMS, SUITS, ACTIONS, LOSSES, LIABILITIES, COSTS, EXPENSES, INCLUDING ATTORNEYS FEES, AND DAMAGES ARISING OUT OF OR RELATED TO ANY CLAIMS THAT THE WORK, THE WORK PRODUCT OR ANY OTHER TANGIBLE OR INTANGIBLE ITEMS DELIVERED TO AGENCY BY CONTRACTOR THAT MAY BE THE SUBJECT OF PROTECTION UNDER ANY STATE OR FEDERAL INTELLECTUAL PROPERTY LAW OR DOCTRINE, OR THE AGENCY'S USE THEREOF, INFRINGES ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK, TRADE DRESS, MASK WORK, UTILITY DESIGN, OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY; PROVIDED, THAT STATE SHALL PROVIDE CONTRACTOR WITH PROMPT WRITTEN NOTICE OF ANY INFRINGEMENT CLAIM.

c. CONTROL OF DEFENSE AND SETTLEMENT. CONTRACTOR SHALL HAVE CONTROL OF THE DEFENSE AND SETTLEMENT OF ANY CLAIM THAT IS SUBJECT TO SECTIONS 11.a OR 11.b; HOWEVER, NEITHER CONTRACTOR NOR ANY ATTORNEY ENGAGED BY CONTRACTOR SHALL DEFEND THE CLAIM IN THE NAME OF THE STATE OF OREGON OR ANY AGENCY OF THE STATE OF OREGON, NOR PURPORT TO ACT AS LEGAL REPRESENTATIVE OF THE STATE OF OREGON OR ANY OF ITS AGENCIES, WITHOUT FIRST RECEIVING FROM THE OREGON ATTORNEY GENERAL, IN A FORM AND MANNER DETERMINED APPROPRIATE BY THE ATTORNEY GENERAL, AUTHORITY TO ACT AS LEGAL COUNSEL FOR THE STATE OF OREGON, NOR SHALL CONTRACTOR SETTLE ANY CLAIM ON BEHALF OF THE STATE OF OREGON WITHOUT THE APPROVAL OF THE ATTORNEY GENERAL. THE STATE OF OREGON MAY, AT ITS ELECTION AND EXPENSE, ASSUME ITS OWN DEFENSE AND SETTLEMENT IN THE EVENT THAT THE STATE OF OREGON DETERMINES THAT CONTRACTOR IS PROHIBITED FROM DEFENDING THE STATE OF OREGON, OR IS NOT ADEQUATELY DEFENDING THE STATE OF OREGON'S INTERESTS, OR THAT AN IMPORTANT GOVERNMENTAL PRINCIPLE IS AT ISSUE AND THE STATE OF OREGON DESIRES TO ASSUME ITS OWN DEFENSE.

12. Insurance. Contractor shall maintain insurance as set forth in Exhibit B, which is attached hereto.

13. Default; Remedies; Termination.

a. Default by Contractor. Contractor shall be in default under this Agreement if:

- (i) Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or

- (ii) Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under the Agreement and Contractor has not obtained such license or certificate within fourteen (14) calendar days after Agency's notice or such longer period as Agency may specify in such notice; or
- (iii) Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform the Work under this Agreement within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within fourteen (14) calendar days after Agency's notice, or such longer period as Agency may specify in such notice.

b. Agency's Remedies for Contractor's Default. In the event Contractor is in default under Section 13.a, Agency may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to:

- (i) termination of this Agreement under Section 13.e(ii);
- (ii) withholding all monies due for Work and Work Products that Contractor has failed to deliver within any scheduled completion dates or has performed inadequately or defectively;
- (iii) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief;
- (iv) exercise of its right of setoff.

These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Contractor was not in default under Sections 13.a, then Contractor shall be entitled to the same remedies as if this Agreement was terminated pursuant to Section 13.e(i).

c. Default by Agency. Agency shall be in default under this Agreement if:

- (i) Agency fails to pay Contractor any amount pursuant to the terms of this Agreement, and Agency fails to cure such failure within thirty (30) calendar days after Contractor's notice or such longer period as Contractor may specify in such notice; or
- (ii) Agency commits any material breach or default of any covenant, warranty, or obligation under this Agreement, and such breach or default is not cured within thirty (30) calendar days after Contractor's notice or such longer period as Contractor may specify in such notice.

d. Contractor's Remedies for Agency's Default. In the event Agency terminates the Agreement under Section 13.e(i), or in the event Agency is in default under Section 13.c and whether or not Contractor elects to exercise its right to terminate the Agreement under Section 13.e(iii), Contractor's sole monetary remedy shall be (a) with respect to services compensable on an hourly basis, a claim for unpaid invoices, hours worked within any limits set forth in this Agreement but not yet billed, authorized expenses incurred and interest within the limits permitted under ORS 293.462, and (b) with respect to deliverable-based Work, a claim for the sum designated for completing the deliverable multiplied by the percentage of Work completed and accepted by Agency, less previous amounts paid and any claim(s) that Agency has against Contractor. In no event shall Agency be liable to Contractor for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Contractor exceed the amount due to Contractor under this Section 13.d, Contractor shall pay immediately any excess to Agency upon written demand provided in accordance with Section 20.

e. Termination.

