



**STATE OF WASHINGTON
DEPARTMENT OF COMMERCE**

REQUEST FOR PROPOSALS (RFP)

RFP NO. 23-47830220-400

NOTE: If you download this RFP from any source other than the Washington Electronic Business Solution (WEBS) website, you are responsible for sending your name and e-mail address to the RFP Coordinator to request that your organization receive any amendments and question and answer documents.

PROJECT TITLE: Intersection of Intellectual/Developmental Disabilities and Behavioral Health Research Project

PROPOSAL DUE: 4/30/2024 at 4PM, Pacific Time, Olympia, WA

ESTIMATED TIME PERIOD FOR CONTRACT: 6/3/2024– 9/30/2024

PROPOSER ELIGIBILITY: This RFP is open to those proposers which satisfy the minimum qualifications stated herein and are available for work in Washington. See section 1.3.

FUNDING SOURCE AND METHOD: This is Federal funding. Payments will be made on a **reimbursement basis** for deliverables accepted and/or allowable time and expenses.

CONTENTS OF THE REQUEST FOR PROPOSALS:

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1. INTRODUCTION

1.1 PURPOSE AND BACKGROUND

The Washington Department of Commerce, hereafter called "COMMERCE," is initiating this Request for Proposals (RFP) to solicit Proposals from those qualified and interested in participating in a research project to focus on what is currently happening nationally and in Washington State around evidence-based practices that are culturally relevant and focused on helping individuals and families in the Intellectual and Developmental Disability (IDD) Community. This research project also includes a plan for an event in Washington State to focus on these topics.

COMMERCE intends to award *one* contract to provide the services described in this RFP.

1.2 OBJECTIVES AND SCOPE OF WORK

Please address how you will implement each of the following activities:

1. A report that identifies challenges and evidence-based practices that are culturally relevant and focused on helping individuals and families access services for co-occurring developmental disabilities and mental illness or other mental/behavioral health challenges before September 30, 2024.

The report will be centered on lived experiences, from a local (Washington State) and national lens and provide an analysis of previous and current laws that impact this population, highlighting the impacts to Black, Indigenous and People of Color (BIPOC) and/or rural or other historically marginalized or underserved IDD communities and the intersectionality of identity and systems.

Finally, the report will identify resources and successful models and best practices surrounding these topics.

Key areas as potential focus: youth, educational systems, unhoused populations, law enforcement, developmental disabilities, public health, foster care, juvenile justice, publicly and privately run facilities such as hospitals, jails and prisons, and public safety including corrections.

2. Create an Event Plan to bring people together in Washington State to focus on this topic and assist with ongoing understanding, service system and policy development within the intellectual and developmental disabilities service delivery system for submittal to the Developmental Disabilities Council before September 30, 2024.

The Event Plan will include information about the types of speakers, activities, objectives and outcomes of the event, attendee capacity estimates, location and any other pertinent information that would increase the likely success of the event.

*Please note there is no assumption or guarantee of a potential event happening. This Event Plan will be the property of the DDC once completed.

Create an Event Plan to bring people together in Washington State to focus on this topic and assist with ongoing understanding, service system and policy development within the intellectual and developmental disabilities service delivery system for submittal to the Developmental Disabilities Council before September 30, 2024.

The Event Plan will include information about the types of speakers, activities, objectives and outcomes of the event, attendee capacity estimates, location and any other pertinent information that would increase the likely success of the event.

*Please note there is no assumption or guarantee of a potential event happening. This Event Plan will be the property of the DDC once completed.

1.3 MINIMUM QUALIFICATIONS

Minimum qualifications include:

- Licensed to do business in the State of Washington or submit a statement of commitment that it will become licensed in Washington within thirty (30) calendar days of being selected as the Apparently Successful Contractor.
- Previous experience writing professional research products.
- At least 5 years experience working with the developmental disabilities and behavioral health systems. Lived experience can be substituted for 2 years.

Proposals that do not clearly meet or exceed all minimum qualifications listed above are non-responsive and will not be evaluated.

1.4 FUNDING

COMMERCE has budgeted an amount not to exceed **\$100,000** for this project. Proposals in excess of this amount will be considered non-responsive and will not be evaluated. Additional funding is not guaranteed.

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

1.5 MANDATORY AWARD TO SMALL OR VETERAN-OWNED BUSINESS

As of April 1, 2023, COMMERCE is required to award competitively procured service contracts with an initial value less than \$150,000 to the highest-ranked responsive and responsible Small or Veteran-Owned Business, unless there was no responsive and responsible Proposal from a Small or Veteran-Owned Business. Any ties may be resolved by virtual presentations, the results of reference checks, or other means. This does not apply to grants, pass-through funding, or any RFP in which for-profit entities are not eligible. This also does not apply to any RFP with a federal funding source.

See Exhibit D for Small and Veteran-Owned Business certification.

1.6 PERIOD OF PERFORMANCE

The period of performance of any contract resulting from this RFP is tentatively scheduled to begin on or about **6/1/2024** and to end on **9/30/2024**. Amendments extending the period of performance, if any, shall be at the sole discretion of COMMERCE.

COMMERCE reserves the right to extend the contract for two one-year periods.

1.7 CONTRACTING WITH CURRENT OR FORMER STATE EMPLOYEES

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington (RCW). Proposers are encouraged to familiarize themselves with the requirements prior to submitting a Proposal that includes current or former state employees.

1.8 DEFINITIONS

Definitions for the purposes of this RFP include:

Apparent Successful Contractor/Bidder/Vendor/Grantee/Awardee: The Proposer selected to perform the anticipated services, subject to successful completion of contract negotiations and execution of a written contract.

COMMERCE or AGENCY: The Department of Commerce is the agency of the state of Washington that is issuing this RFP.

Contract: A written, legally binding agreement to perform the services proposed, also called a Grant or Interagency Agreement.

Contractor: Individual or organization whose Proposal has been accepted by COMMERCE and is awarded a fully executed, written contract. Also called Grantee, Awardee, Recipient, or Vendor.

Exhibit: Document attached to this RFP, also referred to as Attachment.

Proposal: A formal offer submitted in response to this Request for Proposals.

Proposer: Individual, firm, organization, company, or other entity or group of entities that submits a Proposal to attain a contract with COMMERCE.

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

Small business: An in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either: (i) Fifty or fewer employees; or (ii) A gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the Department of Revenue over the previous three consecutive years; or (b) Is certified with the Office of Women and Minority Business Enterprises under chapter 39.19 RCW.

Veteran-owned business: A business certified by the Washington Department of Veteran Affairs.

1.9 ADA

COMMERCE complies with the Americans with Disabilities Act (ADA). Proposers may contact the RFP Coordinator to receive this Request for Proposals in Braille or on tape.

