STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

OLYMPIA, WASHINGTON

REQUEST FOR QUALIFICATIONS AND QUOTATIONS

RFQQ NO. 18-46201-300

*NOTE: If you download this RFQQ from the Department of Commerce website, you are responsible for sending your name, address, e-mail address, and telephone number to the RFQQ Coordinator in order for your organization to receive any RFQQ amendments or bidder questions/agency answers.*

PROJECT TITLE: Section 811 Project Monitoring and Unit Inspections

PROPOSAL DUE DATE: August 31, 2018

EXPECTED TIME PERIOD FOR CONTRACT: October 1, 2018 – September 30, 2021

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

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# INTRODUCTION

## PURPOSE AND BACKGROUND

The Department of Commerce (Commerce) is the one agency in state government that touches every aspect of community and economic development: planning, infrastructure, energy, public facilities, housing, public safety and crime victims, international trade, business services and more. We work with local governments, businesses and civic leaders throughout the state to strengthen communities so all residents may thrive and prosper.

Section 811 Project Rental Assistance Program

The US Department of Housing and Urban Development (HUD) administers the Section 811 Project Rental Assistance Program that provides non time-limited rental subsidies for non-elderly persons living with disabilities. Tenants are referred to partner property owners in accordance with a Memorandum of Understanding between the Washington State Department of Social and Health Services (DSHS) and Commerce. Commerce contracts with owners of eligible multifamily housing projects to set aside a fixed number of units for 811 tenant participants. Commerce is the grantee for Section 811 in Washington State.

HUD prescribes that Section 811 grantees are responsible for monitoring participating multifamily housing projects in accordance with the *HUD Handbook 4350.3, Rev-1*. HUD also prescribes that grantees are responsible for ensuring that Uniform Physical Condition Standards inspections are performed at participating projects.

The purpose of this contract is to ensure that Commerce is in compliance with the monitoring and inspection requirements prescribed by HUD, in regards to participating Section 811 properties.

## OBJECTIVE

The objective of this work is that property owners participating in the Section 811 Project Rental Assistance program provide safe, affordable, and decent housing to qualifying tenants, in accordance with the requirements set forth by HUD:

* Property owners are in compliance with HUD’s *HUD Handbook 4350.3, Rev-1,* including, but not limited to, the following provisions:
	+ Adherence to federal, state, and local civil rights and nondiscrimination requirements
	+ Ensuring eligibility of approved tenants
	+ Accurate and complete calculation of income and tenant rent share
	+ Execution of a Section 811 lease for all participants
	+ Tenant income recertification
	+ Unit transfers
	+ Gross rent changes
	+ Use of Enterprise Income Verification (EIV)
* Property owners are providing safe, decent, and sanitary housing as verified by Uniform Physical Condition Standards inspections.

## MINIMUM QUALIFICATIONS

The Applicant must have the following minimum qualifications:

1. Licensed to do business in the state of Washington. The Applicant is required to submit a Washington [Uniform Business Identification](http://bls.dor.wa.gov/file.aspx) (UBI) number issued by the state of Washington Department of Revenue. If the Applicant does not have a UBI number, the Applicant must state that it will become licensed in Washington within thirty (30) calendar days of being selected as the Apparently Successful Contractor.
2. Have necessary certification, as defined in Section 3.2.2(1)(B), and at least three years’ experience performing:
* Monitoring property owners in accordance with the *HUD Handbook 4350.3, Rev-1*
* Inspections of housing units in accordance with Uniform Physical Condition Standards

Applicants who do not meet these minimum qualifications will be rejected as non-responsive and will not receive further consideration. Any proposal that is rejected as non-responsive will not be evaluated or scored.

## FUNDING

The overall budget for this project shall not exceed **$115,000*.*** In the event additional funding becomes available, the contract may be renegotiated and amended to provide for additional related services upon mutual agreement between COMMERCE and the Contractor.

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

## PERIOD OF PERFORMANCE

The period of performance of any contract(s) resulting from this RFQQ is tentatively scheduled to begin on or about *October 1, 2018,* and to end on *September 30, 2021.* COMMERCE reserves the option at its sole discretion to extend the contract for two additional one-year periods.

## DEFINITIONS

Definitions for the purposes of this RFQQ include:

COMMERCE. The Department of Commerce is the agency of the state of Washington that is issuing this RFQQ.

Applicant. Individual, company, or firm submitting a proposal in order to attain a contract with COMMERCE.

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

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

Request for Qualifications and Quotations (RFQQ). Formal procurement document in which services needed are identified and firms are invited to provide their qualifications to provide the services and their hourly rates.