(i) Agency's Right to Terminate at its Discretion. At its sole discretion, Agency may terminate this Agreement:

- (A) For its convenience upon thirty (30) days' prior written notice by Agency to Contractor;
- (B) Immediately upon written notice if Agency fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Work or Work Products; or
- (C) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the Agency's purchase of the Work or Work Products under this Agreement is prohibited or Agency is prohibited from paying for such Work or Work Products from the planned funding source.

(ii) Agency's Right to Terminate for Cause. In addition to any other rights and remedies Agency may have under this Agreement, Agency may terminate this Agreement immediately upon written notice by Agency to Contractor, or at such later date as Agency may establish in such notice, or upon expiration of the time period and with such notice as provided in Section 13.e(ii)(B) and 13.e(ii)(C) below, upon the occurrence of any of the following events:

- (A) Contractor is in default under Section 13.a(i) because Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
- (B) Contractor is in default under Section 13.a(ii) because Contractor no longer holds a license or certificate that is required for it to perform services under the Agreement and Contractor has not obtained such license or certificate within fourteen (14) calendar days after Agency's notice or such longer period as Agency may specify in such notice; or
- (C) Contractor is in default under Section 13.a(iii) because Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform the Work under this Agreement

within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within fourteen (14) calendar days after Agency's notice, or such longer period as Agency may specify in such notice.

(iii) Contractor's Right to Terminate for Cause. Contractor may terminate this Agreement with such written notice to Agency as provided in Sections 13.e(iii)(A) and 13.e(iii)(B) below, or at such later date as Contractor may establish in such notice, upon the occurrence of the following events:

(A) Agency is in default under Section 13.c(i) because Agency fails to pay Contractor any amount pursuant to the terms of this Agreement, and Agency fails to cure such failure within thirty (30) calendar days after Contractor's notice or such longer period as Contractor may specify in such notice; or

(B) Agency is in default under Section 13.c(ii) because Agency commits any material breach or default of any covenant, warranty, or obligation under this Agreement, fails to perform its commitments hereunder within the time specified or any extension thereof, and Agency fails to cure such failure within thirty (30) calendar days after Contractor's notice or such longer period as Contractor may specify in such notice.

(iv) Return of Property. Upon termination of this Agreement for any reason whatsoever, Contractor shall immediately deliver to Agency all of Agency's property (including without limitation any Work or Work Products for which Agency has made payment in whole or in part) that is in the possession or under the control of Contractor in whatever stage of development and form of recordation such Agency property is expressed or embodied at that time. Upon receiving a notice of termination of this Agreement, Contractor shall immediately cease all activities under this Agreement, unless Agency expressly directs otherwise in such notice of termination. Upon Agency's request, Contractor shall surrender to anyone Agency designates, all documents, research or objects or other tangible things needed to complete the Work and the Work Products.

14. Records Maintenance; Access. Contractor shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Agreement in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of Contractor that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

15. Compliance with Applicable Law. Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. Agency's performance under the Agreement is conditioned upon Contractor's compliance with the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 which are incorporated by reference herein. Contractor shall, to the maximum extent economically feasible in the performance of this Agreement, use recycled paper (as defined in ORS 279A.010(1)(ee)), recycled PETE products (as defined in ORS 279A.010(1)(ff)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(gg)).

16. Foreign Contractor. If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Agreement. Contractor shall demonstrate its legal capacity to perform the Work under this Agreement in the State of Oregon prior to entering into this Agreement.

17. Force Majeure. Neither Agency nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, terrorist acts, or other acts of political sabotage, or war where such cause was beyond the reasonable control of Agency or Contractor, respectively. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

18. Survival. All rights and obligations shall cease upon termination or expiration of this Agreement, except for the rights and obligations set forth in Sections 1, 7, 8, 9, 10, 11, 12, 13, 14, 18, 24, and 25.

19. Time is of the Essence. Contractor agrees that time is of the essence under this Agreement.

20. Notice. Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by email, personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or Agency at the address, number or email address set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this Section 20. Any communication or notice so addressed and mailed shall be effective five (5) days after mailing. Any communication or notice delivered by facsimile shall be effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective against Agency, any notice transmitted by facsimile must be confirmed by telephone notice to Agency's Agreement Administrator. Any communication or notice given by personal delivery shall be effective when actually delivered. Any communication or notice given by email shall be effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.