2. GENERAL INFORMATION FOR PROPOSERS

2.1 RFP COORDINATOR

The RFP Coordinator is the sole point of contact in COMMERCE for this RFP. All communication between the Proposer and COMMERCE upon release of this RFP shall be with the RFP Coordinator, as follows:

Name	Kevin Vargas
E-Mail Address	Kevin.Vargas@ddc.wa.gov

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

2.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Issue Request for Proposals	4/2/2024
Question & answer period	4/2/2024 – 4/9/2024
Answers to Q&A posted no later than	4/12/2024
Pre-Proposal Conference	4/8/2024 4PM
Proposals due	4/30/2024 4PM Pacific Time
Evaluate proposals	5/1/2024 – 5/10/2024
Announce “Apparent Successful Contractor” and send notification via e-mail to unsuccessful Proposers	5/15/2024
Hold debriefing conferences (if requested)	5/15/2024 – 5/22/2024
Negotiate contract	5/15/2024 – 5/22/2024
Earliest date contract may be signed	5/30/2024

COMMERCE reserves the right to revise the above schedule.

2.3 QUESTION AND ANSWER PERIOD

COMMERCE will accept questions about this RFP sent to the RFP Coordinator at the email address listed in Section 2.1 during this period. Questions should not identify the submitting person or organization. COMMERCE will answer all questions in a Q&A document posted on the [Washington State DDC Website](#) no later than the date identified in Section 2.2.

2.4 PRE-PROPOSAL CONFERENCE

A pre-proposal conference will be held on **4/8/2024 at 4PM.**, Pacific time. The pre-proposal conference will be virtual only, on a platform such as Zoom or Microsoft Teams. All prospective Proposers are encouraged attend; however, attendance is not mandatory.

Topic: Behavioral Health Q & A Session

Time: Apr 8, 2024 04:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/87972643643?pwd=fUHZbx3DcewwOQa9qgggluvQSIYbQuS.1>

Meeting ID: 879 7264 3643

Passcode: 795995

One tap mobile

+12532158782,,87972643643# US (Tacoma)

+12532050468,,87972643643# US

Dial by your location

- +1 253 215 8782 US (Tacoma)
- +1 253 205 0468 US
- +1 669 444 9171 US
- +1 719 359 4580 US
- +1 720 707 2699 US (Denver)
- +1 346 248 7799 US (Houston)
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 646 558 8656 US (New York)
- +1 646 931 3860 US
- +1 689 278 1000 US
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 360 209 5623 US
- +1 386 347 5053 US

Meeting ID: 879 7264 3643

Find your local number: <https://us06web.zoom.us/j/kczd6zjhha>

COMMERCE will be bound only to COMMERCE written answers to questions. Questions arising at the pre-proposal conference will be documented and answered in written form. A copy of the questions and answers will be sent to each prospective Proposer that has requested the RFP Coordinator to send them RFP addenda.

2.5 STATEMENT OF INTENT REQUIRED

THIS SECTION REMOVED.

2.6 SUBMISSION OF PROPOSALS

ELECTRONIC PROPOSALS:

The proposal must be **received by the RFP Coordinator** no later than **4PM, Pacific Time, in Olympia, Washington, on Tuesday April 30th, 2024.**

Proposals must be submitted electronically as an attachment to an e-mail to the RFP Coordinator, at the e-mail address listed in Section 2.1. Attachments to e-mail shall be in Microsoft Word format or PDF. Zipped files cannot be received by COMMERCE and cannot be used for submission of Proposals. The Submittal Letter and the Certifications and Assurances form must have a scanned or digital signature of the individual within the organization authorized to bind the Proposer to the offer. COMMERCE does not assume responsibility for problems with Proposer's e-mail. If COMMERCE email is not working, appropriate allowances will be made.

Proposals may not be transmitted using facsimile transmission.

Proposers should allow sufficient time to ensure timely receipt of the proposal by the RFP Coordinator. **Late proposals will not be accepted and will be automatically disqualified from further consideration**, unless COMMERCE e-mail is found to be at fault at COMMERCE'S sole determination. Proposals should be sent in one email, however if more than one email is needed all must be received by the due date and time. Exceptions will not be made for partial submissions. Requests for deadline extensions will not be granted. All Proposals and any accompanying documentation become the property of COMMERCE and will not be returned.

2.7 PROPRIETARY INFORMATION AND PUBLIC DISCLOSURE

Proposals submitted in response to this RFP shall become the property of COMMERCE. All Proposals received shall remain confidential until the Apparent Successful Contractor is announced; thereafter, all Proposals are subject to disclosure as provided for in Chapter 42.56 of the Revised Code of Washington (RCW).

Any information in the proposal that the Proposer desires to claim as proprietary and exempt from disclosure under the provisions of Chapter 42.56 RCW, or other state or federal law that provides for the nondisclosure of your document, must be clearly designated. The information must be clearly identified and the particular exemption from disclosure upon which the Proposer is making the claim must be cited. Each page containing the information claimed to be exempt from disclosure must be clearly identified by the words "Proprietary Information" printed on the lower right hand corner of the page. Marking the entire proposal exempt from disclosure or as Proprietary Information will not be honored.

If a public records request is made for the information that the Proposer has marked as "Proprietary Information," COMMERCE will notify the Proposer of the request and of the date that the records will be released to the requester unless the Proposer obtains a court order enjoining that disclosure. If the Proposer fails to obtain the court order enjoining disclosure, COMMERCE will release the requested information on the date specified. If a Proposer obtains a court order from a court of competent jurisdiction enjoining disclosure pursuant to Chapter 42.56 RCW, or other state or federal law that provides for nondisclosure, COMMERCE shall maintain the confidentiality of the Proposer's information per the court order.

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

2.8 REVISIONS TO THE RFP

In the event it becomes necessary to revise any part of this RFP, addenda will be provided via e-mail to all individuals who have made the RFP Coordinator aware of their interest. Addenda will also be published on Washington's Electronic Business System (WEBS). The website can be located at <https://fortress.wa.gov/ga/webs/>. For this purpose, the published questions and answers and any other pertinent information shall be provided as an addendum to the RFP and will be placed on the website. Such addenda will also be published anywhere the RFP is posted, including on COMMERCE'S public webpage, located at <http://www.commerce.wa.gov/serving-communities/current-opportunities/>.

If you downloaded this RFP from anywhere other than WEBS you are responsible for sending your name and e-mail address to the RFP Coordinator in order for your organization to receive any RFP addenda.

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

2.9 DIVERSE BUSINESS INCLUSION PLAN

Proposers are required to submit a Diverse Business Inclusion Plan with their Proposal describing in good faith their aspirational goals for subcontractor types. In accordance with legislative findings and policies set forth in RCW 39.19, the state of Washington encourages participation in all contracts by firms certified by the Office of Minority and Women's Business Enterprises (OMWBE), set forth in RCW 43.60A.200 for firms certified by the Washington State Department of Veterans Affairs, and set forth in RCW 39.26.005 for firms that are Washington Small Businesses. No minimum level of minority- or women-owned business, Washington Small Businesses, or Washington State certified Veteran Business participation is required as a condition for receiving an award. Any affirmative action requirements set forth in any federal governmental rules included or referenced in the contract documents will apply.