## ADA

COMMERCE complies with the Americans with Disabilities Act (ADA). Applicants may contact the RFQQ Coordinator to receive this Request for Qualifications and Quotations in Braille or on tape.

# GENERAL INFORMATION

## RFQQ COORDINATOR

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

|  |  |
| --- | --- |
| Name | Jeff Spring |
| Phone Number | 360.725.2991 |
| E-Mail Address | jeff.spring@commerce.wa.gov  |

Any other communication will be considered unofficial and non-binding on COMMERCE. Applicants are to rely on written statements issued by the RFQQ Coordinator. Communication directed to parties other than the RFQQ Coordinator may result in disqualification.

## ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

|  |  |
| --- | --- |
| Issue Request for Qualifications and Quotations | August 1, 2018 |
| Question & answer period | August 1– August 21, 2018 |
| Proposals due | August 31, 2018 |
| Evaluate proposals | September 1 – September 15, 2018 |
| Announce “Apparent Successful Contractor” and send notification via e-mail to unsuccessful proposers | September 20, 2018 |
| Negotiate contract | September 20– September 28, 2018 |
| Begin contract work | October 1, 2018 |

COMMERCE reserves the right to revise the above schedule.

## SUBMISSION OF PROPOSALS

ELECTRONIC PROPOSALS:

The proposal must be received by the RFQQ Coordinator no later than 5:00 p.m. Pacific Standard Time or Pacific Daylight Time, in Olympia, Washington, on August 31, 2018.

Proposals must be submitted electronically as an attachment to an e-mail to the RFQQ 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 cover submittal letter and the Certifications and Assurances form must have a scanned signature of the individual within the organization authorized to bind the Applicant to the offer.

COMMERCE does not assume responsibility for problems with Applicant’s e-mail. If COMMERCE email is not working, appropriate allowances will be made.

Applicants should allow sufficient time to ensure timely receipt of the proposal by the RFQQ 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. All proposals and any accompanying documentation become the property of COMMERCE and will not be returned.

## PROPRIETARY INFORMATION/PUBLIC DISCLOSURE

Proposals submitted in response to this competitive procurement shall become the property of COMMERCE. All proposals received shall remain confidential until the Apparent Successful Contractor is announced; thereafter, the proposals shall be deemed public records as defined in Chapter 42.56 of the Revised Code of Washington (RCW).

Any information in the proposal that the Applicant 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 Applicant 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 Applicant has marked as "Proprietary Information" COMMERCE will notify the Applicant of the request and of the date that the records will be released to the requester unless the Applicant obtains a court order enjoining that disclosure. If the Applicant fails to obtain the court order enjoining disclosure, COMMERCE will release the requested information on the date specified. If an Applicant 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 Applicants information per the court order.

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

## REVISIONS TO THE RFQQ

In the event it becomes necessary to revise any part of this RFQQ, addenda will be provided via e-mail to all individuals, who have made the RFQQ Coordinator aware of their interest. Addenda will also be published on Washington’s Electronic Bid 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 RFQQ and will be placed on the website.

If you downloaded this RFQQ from the Agency website located at [www.commerce.wa.gov](http://www.commerce.wa.gov), you are responsible for sending your name, e-mail address, and telephone number to the RFQQ Coordinator in order for your organization to receive any RFQQ addenda. Question and Answer responses collected during the RFQQ open period will be posted to the Commerce Website.

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

*2.6 DIVERSE BUSINESS INCLUSION PLAN*

Applicants will be required to submit a Diverse Business Inclusion Plan with their proposal. 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. Participation may be either on a direct basis or on a subcontractor basis. However, no preference on the basis of participation is included in the evaluation of Diverse Business Inclusion Plans submitted, and no minimum level of minority- and women-owned business enterprise (MWBE), Washington Small Business, 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.

## ACCEPTANCE PERIOD

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

## COMPLAINT PROCESS

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

1. The solicitation unnecessarily restricts competition.
2. The solicitation evaluation or scoring process is unfair.
3. 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 bid response deadline. The complaint must meet the following requirements:

1. The complaint must be in writing.
2. The complaint must be sent to the RFQQ coordinator in a timely manner.
3. The complaint should clearly articulate the basis for the complaint.
4. The complaint should include a proposed remedy.

The RFQQ 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 will be final. There will be no appeal process.

## RESPONSIVENESS

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

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

## 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 Applicant can propose. COMMERCE does reserve the right to contact the Applicant for clarification of its proposal.