21. Severability. The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

22. Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement so executed shall constitute an original.

23. Oregon False Claims Act.

i. Contractor acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action or conduct by Contractor pertaining to this Agreement that constitutes a "claim" (as defined by ORS 180.750(1)). By its execution of this Agreement, Contractor certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Agreement. In addition to other liabilities that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Contractor.

ii. Without limiting the generality of the foregoing, Contractor represents and warrants that:

- a. Contractor's representations, certifications, and other undertakings in this Agreement are not False Claims Act Violations; and
- b. None of Contractor's performance under this Agreement, including but not limited to any invoices, reports, or other deliverables in connection with its performance of this Agreement, will constitute False Claims Act Violations.

iii. For purposes of this Section 23., a "False Claims Act Violation" means a false claim as defined by ORS 180.750(2) or anything prohibited by ORS 180.755.

iv. Contractor shall immediately report in writing, to Agency, any credible evidence that a principal, employee, agent, subcontractor, subgrantee, or other person has made a false claim or committed a prohibited act under the Oregon False Claims Act, or has committed a criminal or civil violation of laws pertaining to fraud, bribery, gratuity, conflict of interest, or similar misconduct in connection with this Agreement or any moneys paid under this Agreement.

v. Contractor understands and agrees that any remedy that may be available under the Oregon False Claims Act shall be in addition to any other remedy available to the State of Oregon or Agency under any other provision of law, or this Agreement.

24. Governing Law; Venue: Consent to Jurisdiction. This Agreement shall be governed by the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Agency and Contractor related to this Agreement shall be conducted exclusively within the Circuit Court of Marion County, Oregon (unless Oregon law requires that it be brought and conducted where the real property is located) or, if necessary, the United States District Court for the District of Oregon. In no event shall this provision be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

25. Merger Clause; Waiver. This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind all parties unless in writing and signed by both parties and all necessary State approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of Agency to enforce any provision of this Agreement shall not constitute a waiver by Agency of that or any other provision.

26. Amendments. Agency may amend this Agreement to the extent permitted by applicable statutes and administrative rules to, among other revisions, extend its term or modify the compensation, to delete services or to add any services that are within the scope of work, if any, or any combination of the foregoing. The parties may not waive, supplemented or amended the terms of the Agreement, in any manner whatsoever, except by written amendment signed by all parties and for which all necessary State of Oregon approvals have been obtained.

27. Certifications and Signature of Contractor's Authorized Representative.

THIS CONTRACT MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF CONTRACTOR.

The undersigned certifies under penalty of perjury both individually and on behalf of Contractor that:

A. The undersigned is a duly authorized representative of Contractor, has been authorized by Contractor to make all representations, attestations, and certifications contained in this Agreement and to execute this Agreement on behalf of Contractor;

B. By signature on this Agreement for Contractor, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.

C. To the best of the undersigned's knowledge, Contractor has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts.

D. Contractor and Contractor's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>;

E. Contractor is bound by and will comply with all requirements, terms and conditions contained in this Agreement; and

F. Contractor ___ is / ___ is not a nonresident alien as defined in 26 USC § 7701(b)(1) (check one). See section 2.D.ii.

Contractor (print Contractor's name): _____

Authorized Signature: _____ Date: _____

By (print name): _____ Title: _____

Contractor Address: _____

Contact Telephone Number: _____

Contact Fax Number: _____

Contact E-Mail Address: _____

28. Signature of State's Authorized Representative.

State of Oregon acting by and through
Oregon Housing and Community Services Department
725 Summer Street NE Suite B, Salem, OR 97301

Authorized Signature: _____
Margaret S. Van Vliet, Director or designee Date

Agency Project Coordinator: _____

Telephone Number: _____

Fax Number: _____

E-Mail Address: _____

**EXHIBIT A
STATEMENT OF SERVICES**

Part I. General Information.

Oregon is in the midst of a foreclosure crisis that is taking a toll on thousands of families throughout our state every month. An estimated 23,000 households in Oregon are currently at some stage of the foreclosure process, with thousands more are at-risk of foreclosure or already foreclosed upon.