COMMERCE has the following agency goals:

- 10% participation by Minority Owned Business
- 6% participation by Women Owned Business
- 5% participation by Veteran Owned Business
- 5% participation by Small Businesses

2.10 ACCEPTANCE PERIOD

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

2.11 COMPLAINT PROCESS

Potential Proposers may submit a complaint to COMMERCE based on any of following:

- a) The solicitation unnecessarily restricts competition;
- b) The solicitation evaluation or scoring process is unfair; or
- c) The solicitation requirements are inadequate or insufficient to prepare a response.

A complaint may be submitted to COMMERCE at any time prior to 5 days before the proposal response deadline. The complaint must meet the following requirements:

- a) The complaint must be in writing;
- b) The complaint must be sent to the RFP coordinator in a timely manner;
- c) The complaint should clearly articulate the basis for the complaint; and
- d) The complaint should include a proposed remedy.

The RFP coordinator will respond to the complaint in writing. The response to the complaint and any changes to the solicitation will be posted on WEBS. The Director of COMMERCE will be notified of all complaints and will be provided a copy of COMMERCE'S response. The complaint may not be raised again during the protest period. COMMERCE'S action or inaction in response to the complaint is final.

There is no appeal process.

2.12 RESPONSIVENESS

All Proposals will be reviewed by the RFP Coordinator to determine compliance with administrative requirements and instructions specified in this RFP. The Proposer is specifically notified that failure to comply with any part of this RFP may result in disqualification of the Proposal as incomplete and/or non-responsive.

Disqualified Proposers will be notified at or about the time of disqualification.

Disqualified Proposers will be informed of the reason for disqualification; this shall constitute a debriefing conference for the purposes of Section 4.6, Protest Procedure.

COMMERCE reserves the right at its sole discretion to waive minor administrative irregularities.

2.13 MOST FAVORABLE TERMS

COMMERCE reserves the right to make an award without further discussion of the Proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms which the Proposer can propose. There will be no best and final offer procedure. COMMERCE reserves the right to contact a Proposer for clarification of its Proposal.

The Apparent Successful Contractor should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may incorporate some, or all, of the Proposer's Proposal. The Proposal will become a part of the official procurement file on this matter without obligation to COMMERCE.

2.14 CONTRACT GENERAL TERMS & CONDITIONS

The Apparent Successful Contractor will be expected to enter into a contract which is substantially the same as the example contract and its general terms and conditions attached as Exhibit E. This sample contract is for information and review only and should not be returned with your Proposal. In no event is a Proposer to submit its own standard contract terms and conditions in response to this RFP. All proposed edits to the contract terms and conditions must be submitted as an attachment to Exhibit A, Certifications and Assurances form. COMMERCE will review requested edits and accept or reject the same at its sole discretion.

2.15 COSTS TO PROPOSE

COMMERCE will not be liable for any costs incurred by the Proposer in preparation of a Proposal submitted in response to this RFP, travel to or conduct of a presentation, or any other activities related to responding to this RFP.

2.16 NO OBLIGATION TO CONTRACT

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

2.17 REJECTION OF PROPOSALS

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

2.18 COMMITMENT OF FUNDS

The Director of COMMERCE or delegate is the only individual who may legally commit COMMERCE to the expenditures of funds for a contract resulting from this RFP. No services may begin and no cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

2.19 ELECTRONIC PAYMENT

The state of Washington prefers to utilize electronic payment in its transactions. The successful Contractor must have or obtain a Statewide Vendor Number (SWV) from the Office of Financial Management to be paid by COMMERCE. For more information, visit: www.ofm.wa.gov.

2.20 INSURANCE COVERAGE

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

The Contractor shall, at its own expense, obtain and keep in force insurance coverage which shall be maintained in full force and effect during the term of the contract. The Contractor shall furnish evidence in the form of a Certificate of Insurance that insurance shall be provided, and, if requested, a copy shall be forwarded to COMMERCE within fifteen (15) days of the contract effective date. Standard insurance requirements are included within the example contract and its special terms and conditions attached as Exhibit E.

3. PROPOSAL CONTENTS

ELECTRONIC PROPOSALS:

Proposals must be written in English and submitted electronically to the RFP Coordinator in the order noted below:

1. Letter of Submittal
2. Certifications and Assurances (Exhibit A to this RFP)
3. Technical Proposal
4. Management Proposal
5. Cost Proposal
6. Diverse Business Inclusion Plan (Exhibit B to this RFP)
7. Workers' Rights Certification (Exhibit C to this RFP)
8. Small or Veteran-Owned Business Certification (Exhibit D to this RFP)

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

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

3.1 LETTER OF SUBMITTAL (MANDATORY)

The Letter of Submittal must be signed and dated by a person authorized to legally bind the Proposer to a contractual relationship, e.g., the President or Executive Director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship.

Along with introductory remarks, the Letter of Submittal must include the following information about the Proposer:

- A.** Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom contract would be written.
- B.** Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.)
- C.** Legal status of the Proposer (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
- D.** Federal Employer Tax Identification number or Social Security number **and** the Washington Uniform Business Identification (UBI) number issued by the state of Washington Department of Revenue. If the Proposer does not have a UBI number, the Proposer must state that it will become licensed in Washington within thirty (30) calendar days of being selected as the Apparently Successful Contractor.
- E.** Location from which the Proposer would operate.
- F.** Identify any state employees or former state employees employed or on the firm's governing board as of the date of the proposal. Include their position and responsibilities within the Proposer's organization. If following a review of this information COMMERCE determines that a conflict of interest exists, the Proposer may be disqualified from further consideration.

3.2 CERTIFICATIONS AND ASSURANCES (MANDATORY)

The Certifications and Assurances form (Exhibit A to this RFP) must be signed and dated by a person authorized to legally bind the Proposer to a contractual relationship, e.g., the President or

Executive Director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Proposers wishing to submit any proposed contract edits must indicate so on this form (see Section 2.14).

