

**STATEMENT ON SENSITIVE SECURITY INFORMATION (SSI) REGULATIONS -
PERTAINING TO CONFIDENTIAL INFORMATION AND NONDISCLOSURE AGREEMENT**

Some of the material and information that may come into [your] possession or knowledge in connection with this Request for Proposal or its performance may consist of information that designated as Sensitive Security Information ("SSI") or is exempt from disclosure to the public or other unauthorized persons under either chapter 42.17 RCW or other state or federal statutes ("Confidential Information").

As a condition to receiving access to SSI and Confidential Information for purposes of making proposals to WSF [in the RFP], Proposers must agree to hold SSI and CONFIDENTIAL INFORMATION in strictest confidence and not to make use of the SSI and CI for any purpose other than the making of proposals under the RFP, to release Information only to authorized employees or Subcontractors requiring such information for the purposes of making proposals under this RFP, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without WSDOT's express written consent or as provided by law. Vendor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to SSI and Confidential Information.

SSI consists of marked or unmarked records and information obtained or developed in the conduct of security activities, the disclosure of which the federal Transportation Security Administration and United State Coast Guard has determined would constitute an unwarranted invasion of privacy, reveal trade secrets, privileged or confidential information, or be detrimental to the security of transportation. The safeguarding and sharing of SSI is governed by Code of Federal Regulations at 49 C.F.R. pt. 1520. Records containing SSI are not available for public inspection or copying or release to persons without a need to know. 49 C.F.R. § 1520.15. You are urged to obtain and review a copy of these regulations.

Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, agency security data, or information identifiable to an individual that relates to any of these types of information. Confidential Information includes any writing, drawing, map, data, tape, film, photograph, data or other means by which information is preserved, irrespective of format as defined in Revised Code of Washington State (RCW) 42.56.010(3), or under any other Executive Order, regulation or statute that is exempt or prohibited from unauthorized disclosure under RCW 42.56.070.

The SSI regulations define what kinds of information constitute SSI. 49 C.F.R. § 1520.5. The performance specifications of the systems involved in this RFP and specific technical and operational details with regard to security measures and security screening information WSF are SSI. WSF security plans, security training materials and identifying information of certain maritime transportation security personnel also qualify as SSI.

WSF specifically falls within the definition of a "covered person" subject to the SSI regulations.¹ 49 C.F.R. § 1520.7(c), (d). As a "covered person", WSF is required to:

- (1) **"Take reasonable steps to safeguard SSI in that person's possession or control from unauthorized disclosure," including storing the SSI "in a locked container, such as a locked desk or file cabinet or in a locked room";²**

¹ "Covered person means any organization, entity, individual, or other person described in § 1520.7." 49 C.F.R. § 1520.3.

² 49 C.F.R. § 1520.9(a)(1).

- (2) **Only disclose or provide access to SSI to another “covered person” who has a “need to know” or is otherwise authorized in writing by TSA or the Coast Guard;**³
- (3) **Refer requests by other persons (not authorized access as a covered person with a need to know or written authorization) to the United States Coast Guard);**⁴
- (4) **Specifically mark SSI and take specific steps to report and correct unmarked SSI;**⁵ and
- (5) **Dispose of SSI, consistent with public records retention laws, by destroying it completely to preclude recognition or reconstruction of the information when it no longer needs the SSI to carry out transportation security measures.**⁶

As a recipient of SSI, you will also become subject to the same obligations and responsibilities as WSF under the SSI regulations.

Violation of the SSI regulations “is grounds for a civil penalty and other enforcement or corrective action by DHS,” including “issuance of an order requiring retrieval of SSI to remedy unauthorized disclosure or an order to cease future unauthorized disclosure.” 49 C.F.R. § 1520.17. Under some circumstances, these penalties could be as much as \$50,000.⁷ In addition, your access to SSI will be limited until you show that you have established corrective action.

WSF will provide you access to specific SSI and CONFIDENTIAL INFORMATION necessary to make proposals. Proposers must agree to release such information or material only to employees or Subcontractors who have signed a nondisclosure agreement (Copy attached). You will be requested to identify each person who has a need to know that you wish to have access to the SSI and Confidential Information and each such person will be required to execute a nondisclosure agreement approved by WSDOT prior to being granted access to the information. You are responsible to comply with each requirement of a covered person under the federal regulations and to prevent access to SSI or CONFIDENTIAL INFORMATION by persons without a need to know and who have not signed the nondisclosure agreement.

Immediately upon expiration or termination of this RFP process and the award of a contract, Proposer shall, at WSDOT’s option: (i) certify to WSDOT that Proposer has destroyed all SSI and Confidential Information; or (ii) return all SSI and Confidential Information to WSDOT; or (iii) take whatever other steps WSDOT requires of Proposer to protect WSDOT’s SSI or Confidential Information.

³ 49 C.F.R. § 1520.9(a)(2); 49 C.F.R. § 1520.11.

⁴ 49 C.F.R. § 1520.9(a)(3).

⁵ 49 C.F.R. § 1520.9(a)(4); 49 C.F.R. § 1520.13.

⁶ 49 C.F.R. § 1520.9(a)(5); 49 C.F.R. § 1520.19.

⁷ 2007 DHS Appropriations Act, § 525(d).