To combat this crisis, Oregonians have two new tools: provisions of the newly passed Senate Bill 1552, and funding made available to the state as the result of a Multi-State Settlement with major servicers. Through these tools, homeowners now have access to a mediator prior to being foreclosed upon, access to a foreclosure counselor, to prepare for the mediation, and access to funding, in order to modify or re-finance a distressed loan. To ensure that Oregonians are aware of these services, that they understand these services, and they trust these services, Oregon Housing and Community Services (Agency) is seeking a qualified contractor and/or multiple contractors to: 1. Develop an identity/branding package for a public awareness campaign related to foreclosure prevention services; 2. Design and develop new website that serves as a comprehensive gateway to multiple new and pre-existing programs; and 3. Draft a public awareness and marketing plan to raise awareness about the new website and associated services with households who are going through, have been through, or are at-risk of foreclosure in Oregon.

The main objectives of this public awareness campaign and the website are:

- Reduce the number or preventable foreclosures in Oregon by directing distressed homeowners to available resources (or providing resources directly)
- Help homeowners identify and avoid foreclosure scams and fraud
- Coordinate program information, service delivery, capacity building, and information sharing among related partners
- Educate consumers about new foreclosure rules and processes related to Senate Bill 1552
- Educate previously foreclosed upon households about the Multi-State Settlement and related claims
- Develop tools related to the online provision of foreclosure counseling

The target audience for the campaign and the website are Oregon homeowners who are currently in the midst of the foreclosure process, those that are at-risk of foreclosure, and those that have already been foreclosed upon. This audience will not likely be eager to come forward and request or access services due to the stigma attached to potentially losing or having lost their home, and may be fatigued, to the high volume of pre-existing communications and news items related to foreclosure prevention resources (typically from for-profit companies) Additional relevant audiences include related partners such as the non-profit housing counseling agencies, for-profit loan servicers, other state agencies, mediators (required by Senate Bill 1552), policy advocates, legislators, and the media. Agency and the Oregon Department of Justice are working collaboratively with key stakeholders to prepare for, and to implement several key components of foreclosure prevention programs related to SB 1552 and the multi-state settlement. Informing our work has been the extensive research and analysis performed by a 16-member work group convened by DOJ, as well as expertise from community advocates, state agency staff, and lessons learned from other states.

Part II. Deliverables.

Contractor shall participate in or attend meetings in person, onsite, by phone, or otherwise as requested by Agency.

Contractor shall provide Services as needed by Agency pursuant only to resulting Work Order Contract.

TASK 1. BRANDING AND IDENTITY PACKAGE

Contractor shall provide branding, web design and development and marketing for the state foreclosure campaign as set forth in detail below.

1. Branding and Identity Package: Contractor shall provide a comprehensive Branding Guide (“Guide”) for the foreclosure prevention campaign and website for review, consideration and approval of the Agency. The Guide must include particular emphasis on the following goals:

1.A

- 1.A.1 Develop, present, and refine a name, logo, URL and tag line that captures the essence of the foreclosure campaign for Agency review, consideration and approval. All of the above need to be compelling and relevant to the target audience which are homeowners at-risk of or dealing with foreclosure in Oregon;
- 1.A.2 Contractor shall develop and present a minimum of three different conceptual and unique names, URLs, logos, and tag lines to Agency staff and key stakeholders for review, consideration and approval prior to settling on a single name, URL, logo or tag line. Contractor shall then edit and refine final name, logo, URL, and tag line for approval by the Agency.
- 1.A.3 Once the final name, logo, URL, and tag line have been approved, the Contractor shall develop a draft branding guide which details the proposed colors, fonts, and templates for Agency review, consideration and approval. After the draft has been reviewed and approved by Agency the Contractor shall finalize and present final Branding Guide and Templates to Agency for final review and approval.

1.B Requirements:

- 1.B.1 Attendance of and/or facilitation of meetings to present draft and final products, to Agency and/or stakeholder groups.
- 1.B.2 Contractor shall be available upon request should a situation or an emergency arise that needs immediate attention;
- 1.B.3 Contractor shall provide draft plans and timelines to Agency for review and approval as needed or requested by Agency.
- 1.B.4 All suggested names, URLs, and tag lines must be available and must not be trademarked, or copyright protected, and must be able to become the property of the Agency and free of any prior encumbrances.

TASK 2. WEBSITE DESIGN, DEVELOPMENT, AND MAINTENANCE

2. Website Design, Development and Hosting: Contractor shall develop plan for content, creative design, main navigation features, website architecture, search engine optimization, overall functionality to include but is not limited to, design site architecture including web page hierarchy and contents, site navigation, high-level messaging for each page, sub-navigation and links, static and dynamically driven pages, position of flash animation (if needed).

- 2.A General Website Functionality. The website must be available to the public 24/7 with no downtime when updates to content or data are done and provides high-speed and upload with minimal download response times for all types of equipment (i.e., high-speed and low-speed) in use by the public.

The website must allow delegated content management utilizing a stable and well tested content management system (CMS) that is user friendly for non-technical content managers.

The website needs to enhance the delivery and awareness of public services and facilitates a clearly accessible process for public inquiry.