3.3 TECHNICAL PROPOSAL (SCORED)

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

- A. Project Approach/Methodology:** Include a complete description of the Proposer's proposed approach and methodology for the project. This section should convey Proposer's full understanding of the proposed project.
- B. Work Plan:** Include all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project defined in this RFP. This section of the technical proposal must contain sufficient detail to convey to members of the evaluation team the Proposer's knowledge of the subjects and skills necessary to successfully complete the project. Include any required involvement of COMMERCE staff. The Proposer may also present any creative approaches that might be appropriate and may provide any pertinent supporting documentation. Identify any work to be completed by subcontractors but do not select subcontractors until all relevant requirements have been reviewed, including the Code of Federal Regulations if applicable.
- C. Project Schedule:** Include a project schedule indicating when the elements of the work will be completed. Project schedule must ensure that any deliverables requested are met.
- D. Outcomes and Performance Measurement:** Describe the impacts and outcomes the Proposer will achieve, including how these impacts and outcomes will be monitored, measured and reported to COMMERCE.
- E. Risks:** The Proposer must identify potential risks that are considered significant to the success of the project in sufficient detail to convey to members of the evaluation team the Proposer's ability correctly assess and manage risk. Include how the Proposer will effectively monitor and manage these risks, including timely reporting of risks to COMMERCE.
- F. Deliverables:** Fully describe deliverables to be submitted under the proposed contract. Deliverables must support the purpose of this RFP described in Section 1.1 and met the requirements set forth in Section 1.2.

3.4 MANAGEMENT PROPOSAL

A. Project Management (SCORED)

- 1. Project Team Structure and Internal Controls:** Provide a description of the proposed project team structure and internal controls to be used during the course of the project, including any subcontractors. Proposers are reminded to select subcontractors only after reviewing all relevant requirements. Provide an organizational chart indicating lines of authority for personnel involved in performance of this potential contract and relationships of these staff to other programs or functions of the organization(s). This chart must also show lines of authority to the next senior level of management. Include who will have prime responsibility and final authority for the work.
- 2. Staff Qualifications and Experience:** Identify staff who will be assigned to the potential contract, indicating the responsibilities and qualifications of such personnel, and include the amount of time each will be assigned to the project. Provide resumes for the named staff, which include information on the individual's particular skills related to this project, education, experience, significant accomplishments and any other pertinent information.

Staff identified in the Proposal must actually perform the assigned work. Any staff substitution must have prior approval from COMMERCE.

B. Experience of the Proposer (SCORED)

1. Indicate the experience the Proposer has in the following areas. If the Proposer does not have the specified experience, explain whether the Proposer plans to seek a subcontractor with that experience or other mitigation strategy:
 - i. Experience with and knowledge of state services and supports for people with intellectual and developmental disabilities from BIPOC communities, and Tribal nations.
 - ii. Experience writing professional research products.
 - iii. Knowledge and experience on systemic barriers experienced by BIPOC and/or IDD and/or Tribal Nations.
 - iv. Experience and knowledge of the principles of tribal sovereignty, diversity, equity and inclusion, particularly as applied to service systems and public policy.
2. Indicate any other relevant experience that shows the qualifications of the Proposer for the performance of the potential contract.
3. Include a list of contracts the Proposer has had during the last five years that relate to the Proposer's ability to perform the services needed under this RFP. List contract reference numbers, period of performance, contact persons, telephone numbers, and e-mail addresses. COMMERCE may award extra points to entities that are new to state contracting or pass-through funding in its sole discretion.

C. Related Information (MANDATORY)

1. If the Proposer or any known subcontractor contracted with the state of Washington during the past 24 months, indicate the name of the agency, the contract number and project description and/or other information available to identify the contract.
2. If the Proposer's staff or subcontractor's staff was an employee of the state of Washington during the past 24 months, or is currently a Washington State employee, identify the individual by name, the agency previously or currently employed by, job title or position held and separation date.
3. If the Proposer has had a contract terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the Proposer's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and such litigation determined that the Proposer was in default.
4. Submit full details of the terms for default including the other party's name, address, and phone number. Present the Proposer's position on the matter. COMMERCE will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. If no such termination for default has been experienced by the Proposer in the past five years, so indicate.

D. References (Strongly Recommended)

List names, addresses, telephone numbers, and e-mail addresses of three (3) business references for the Proposer and three (3) business references for the lead staff person for whom work has been accomplished and briefly describe the type of service provided. Do not include current COMMERCE staff as references. By submitting a Proposal the Proposer and

any partners or agents authorize COMMERCE to contact these references and any others who, from COMMERCE'S perspective, may have pertinent information. COMMERCE may or may not contact references in its sole discretion.

E. OMWBE and WDVA Certification (OPTIONAL AND NOT SCORED)

Include proof of certification issued by the Washington Office of Minority and Women's Business Enterprises (OMWBE) or Washington Department of Veteran Affairs (WDVA) if certified small, minority-, women-, or veteran-owned business(es) will be participating on this project in any capacity. For more information please see Sections 1.5 and 2.9, and visit: www.omwbe.wa.gov or www.wdva.wa.gov.

3.5 COST PROPOSAL

The total amount proposed must not exceed the amount specified in Section 1.4 to be considered responsive to this RFP.

The evaluation process is designed to award this procurement not necessarily to the Proposer of least cost, but rather to the Proposer whose Proposal best meets the requirements of this RFP. However, Proposers are encouraged to submit Proposals which are consistent with state government efforts to conserve resources.

Identification of Costs (NOT SCORED)

Identify all costs in U.S. dollars including expenses to be charged for performing the services necessary to accomplish the objectives of the contract. The Proposer is to submit a fully detailed budget including staff costs and any expenses necessary to accomplish the tasks and to produce the deliverables under the contract. Proposers are required to collect and pay Washington state sales and use taxes if applicable.

Costs for work to be completed by subcontractors are to be broken out separately.

4. EVALUATION AND CONTRACT AWARD

4.1 EVALUATION PROCEDURE

Responsive Proposals will be evaluated strictly in accordance with the requirements stated in this RFP and any addenda issued. The evaluation of Proposals will be accomplished by one or more evaluation team(s) designated by COMMERCE, which will determine the ranking of the proposals.

COMMERCE, in its sole discretion, may elect to invite top-scoring Proposers as finalists for a virtual presentation or interview.

The RFP Coordinator may contact the Proposer for clarification of any portion of their Proposal. Proposers are not permitted to submit, resubmit, correct, or change any materials of any kind after the date and time stated in Section 2.6 SUBMISSION OF PROPOSALS.

4.2 EVALUATION BREAKDOWN

The following weighting will be assigned to each proposal section for evaluation purposes. Subsections may or may not be of equal weight.

Technical Proposal – 75%

- Project Approach/Methodology
- Work Plan
- Project Schedule
- Outcome and Performance Measurement
- Risks
- Deliverables

Management Proposal – 25%

- Project Team Structure
- Internal Controls
- Staff Qualifications and Experience

Cost Proposal is not scored.

Workers' Rights Certification Those Proposers that certify they **do not** require their employees to sign an individual arbitration clause as a condition of employment will receive an extra 2% of their awarded points added to their final score (see Exhibit C).

COMMERCE reserves the right to award the contract(s) to the Proposer(s) whose Proposal is deemed to be in the best interest of COMMERCE and the state of Washington. See also Section 1.5 MANDATORY AWARD TO SMALL OR VETERAN-OWNED BUSINESS.