- 2.B_ General Scope of Services. Contractor shall provide development, design, implementation, maintenance, and hosting of the website under the to-be-determined domain name. Services may include but are not limited to:

- 2.B.1 Translation Services for web content and collateral materials
- 2.B.2 Marketing and Advertising
- 2.B.3 Bulk email assistance
- 2.B.4 Creation of pdf (portable document format)
- 2.B.5 Video production
- 2.B.6 New website pages and content
- 2.B.7 Other online tools and forms

- 2.C Site Requirements. Contractor shall ensure the following site requirements:

2.C.1 Site Criteria:

- a) The site must convey professionalism and high quality as evident in the services provided by Agency.
- b) The site must be easily accessed and navigated by the general public that emphasizes available services and access to foreclosure prevention resources.

- c) The site must be continuously available to the public 24 hours a day, 7 days a week with no downtime when updates to content or data are made, with the exception for times of scheduled maintenance.
- d) The site must include links for the public to download any browser plug-in products, such as Acrobat Reader, that are necessary to view information on the website.
- e) The site must be compatible with current versions of commonly used Internet browsers.
- f) The site must provide for high-speed upload/download response time for both low and high speed computers that are used by the average citizen.
- g) The site must be designed to function effectively with common versions of software and hardware.
- h) Every web page must have a footer containing the following information:
 - i) Copyright information;
 - ii) Contact information, including an email link; and
 - iii) A link to a disclaimer notice, if any.
 - iv) Include the equal opportunity housing provider logo in the footer of every page.
- i) The site must have a navigation bar on each web page.
- j) The site must be inclusive and easily navigable for all ages.
- k) The site must have the flexibility to integrate applications within the site as needed or requested by Agency at a later date.
- l) The site must have a consistent and standardized format and enhanced graphical look throughout.
- m) The site must provide appropriate security levels and back-up to insure the reliability, integrity, and availability for the site.
- n) The site must be accessible to the public in four languages: English, Spanish, Russian and Vietnamese.
- o) The site must have a general and easy to use website search function on every page throughout the website.
- p) The site needs to be constructed, designed and built using the state of the art search engine optimization (SEO) strategies and techniques employing the keywords most frequently utilized by the target audience in order to maximize organic search.

2.D Contractor Responsibilities.

- 2.D.1 Contractor shall perform all non-essential scheduled maintenance that will cause site downtime between the hours of 10:00 pm and 6:00 am PST.
- 2.D.2 Contractor shall maintain an ongoing archival of all existing and past data, press releases, etc. in HTML format which shall be submit to Agency upon request or termination of this Contract, whichever occurs first.
- 2.D.3 Contractor shall build the website for providing for Agency non-technical content management . Contractor shall design the website to allow for delegated content management that it is easily updated with a content management system (CMS).
- 2.D.4 Contractor shall provide ongoing monthly web hosting and access to all standard services which include but are not limited to: Web hosting, backup, security, disaster recovery plans and network engineering associated with maintaining the site.
- 2.D.5 Contractor shall fix error and usability problems timely as needed or requested by Agency.
- 2.D.6 Unless requested sooner or more frequently by Agency, Contractor shall provide the Agency ongoing access to traffic reporting metrics via Google Analytics or a similar form and manner acceptable to Agency upon request and within 15 days after the last day of the calendar year month.
- 2.D.7 Contractor shall ensure and maintain confidentiality with all Agency program materials that Agency has not released to the public.
- 2.D.8 Contractor shall act as the main contact for the hosting site but shall refer all media requests, if any, regarding to Agency staff.
- 2.D.9 Contractor shall create new content and update content of web pages as requested by Agency.
- 2.D.10 Contractor shall not distribute or disseminate any data gathered from the site, providing data security for all users who input information into the eligibility test application.
- 2.D.11 Contractor shall create a graphical layout to include the campaign logo, Agency logo, navigational elements, a custom background, and other elements as required to provide a high quality, easy to use, cohesive interface for the entire site.
- 2.D.12 Agency will have final say regarding layout, colors, etc. Contractor shall develop and submit prototype(s) to Agency for preliminary review.
- 2.D.13 Contractor shall provide training to Agency staff to develop, maintain, and update content in a form and manner to be determined and mutually agreed upon by the Agency.

- 2.D.14 Contractor shall work closely with the Agency to ensure Agency objectives and timelines are being met. This may include Contractor meeting attendance by phone, in person onsite, or otherwise as deemed necessary by Agency.
- 2.D.15 Contractor shall provide for, or shall cause to be provided by a subcontractor, translation services as needed or requested by Agency in three languages: Spanish, Russian and Vietnamese.

2.E Web Site Hosting. Contractor shall perform or secure standard monthly hosting for the website.

Agency Responsibilities: Agency will provide all content and updates to Contractor to upload onto the site.

TASK 3. MARKETING PLAN

3. Marketing Plan: Contractor shall develop and deliver a marketing plan and budget (“Plan”) for the promotion of the website for review, consideration and approval of the Agency. The Plan must include particular emphasis on the following goals:

3.A Required Services:

- 3.A.1 The primary target audience is distressed homeowners throughout Oregon who are at-risk of or who have recently been foreclosed upon.
- 3.A.2 Develop marketing strategies and marketing recommendations to promote the website to the primary target audience.

3.B Contractor Requirements:

- 3.B.1 Attendance at onsite meetings as requested by Agency.
- 3.B.2 Contractor shall be available upon request should a situation or an emergency arise that needs immediate attention.
- 3.B.3 Contractor shall provide a draft plans and timelines to Agency for review and approval as needed or requested by Agency.
- 3.B.4 Contractor shall develop a draft budget for implementation of the proposed marketing plan itemizing the costs of implementing the draft marketing plan.

3.C The Contractor shall research, write, and present a draft marketing plan and budget sufficient to drive traffic to the website from members of the target audience. Contractor shall develop and submit for review and Agency approval a draft of the Marketing Plan. After review by Agency staff and key stakeholders, Contractor shall deliver a final plan of the Plan by August 15, 2012 to the Agency.

The plan should include the types of media buys and costs that the contractor proposes will be most effective in reaching the target market in the most direct and cost-effective manner. The Agency is specifically trying to reach recently foreclosed upon Oregonians who may be eligible for the Multi-State Settlement funds.

Part III. Special Considerations.

A. **COLLATERAL PROJECTS.** Contractor understands and agrees that under Oregon law all print projects must be produced through the Oregon State Printing Division. Contractor and Agency will, in writing, describe the manner in which all projects are to be printed. All film and negatives shall include written instructions to the State Printer for clarification. Contractor agrees to be available for any consultation necessary with the State Printing Division and Agency in regard to the artwork produced by the Contractor, and the film and negatives contracted by the Contractor. Consultations include inspection and approval of loose color, blue lines, color negatives, and press checks. Pursuant to Part II of this Exhibit A, Agency shall have the right to approve all collateral projects.

B. **WORK ORDER CONTRACTS.** All Services must be completed within timeframe, unless otherwise specified, upon receipt of signed Work Order Contract.

1. Work Order Contract Assignments. Work Order Contracts (“WOC”) must be pre-approved by Agency in writing for each project and final WOCs must be provided by Contractor to Agency for each project. The projects will be assigned as needed. There is no guarantee that any specific amount of work or overall dollar amounts will be assigned during the term of the Agreement. The Contractor will perform all Services under this Agreement only pursuant to its respective WOC(s). Upon receiving written or verbal notification by the Agency that a WOC needs to be issued, the Contractor shall conclude any negotiations, and submit final cost estimates within 5 days, unless otherwise allowed by the Agency. No Work under a WOC or WOC amendment shall begin before Agency and Contractor have signed the WOC and other required signature are obtained on the WOC or WOC amendment. All Services must be completed

within the timeframe specified in the Agency approved WOC. Contractor shall not assign, sell, transfer, sublet or subcontract its interest in this project, in whole or in part, without prior written consent of the Agency.

2. Acceptance criteria and process. Agency will inspect and either accept or reject the deliverables of each Work Order Contract within 24 hours upon completion of Services. If Agency rejects the Work, then Agency's written notice of rejection shall, at a minimum, itemize the apparent defects and include:
 - i. a description of nonconformance between the Work and the requirements and specifications for that Work Order Contract, including warranties;
 - ii. a description of any other nonconformance of the Work Order Contract (including late delivery); and
 - iii. a statement indicating whether Contractor may cure the nonconformance and if so, the method in which and time period within which Contractor shall cure.

Contractor's failure to deliver the Work in accordance with the requirements of this Agreement and its Work Order Contracts is a material breach of this Agreement.

C. **KEY PERSONS.** Contractor and Agency agree that each individual specified below is an individual whose special qualifications and involvement in Contractor's performance of Services form part of the basis of agreement between the parties for this Contract and is an individual through whom Contractor shall provide to Agency the expertise, experience, judgment, and personal attention required to perform Services ("Key Person"). Each of the following is a Key Person under this Agreement:

Neither Contractor nor any Key Person of Contractor shall delegate performance of Services any Key Person is required to perform under this Agreement to others without first obtaining Agency's written consent. Further, Contractor shall not, without first obtaining Agency's prior written consent, re-assign or transfer any Key Person to other duties or positions so that the Key Person is no longer available to provide Agency with that Key Person's expertise, experience, judgment, and personal attention. If Contractor requests Agency to approve a re-assignment or transfer of a Key Person, Agency shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for the Key Person. Any individual Agency approves as a replacement for a Key Person is deemed a Key Person under this Agreement.