4.3 VIRTUAL PRESENTATIONS MAY BE REQUIRED

After evaluating the written proposals COMMERCE may elect to schedule virtual presentations or interviews of top-scoring Proposers. If so, COMMERCE will contact the top-scoring Proposers from the written evaluation to schedule a date and time to meet on a platform such as Zoom or Microsoft Teams. Any commitments made by the Proposer during a virtual presentation or interview will be considered binding.

The scores from the written evaluation and the virtual presentation combined together will determine the Apparent Successful Contractor.

4.4 NOTIFICATION TO PROPOSERS

COMMERCE will notify the Apparent Successful Contractor(s) of their selection in writing upon completion of the evaluation process. Proposers who were not selected for further negotiation or award will be notified separately. Notification may also be made to the COMMERCE public website, Washington Electronic Business Solution (WEBS), or other publically accessible locations.

4.5 DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Any Proposer who has submitted a Proposal and received notice that they were not selected for contract negotiation may request a debriefing. The request for a debriefing conference must be received by the RFP Coordinator within three (3) business days after the Unsuccessful Proposer Notification is e-mailed to the Proposer. The debriefing must be scheduled within three (3) business days of the request.

Discussion at the debriefing conference is strictly limited to the following:

- Evaluation and scoring of that Proposer's Proposal;
- Any written comments from evaluators related to that Proposer;
- Review of Proposer's final score in comparison with the other final scores **without** identifying the other Proposers or reviewing their Proposals.

Comparisons between Proposals or evaluations of the other Proposals is not allowed. COMMERCE will not discuss any items other than the three bullet points above. Debriefing conferences may be conducted on the telephone or by other electronic means and will be scheduled for a maximum of thirty (30) minutes. COMMERCE reserves the right to end a debriefing for any reason.

4.6 PROTEST PROCEDURE

Protests may be filed only by Proposers who submitted a response to this RFP and who have participated in a debriefing conference. Upon completing the debriefing conference, the Proposer is allowed five (5) business days to file a protest with the RFP Coordinator. Protests must be received by the RFP Coordinator no later than 5:00pm Pacific time on the fifth business day following the debriefing. Protests must be submitted by email. Proposers may choose to copy COMMERCE'S Central Contracts Office at centralcontracts@commerce.wa.gov. Do not copy any other COMMERCE staff.

Proposers protesting this RFP shall follow the procedures described below. Protests that do not follow these procedures will not be considered. This protest procedure constitutes the sole administrative remedy available to Proposers under this RFP.

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

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

- A matter of bias, discrimination, or conflict of interest on the part of an evaluator;
- Errors in computing the score;
- Non-compliance with procedures described in this RFP or COMMERCE policy.

Protests not based on procedural matters will not be considered. Protests will be dismissed as without merit if they address issues such as an evaluator's professional judgment on the quality of a proposal, or COMMERCE'S assessment of its own and/or other agencies' needs or requirements.

Scores received are not a valid basis of protest and will be dismissed as without merit unless included with facts supporting bias, discrimination, or conflict of interest on the part of an evaluator.

Upon receipt of a protest, a protest review will be held by COMMERCE. COMMERCE'S Chief Contracts Officer, or other employee delegated by the Director who was not involved in the award process, will consider the record along with all available facts and issue a decision within ten (10) business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

In the event a protest may directly impact the actual interest of another Proposer, such Proposer may be given an opportunity to submit its views and any relevant information on the protest.

The final determination of the protest shall:

- Find the protest lacking in merit and uphold COMMERCE'S action; or
- Find only technical or harmless errors in COMMERCE'S process and determine COMMERCE to be in substantial compliance and reject the protest; or
- Find merit in the protest and provide COMMERCE options which may include:
 - Correct the error(s) and re-evaluate all proposals, or
 - Cancel this RFP and begin a new process, or
 - Make other findings and determine other courses of action as appropriate.

If COMMERCE does not find merit in the protest, COMMERCE may enter into a contract with the Apparent Successful Contractor(s). If the protest is determined to have merit, one of the options above will be taken.

5. RFP EXHIBITS

- Exhibit A Certifications and Assurances
- Exhibit B Diverse Business Inclusion Plan
- Exhibit C Workers' Rights Certification
- Exhibit D Small or Veteran-Owned Business Certification
- Exhibit E Sample Service Contract Format with General Terms and Conditions

CERTIFICATIONS AND ASSURANCES

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

1. I/we declare that all answers and statements made in the Proposal are true and correct.
2. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
3. The attached Proposal is a firm offer for a period of 60 days following receipt, and it may be accepted by COMMERCE without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
4. In preparing this Proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this RFP or prospective contract, and who was assisting in other than his or her official, public capacity. If there are exceptions to these assurances, I/we have described them in full detail on a separate page attached to this document.
5. I/we understand that COMMERCE will not reimburse me/us for any costs incurred in the preparation of this Proposal. All Proposals become the property of COMMERCE, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this Proposal.
6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Proposer and will not be knowingly disclosed by him/her prior to opening, directly or indirectly, to any other Proposer or to any competitor.
7. I/we agree that submission of the attached Proposal constitutes acceptance of the RFP contents and the attached example contract and general terms and conditions. If there are any proposed edits to these terms, I/we have described those edits in detail on a page attached to this document.
8. No attempt has been made or will be made by the Proposer to induce any other person or organization to submit or not to submit a Proposal for the purpose of restricting competition.
9. I/we grant COMMERCE the right to contact references and any others who may have pertinent information regarding the ability of the Proposer and the lead staff person to perform the services contemplated in this RFP.
10. If any staff member(s) who will perform work on this contract has retired from the state of Washington under the provisions of the 2008 Early Retirement Factors legislation, his/her name(s) is noted on a separately attached page.
11. I/we are not debarred from doing business with the state of Washington or the United States.

I/We have reviewed the Contract and General Terms and Conditions and I/we: (check one)

- ☐ **are** submitting proposed contract edits. If proposed contract edits are being submitted for consideration, I/we have attached them to this form. (See Section 2.14)
- ☐ **are not** submitting proposed contract edits. (Default if neither are checked)

On behalf of the Proposer submitting this Proposal, my signature below attests to the accuracy of the above statement as well as my authority to bind the submitting organization.

Signature of Proposer

Date

Printed Name

Title

DIVERSE BUSINESS INCLUSION PLAN

Please see Section 2.9 for more information regarding the Diverse Business Inclusion Plan.