Part IV. Payment Provisions.

- A. The compensation for Services accomplished under this Agreement and its respective Work Order Contracts shall not exceed a maximum of \$_____. Contractor understands there is no guarantee of work or of compensation.

Agency will reimburse Contractor all amounts due under each authorized Work Order Contract in one payment upon Agency's review and subsequent approval of Contractor's invoice to Agency but only after Agency has determined that Contractor has completed, and Agency has accepted, all Work Order Contract and Contractor has delivered and Agency has accepted all Work required under this Agreement in accordance with its respective Work Order Contract(s).

- B. Payments may be made to Contractor upon Agency receipt and approval of the Contractor's billing statement. Agency reserves the right to request, in writing, full itemization and receipts for, but not limited to, any or all labor and/or direct costs billed by the Contractor. Contractor shall provide receipts within five (5) business days of request. Payment shall not be released until all requested receipts have been received from the Contractor. All invoices and other forms of claims for payment must be no more than once per month to: Agency, ATTN: Accounts Payable, 725 Summer Street NE, Suite B, Salem, OR 97301-1266, for approval. Failure to present claims in proper form within 60 days after the end of the month in which the work is performed shall constitute a waiver on the part of Contractor to present such claim thereafter or to receive payment therefore. Any overdue payments by Agency for an approved billing statement shall be in accordance with ORS 293.462.
- D. Payment for Work accomplished shall include those costs allowable under the provisions of 48 CFR Part 31 (Federal Acquisition Regulations).
- E. Contractor shall complete all Work as defined in this Exhibit to the satisfaction of the Agency. If Contractor expends all time allowed under the Agreement or its Work Order Contracts and fees incurred have reached the maximum compensation allowed, but the Work and Work Products are not complete or are not satisfactory, Contractor shall complete the Work to Agency's satisfaction without further compensation. Agency may, by amendment, increase the maximum compensation payable for any substantial, approved increase in the scope, character, schedule or complexity of services as outlined in this Exhibit. Contractor may petition the Agency for such an amendment, or the Agency may

initiate the action on its own. Any amendment must receive all necessary State approvals prior to commencement of any such work by the Contractor.

- F. Agency reserves the right to withhold final payment equal to ten percent (10%) of the total Work Order Contract amount until all required Work is completed and accepted by the Agency.
- G. Agency shall make final payment of any balance due Contractor promptly upon verification of completion and acceptance of the Work by Agency. Agency, or its duly authorized agents, may audit Contractor's records prior to payment of the final billing.

Part V. Travel and Other Expenses.

Agency shall not reimburse Contractor for any other expenses under this Agreement.

**EXHIBIT B
INSURANCE REQUIREMENTS**

A. REQUIRED INSURANCE. Contractor shall obtain at Contractor's expense the insurance specified in this Exhibit B prior to performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract and all warranty periods. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in State and that are acceptable to Agency. Should any of the below described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

i. **WORKERS COMPENSATION.** All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.

ii. **EMPLOYERS' LIABILITY.**

Required by Agency **Not required by Agency.**

If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall obtain employers' liability insurance coverage. Contractor shall provide proof of insurance of not less than the following amounts as determined by the Agency:

 \$500,000 Per person per occurrence

iii. **PROFESSIONAL LIABILITY**

Required by Agency **Not required by Agency.**

iv. **COMMERCIAL GENERAL LIABILITY.**

Required by Agency **Not required by Agency.**

Commercial General Liability. Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to the State. This insurance shall include personal injury liability, products, and completed operations. Coverage shall be written on an occurrence basis. Contractor shall provide proof of insurance of not less than the following amounts as determined by the Agency:

Bodily Injury/Death:

 \$1,000,000 Per occurrence limit for any single claimant; and

 \$2,000,000 Per occurrence limit for multiple claimants

AND

Property Damage:

Per occurrence limit for any single claimant:

From commencement of the Contract term to June 30, 2013: \$104,300, and

Per occurrence limit for multiple claimants:

From commencement of the Contract term to June 30, 2013: \$521,400.