If awarded a contract as a result of this RFP, do you anticipate subcontracting* with or purchasing from any of the following:

	Yes	No
State Certified Minority Owned Businesses?	<input type="checkbox"/>	<input type="checkbox"/>
State Certified Woman Owned Businesses?	<input type="checkbox"/>	<input type="checkbox"/>
State Certified Veteran Owned Businesses?	<input type="checkbox"/>	<input type="checkbox"/>
Washington Small Businesses?	<input type="checkbox"/>	<input type="checkbox"/>

Organizational Goals:

Please list the approximate percentage of funding received through this RFP which is expected to be subcontracted to each subcontractor category:

For example, say the total contract amount is \$10,000. Of that, \$1,000 will be subcontracted to a business to create one of the deliverables and the organization plans to use a Washington Small Business. They would enter "10%" on the appropriate line below. On the other hand, if all subcontracts will be with nonprofit organizations or with businesses not described below, they would enter "0%".

State Certified Minority Owned Businesses:	___%
State Certified Woman Owned Businesses:	___%
State Certified Veteran Owned Businesses:	___%
Washington Small Businesses:	___%

Please list the approximate percentage of purchases reimbursed by funding received as a result of this RFP that will be made from each category:

For example, say allowable expenses are estimated to be \$1000, most of which will reimburse the cost of supplies purchased from various sources. If the organization plans to make half of those purchases from a Certified Woman-Owned Business, they would enter "50%" on the appropriate line below.

State Certified Minority Owned Businesses:	___%
State Certified Woman Owned Businesses:	___%
State Certified Veteran Owned Businesses:	___%
Washington Small Businesses:	___%

If you plan to subcontract and/or purchase with funding received as a result of this RFP and answered 'No' to all questions above, please explain:

Click or tap here to enter text.

- ☐ I/We do not plan to subcontract any of the work described in this RFP.
- ☐ I/We do not plan to make any purchases reimbursable under this RFP.

Please identify the person in your organization who will manage your Diverse Business Inclusion Plan related to this project:

Name: _____
 Title: _____
 Phone: _____
 E-Mail: _____

***Please note that subcontracting must be done in accordance with contractual terms and conditions which may include specific subcontractor selection requirements. Do not select subcontractors until you have reviewed all applicable requirements.**

RFP Number: **23-47830220-400**

Page 1 of 1

Small or Veteran-Owned Business Certification

See Section 1.5 for more information about COMMERCE’S award obligation to Small and Veteran-Owned Businesses.

Small Business

- ☐ By checking this box and signing below I/we hereby certify under penalty of perjury that the business represented in this Proposal is a Washington business including a sole proprietorship, corporation, partnership, or other legal entity, that is:
- (a) Owned and operated independently from all other businesses and has either:
 - (i) Fifty or fewer employees; or
 - (ii) A gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years; or
 - (b) Is certified with the Office of Women and Minority Business Enterprises under chapter 39.19 RCW. I/we are including a copy of the certification.

Veteran-Owned Business

- ☐ By checking this box and signing below, I/we certify the business represented in this Proposal is certified by the Washington Department of Veteran Affairs. I/we are including a copy of the certification.

Failure to return or sign this Exhibit, or failure to check an applicable box, may result in failure to qualify as a responsive and responsible Small or Veteran-Owned Business.

Failure to include a copy of the relevant certification may result in failure to qualify as a responsive and responsible Small or Veteran-Owned Business.

Additional Representation

The following is not required nor scored. Your answers or lack of answers will not impact the outcome of this RFP. This information helps Commerce monitor our level of success in meeting our diverse contracting goals. See Section 2.9 for more information about Commerce’s diverse contracting goals.

For informational purposes only, the business represented in this Proposal is:

- ☐ Certified Woman-Owned by the Office of Women and Minority Business Enterprises
- ☐ Certified Minority-Owned by the Office of Women and Minority Business Enterprises

Signature of Proposer

Date

Printed Name

Title

SAMPLE



Federal Services Contract with

Please enter the Entity/Business Name of Contractor

through

Click or tap here to enter text.

Contract Number:

Please enter Contract Number

For

Provide Project Title/ Primary Contract Purpose in 25 words or less

Dated: Please enter start date of contract

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Face Sheet

Research & Development: ☒ Yes ☐ No

Contract Number: <Insert Number>

<Select Division, Board, or Commission> <Insert Unit or Office>

☐ Subrecipient

<Insert Program(s) and/or Project(s)>

☒ Contractor

Special Terms and Conditions

1. Contractor <Insert legal name> <Insert mailing address> <Insert physical address> <Insert location>		2. Contractor Doing Business As (as applicable) <Insert DBA name> <Insert DBA mailing address> <Insert DBA physical address> <Insert DBA location>	
3. Contractor Representative <Insert name> <Insert title> <Insert phone> <Insert FAX> <Insert e-mail>		4. COMMERCE Representative <Insert name> <Insert mailing address> <Insert title> <Insert physical address> <Insert phone> <Insert location> <Insert FAX> <Insert e-mail>	
5. Contract Amount <Insert \$ Total>	6. Funding Source Federal: <input type="checkbox"/> State: <input type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/>	7. Start Date <Insert date>	8. End Date <Insert date>
9. Federal Funds (as applicable) <Insert \$ amount>	Federal Agency: <Insert name>		ALN <Insert number>
Indirect Rate <Insert indirect rate>			
10. Tax ID # <Insert number>	11. SWV # <Insert number>	12. UBI # <Insert number>	13. UEI # <Insert number>
14. Contract Purpose <Briefly describe contract purpose>			
COMMERCE, defined as the Department of Commerce, and the Contractor, as defined above, acknowledge and accept the terms of this Contract and attachments and have executed this Contract on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Contract are governed by this Contract and the following other documents incorporated by reference: Contractor Terms and Conditions including Attachment "A" - <insert title>, Attachment "B" - <insert title>, Attachment "C" - <insert title>, <etc.>			
FOR CONTRACTOR _____ <insert name>, <insert title> _____ Signature _____ Date		FOR COMMERCE _____ <insert name>, <insert title> _____ Date APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL APPROVAL ON FILE	

1. ACKNOWLEDGEMENT OF FEDERAL FUNDING

Federal Award Date: XXXX

Federal Award Identification Number (FAIN): XXXX

Federal Awarding Agency:

Awarding official: Michael Fong, Director (360) 725-4021

Unless otherwise specifically authorized herein, the budget period start and end dates shall be the same as the start and end dates on the Face Sheet.

The Contractor agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Contractor describing programs or projects funded in whole or in part with federal funds under this Contract, shall contain the following statements:

"This project was supported by Grant No. < > awarded by <Federal Granting Agency> . Points of view in this document are those of the author and do not necessarily represent the official position or policies of the <Federal Granting Agency> . Grant funds are administered by the <COMMERCE Program> , Washington State Department of Commerce."

2. CONTRACT MANAGEMENT

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

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Contract.

The Representative for the Contractor and their contact information are identified on the Face Sheet of this Contract.

3. COMPENSATION

COMMERCE shall pay an amount not to exceed \$ for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. Contractor's compensation for services rendered shall be based on the following rates or in accordance with the terms of Attachment A, Scope of Work.