From July 1, 2010, and every year thereafter, the adjusted limitation will be as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).

v. **AUTOMOBILE LIABILITY INSURANCE: AUTOMOBILE LIABILITY.**

Required by Agency **Not required by Agency.**

Automobile Liability. Automobile Liability Insurance covering all owned or hired vehicles; provided, however, that if Contractor owns no vehicles non-owned coverage shall be sufficient. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for “Commercial General Liability” and “Automobile Liability”). Contractor shall provide proof of insurance of not less than the following amounts as determined by the Agency:

Bodily Injury/Death:

- \$1,000,000 Per occurrence limit for any single claimant; and
- \$2,000,000 Per occurrence limit for multiple claimants

AND

Property Damage:

Per occurrence limit for any single claimant:
From commencement of the Contract term to June 30, 2013: \$104,300, and

Per occurrence limit for multiple claimants:
From commencement of the Contract term to June 30, 2013: \$521,400.

From July 1, 2010, and every year thereafter, the adjusted limitation will be as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).

vi. EXCESS/UMBRELLA INSURANCE.

A combination of primary and excess/umbrella insurance is acceptable. If you are using excess/umbrella insurance to meet the minimum insurance requirement, your certificate must include a list of the policies that fall under the excess/umbrella insurance. Sample wording is “The Excess/Umbrella policy is excess over General Liability, Auto Liability, etc.”

B. ADDITIONAL INSURED. The Commercial General Liability insurance and Automobile Liability insurance required under this Contract shall include the State of Oregon, its officers, employees and agents as Additional Insureds Endorsed but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

C. “TAIL” COVERAGE. If any of the required professional liability insurance is on a "claims made" basis, Contractor shall either maintain either “tail” coverage or continuous "claims made" liability coverage, provided the effective date of the continuous “claims made” coverage is on or before the effective date of this Contract, for a minimum of 24 months following the later of (i) Contractor’s completion and Agency’s acceptance of all Services required under this Contract, or, (ii) The expiration of all warranty periods provided under this Contract. Notwithstanding the foregoing 24-month requirement, if Contractor elects to maintain “tail” coverage and if the maximum time period “tail” coverage reasonably available in the marketplace is less than the 24-month period described above, then Contractor shall maintain “tail” coverage for the maximum time period that “tail” coverage is reasonably available in the marketplace for the coverage required under this Contract. Contractor shall provide to Agency, upon Agency’s request, certification of the coverage required under this section 4.C.

D. CERTIFICATE(S) OF INSURANCE. Contractor shall provide to Agency Certificate(s) of Insurance and all applicable Endorsements for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

**EXHIBIT C
OHCS STANDARD INVOICE**

Contractor Name	ATA No.	Invoice No.	Invoice Amount
			\$

ATA not-to-exceed Amount	ATA amount previously requested/received	ATA remaining Balance
\$	\$	\$

WOC No.	WOC Expiration Date	WOC Not-to-exceed Amount	WOC Amount previously requested/received	WOC Remaining Balance
		\$	\$	\$

WORK IN PROGRESS OR COMPLETED FOR THIS BILLING PERIOD

Project Name	% In Progress	% Completed	Date Completed	Comments/Notes

FOR AGENCY USE ONLY

APPROVED FOR PAYMENT	INDEX _____ PCA _____ GRANT/PH _____ AOBJ _____
	_____ Reviewed & Approved for Payment by Program Coordinator Date
	_____ Approved for funds by Manager Date

EXHIBIT D

**WORK ORDER CONTRACT #
to
AGREEMENT TO AGREE #**

1. This is Work Order Contract No. to Agreement to Agree No. (as assigned 'the Work' from the "Agreement") dated _____, between the State of Oregon acting by and through its Department of Housing and Community Services Department hereinafter referred to as "Agency", and _____ hereinafter referred to as "Contractor".

2. Work Order Contract Criteria.

This Work Order Contract ("WOC") shall become effective on the date this WOC has been fully executed by every party. Unless extended or terminated earlier in accordance with its terms, this WOC shall terminate when Agency accepts Contractor's completed performance or on _____, *or* the date Contractor has completed all Services in accordance with the requirements of this WOC, as determined by Agency.

3. Work Order Contract Amount.

A. Total Agreement amount not-to-exceed	\$
B. Total Amount previously requested and received	\$ 0
C. Total Amount Available ($A - B = C$)	\$
D. Total Amount of this Work Order:	\$
E. Balance remaining on Agreement ($C - D = E$)	\$

4. Statement of Work.

Contractor shall perform an RCS in accordance with the Agreement deliverables for:

5. Representations.

Except as expressly described above, all other terms and conditions of original Agreement #1506 are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the original Agreement are true and correct as of the effective date of this Work Order Contract and with the same effect as though made at the time of this Work Order Contract.

CONTRACTOR: YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO NECESSARY STATE APPROVALS

AS AGREED:

CONTRACTOR

Authorized by: Title Date

OREGON HOUSING AND COMMUNITY SERVICES

Authorized by: Margaret S. Van Vliet, Director or designee Date