EXPENSES

Contractor shall receive reimbursement for travel and other expenses as identified below or as authorized in advance by COMMERCE as reimbursable. The maximum amount to be paid to the Contractor for authorized expenses shall not exceed \$, which amount is included in the Contract total above.

Such expenses may include airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. Contractor shall receive compensation for travel expenses at state travel reimbursement rates in effect on the date of travel.

4. BILLING PROCEDURES AND PAYMENT

COMMERCE will pay Contractor upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE not more often than monthly nor less than quarterly.

The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Contract Number . If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

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

by the Contractor.

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

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.

The Contractor must invoice for all expenses from the beginning of the contract through June 30, regardless of the contract start and end date.

Duplication of Billed Costs

The Contractor shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Contractor, if the Contractor is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

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

COMMERCE may, in its sole discretion, withhold ten percent (10%) from each payment until acceptance by COMMERCE of the final report (or completion of the project, etc.).

5. SUBCONTRACTOR DATA COLLECTION

Contractor will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Contract performed by subcontractors and the portion of Contract funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

6. INSURANCE

The Contractor shall maintain insurance coverage as set out in this section. The intent of the required insurance is to protect the state should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Contractor or Subcontractor, or agents of either, while performing under the terms of this Contract. Failure to maintain the required insurance coverage may result in termination of this Contract.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Contractor shall provide COMMERCE thirty (30) calendar days' advance notice of any insurance cancellation, non-renewal or modification.

The Contractor shall submit to COMMERCE within fifteen (15) calendar days of the Contract start date OR a written request by COMMERCE, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Contract, if

required or requested, the Contractor shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The Contractor shall provide, at COMMERCE's request, copies of insurance instruments or certificates from the insurance issuing agency. The copies or certificates shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days' advance written notice of cancellation.

The Contractor shall provide insurance coverage that shall be maintained in full force and effect during the term of this Contract, as follows:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, the Contractor is responsible for ensuring that any Subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

Cyber Liability Insurance: The Contractor shall maintain Cyber Liability Insurance. The Contractor shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Contractor and licensed staff employed or under contract to the Contractor. The state of Washington, its agents, officers, and employees need not be named as additional insureds under this policy.

Automobile Liability. In the event that performance pursuant to this Contract involves the use of vehicles, owned or operated by the Contractor or its Subcontractor, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

Professional Liability, Errors and Omissions Insurance. The Contractor shall maintain Professional Liability or Errors and Omissions Insurance. The Contractor shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Contractor and licensed staff employed or under contract to the Contractor. The state of Washington, its agents, officers, and employees need not be named as additional insureds under this policy.

Fidelity Insurance. Every officer, director, employee, or agent who is authorized to act on behalf of the Contractor for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

- A. The amount of fidelity coverage secured pursuant to this Contract shall be \$100,000 or the highest of planned reimbursement for the Contract period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.
- B. Subcontractors that receive \$10,000 or more per year in funding through this Contract shall secure fidelity insurance as noted above. Fidelity insurance secured by Subcontractors pursuant to this paragraph shall name the Contractor as beneficiary.

7. FRAUD AND OTHER LOSS REPORTING

Contractor shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Contract immediately or as soon as practicable to the Commerce Representative identified on the Face Sheet.

8. ORDER OF PRECEDENCE

In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget
- Add any other attachments incorporated by reference from the Face Sheet

General Terms and Conditions

1. DEFINITIONS

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

- A. “Authorized Representative” shall mean the Director and/or the designee authorized in writing to act on the Director’s behalf.
- B. “COMMERCE” or “Department” shall mean the Washington Department of Commerce.
- C. “Contract” or “Agreement” or “Grant” means the entire written agreement between COMMERCE and the Contractor, including any Exhibits, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
- D. “Contractor” or “Grantee” shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.
- E. “Modified Total Direct Costs” (MTDC) shall mean all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000.
- F. “Personal Information” shall mean information identifiable to any person, including, but not limited to, information that relates to a person’s name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers, and “Protected Health Information” under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- G. “State” shall mean the state of Washington.
- H. “Subaward” shall mean an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.
- I. “Subcontractor” shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms “subcontractor” and “subcontractors” mean subcontractor(s) in any tier.
- J. “Subrecipient” shall mean a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

2. ACCESS TO DATA

In compliance with RCW 39.26.180, the Contractor shall provide access to data generated under this Contract to COMMERCE, the Joint Legislative Audit and Review Committee, and the Office of the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and the methodology for those models.

3. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this Contract shall be made by COMMERCE.

4. ALL WRITINGS CONTAINED HEREIN

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

5. AMENDMENTS

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

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

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

7. ASSIGNMENT

Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of COMMERCE.

8. ATTORNEYS' FEES

Unless expressly permitted under another provision of the Contract, in the event of litigation or other action brought to enforce Contract terms, each party agrees to bear its own attorneys' fees and costs.

9. AUDIT

If the Contractor expends \$750,000 or more in federal awards as a Subrecipient from any and all sources in a fiscal year, the Contractor shall procure and pay for a single audit or a program-specific audit for that fiscal year in accordance with 2 CFR 200 Subpart F. In accordance with 2 CFR 200.501(h), for-profit Subrecipients expending \$750,000 or more in federal awards in a fiscal year are also required to procure and pay for a single audit or program-specific audit for that fiscal year.

Upon completion of each audit:

- A. If non-profit, Contractor shall send to the [Federal Audit Clearinghouse](#).
- B. If for-profit, Contractor shall submit all audit documentation to COMMERCE.

If the Contractor expends less than \$750,000 in federal awards as a Subrecipient from any and all sources in a fiscal year, whether non-profit or for-profit, the Contractor shall notify COMMERCE they did not meet the audit requirement threshold within 30 calendar days of the end of that fiscal year.

10. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY AND VOLUNTARY EXCLUSION- PRIMARY AND LOWER TIER COVERED TRANSACTIONS

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

LOWER TIER COVERED TRANSACTIONS

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

11. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

- A. "Confidential Information" as used in this section includes:**
- i. All material provided to the Contractor by COMMERCE that is designated as "confidential" by COMMERCE;**

- ii. All material produced by the Contractor that is designated as “confidential” by COMMERCE; and
 - iii. All personal information in the possession of the Contractor that may not be disclosed under state or federal law.
- B. The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Contract whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by COMMERCE. Upon request, the Contractor shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.
- C. Unauthorized Use or Disclosure. The Contractor shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

12. CONFLICT OF INTEREST

Contractor must maintain and comply with written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. Contractor must comply with the following minimum requirements:

- A. No employee, officer, or agent may participate in the selection, award, or administration of a contract if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the Contractor may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts and must comply with RCW 39.26.020. However, Contractor may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Contractor.
- B. If the Contractor has a parent, affiliate, or subsidiary organization that is not a state, local government, or federally recognized tribe, the Contractor must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the Contractor is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

13. COPYRIGHT PROVISIONS

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Contractor hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, the Contractor hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Contractor shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The Contractor shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Contractor with respect to any Materials delivered under this Contract. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Contractor.

14. DISPUTES

Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of COMMERCE, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Contractor's name, address, and Contract number; and
- be mailed to the Director and the other party's (respondent's) Contract Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

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

15. DUPLICATE PAYMENT

COMMERCE shall not pay the Contractor, if the Contractor has charged or will charge the State of Washington or any other party under any other contract or agreement, for the same services or expenses.

16. GOVERNING LAW AND VENUE

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

17. INDEMNIFICATION

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

The Contractor's obligation shall not include such claims that may be caused by the sole negligence of the State and its agencies, officials, agents, and employees. If the claims or damages are caused by or result from the concurrent negligence of (a) the State, its agents or employees and (b) the Contractor, its subcontractors, agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Contractor or its subcontractors, agents, or employees.

The Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

18. INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and its employees or agents performing under this Contract are not employees or agents of the state of Washington or COMMERCE. The Contractor will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

19. INDIRECT COSTS

The Contractor shall provide their indirect cost rate that has been negotiated between their entity and the Federal Government. If no such rate exists a de minimis indirect cost rate of not more than 10% of Modified Total Direct Costs (MTDC) may be used.

20. INDUSTRIAL INSURANCE COVERAGE

The Contractor shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the Contractor the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by COMMERCE under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

21. LAWS

The Contractor shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

22. LICENSING, ACCREDITATION AND REGISTRATION

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

23. LIMITATION OF AUTHORITY

Only the Authorized Representative or the Authorized Representative's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the Authorized Representative.

24. NONDISCRIMINATION

A. Nondiscrimination Requirement. During the performance of this Agreement, the Contractor, including any subcontractor, shall comply with all federal, state, and local nondiscrimination laws, regulations and policies, this shall include but not be limited to the following: GRANTEE, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, GRANTEE, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which GRANTEE, or subcontractor, has a collective bargaining or other agreement.

The funds provided under this Agreement shall not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this Agreement.

B. Obligation to Cooperate. GRANTEE, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that GRANTEE, including any subcontractor, has engaged in discrimination prohibited by this Agreement pursuant to RCW 49.60.530(3).

C. Default. Notwithstanding any provision to the contrary, COMMERCE may suspend GRANTEE, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until COMMERCE receives notification that GRANTEE, including any subcontractor, is cooperating with the investigating state agency. In the event GRANTEE, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), COMMERCE may terminate this Agreement in whole or in part, and GRANTEE, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. GRANTEE or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.

D. Remedies for Breach. Notwithstanding any provision to the contrary, in the event of Agreement termination or suspension for engaging in discrimination, GRANTEE, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original Grant and the replacement or cover Grant and all administrative costs directly related to the replacement Grant, e.g., cost of the competitive bidding, mailing, advertising and staff time, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. GRANTEE may also be required to repay grant funds pursuant to Section 29 (Recapture) of the General Terms & Conditions if the Agreement is terminated based on a violation of the nondiscrimination requirement. COMMERCE shall have the right to deduct from any monies due to GRANTEE or subcontractor, or that thereafter become due, an amount for damages GRANTEE or subcontractor will owe COMMERCE for default under this provision.

25. PAY EQUITY

The Contractor agrees to ensure that “similarly employed” individuals in its workforce are compensated as equals, consistent with the following:

- A. Employees are “similarly employed” if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;**
- B. Contractor may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:**
 - i. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.**
 - ii. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.**
 - iii. A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.**

This Contract may be terminated by the Department, if the Department or the Department of Enterprise Services determines that the Contractor is not in compliance with this provision.

26. POLITICAL ACTIVITIES

Political activity of Contractor’s employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

27. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS

All Contractors must establish procurement policies and procedures in accordance with 2 CFR Part 200, for all purchases funded by this Contract.

The Contractor’s procurement system should include at least the following:

- A. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of contracts using federal funds.**
- B. Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.**
- C. Minimum procedural requirements, as follows:**
 - i. Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.**
 - ii. Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.**
 - iii. Positive efforts shall be made to use small and minority-owned businesses.**
 - iv. The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the Contractor, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.**
 - v. Contracts shall be made only with reasonable subcontractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.**

- vi. Some form of price or cost analysis should be performed in connection with every procurement action.
 - vii. Procurement records and files for purchases shall include all of the following:
 - 1) Contractor selection or rejection.
 - 2) The basis for the cost or price.
 - 3) Justification for lack of competitive bids if offers are not obtained.
 - viii. A system for contract administration to ensure Contractor conformance with terms, conditions and specifications of this Contract, and to ensure adequate and timely follow-up of all purchases.
- D. Contractor and Subcontractor must receive prior approval from COMMERCE for using funds from this Contract to enter into a sole source contract or a contract where only one bid or proposal is received when value of this Contract is expected to exceed \$5,000.

Prior approval requests shall include a copy of proposed contracts and any related procurement documents and justification for non-competitive procurement, if applicable.

28. PUBLICITY

The Contractor agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

29. RECAPTURE

In the event that the Contractor fails to perform this Contract in accordance with state laws, federal laws, and/or the provisions of this Contract, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Contract.

30. RECORDS MAINTENANCE

The Contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

The Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

31. REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the Contractor shall complete registration with the Washington State Department of Revenue.

32. RIGHT OF INSPECTION

The Contractor shall provide right of access to its facilities to COMMERCE, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal

government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.

33. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, COMMERCE may terminate the Contract under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

34. SEVERABILITY

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

35. SITE SECURITY

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

36. SUBCONTRACTING

The Contractor may only subcontract work contemplated under this Contract if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Contractor to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The Contractor is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to COMMERCE for any breach in the performance of the Contractor's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

37. SURVIVAL

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

38. TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the Contractor's income or gross receipts, any other taxes, insurance or expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

39. TERMINATION FOR CAUSE

In the event COMMERCE determines the Contractor has failed to comply with the conditions of this contract in a timely manner, COMMERCE has the right to suspend or terminate this contract. Before suspending or terminating the contract, COMMERCE shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original

contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by COMMERCE to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

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

40. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Contract, COMMERCE may, by ten (10) business days' written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, COMMERCE shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

41. TERMINATION PROCEDURES

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

COMMERCE shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Contractor and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Contractor such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

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

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

- A. Stop work under the contract on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
- C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;

- E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;
- F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which COMMERCE has or may acquire an interest.

42. TREATMENT OF ASSETS

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

- A. Any property of COMMERCE furnished to the Contractor shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this contract.
- B. The Contractor shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.
- C. If any COMMERCE property is lost, destroyed or damaged, the Contractor shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.
- D. The Contractor shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract.
- E. All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

43. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

Attachment A: Scope of Work

Attachment B: Budget