The Applicant should be prepared to accept this RFQQ for incorporation into a contract resulting from this RFQQ. Contract negotiations may incorporate some, or all, of the Applicant’s proposal. It is understood that the proposal will become a part of the official procurement file on this matter without obligation to COMMERCE.

## CONTRACT AND GENERAL TERMS & CONDITIONS

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

## COSTS TO PROPOSE

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

## NO OBLIGATION TO CONTRACT

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

## 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 RFQQ.

## COMMITMENT OF FUNDS

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

# PROPOSAL CONTENTS

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

1. Letter of Submittal, including signed Certifications and Assurances (Exhibit A to this RFQQ) – Section 3.1
2. Qualifications & Quotations – Section 3.2
3. Diverse Business Inclusion Plan (Exhibit B to this RFQQ)

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

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

## LETTER OF SUBMITTAL (MANDATORY)

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

1. Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom contract would be written.
2. Name and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.)
3. Indicate how many employees are with the firm. Name the firm principles and their roles.
4. Legal status of the Applicant (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
5. 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 Applicant does not have a UBI number, the Applicant must state that it will become licensed in Washington within thirty (30) calendar days of being selected as the Apparently Successful Contractor.
6. Identify any current 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 Applicant’s organization. If following a review of this information, it is determined by COMMERCE that a conflict of interest exists, the Applicant may be disqualified from further consideration for the award of a contract.
7. If the Applicant 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.
8. If the Applicant 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 Applicant’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.
9. Submit full details of the terms for default, including the other party's name, address, and phone number. Present the Applicant 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 Applicant in the past five years, so indicate.

## QUALIFICATIONS & QUOTATIONS SECTION

The qualifications section of the proposal must contain information that will demonstrate to the evaluation committee the Applicant’s understanding of the services proposed and their ability to accomplish them.

The qualifications response is to be submitted in four sections as follows:

 1) Services Provided (3.2.1)

 2) Qualifications (3.2.2)

 3) Quotations (3.2.3)

 4) OMWBA Certification (3.2.4)

### SERVICES PROVIDED (SCORED)

By mid-2019, Commerce anticipates having 20 Rental Assistance Contracts (RAC) executed. Each project must be monitored and inspected by the end of the contract period reflected in this RFQQ. The order of work shall be performed in the order of RAC execution.

The applicant must:

1. Be able to demonstrate competency in monitoring participating 811 properties to ensure compliance with all applicable provisions of HUD’s multifamily occupancy requirements as described in the *HUD Handbook 4350.3, Rev-1*.
2. Be able to demonstrate competency in performing Uniform Physical Condition Standards inspections to ensure that property owners are providing safe, decent, and sanitary housing.
3. Provide Commerce with monitoring and inspection reports for each 811 participating property. Corrective actions to be performed by the property owner, if any, must be concise and include a due-date of completion and of any deliverables.
4. Coordinate remote and on-site visits with a representative of each 811 participating property.
5. Provide technical assistance to owners on issues of noncompliance.

### QUALIFICATIONS (SCORED)

### STAFFING & EXPERIENCE

1. Provide the name and a resume for the person who will be the lead contact for this contract. Describe the experience by the Applicant in managing a monitoring/inspections contract for services similar to those in this RFQQ.
2. Provide resumes for the monitors/inspector(s) and their current monitoring and UPCS inspection certification. Describe experience by the monitor/inspector(s) who will perform property monitoring and inspections.
	1. UPCS inspectors must submit Real Estate Assessment Center (REAC) certificate of training (or equivalent).
	2. Multifamily Occupancy Standards monitors must submit National Center for Housing Management certificate of training (or equivalent).
3. REFERENCES

List names, addresses, telephone numbers, and e-mail addresses of three business references for whom work has been accomplished and briefly describe the type of service provided. By submitting a proposal, the Applicant grants permission to COMMERCE to contact these references and others, who from COMMERCE’S perspective, may have pertinent information. COMMERCE may or may not, at COMMERCE’S discretion, contact references. Do not include current COMMERCE staff as references.

### QUOTATIONS SECTION (SCORED)

### IDENTIFICATION OF COSTS

The evaluation process is designed to award this procurement not necessarily to the Applicant of least cost, but rather to the Applicant whose proposal best meets the requirements of this RFQQ. Applicants are encouraged, however, to submit proposals which are consistent with state government efforts to conserve state resources.

1. The Quotations section must list all hourly rates for services anticipated under the proposed contract. The hourly rates are to represent fully weighted costs. This includes the hourly rates of staff that would be assigned to the project, administrative costs, local travel costs, or any other applicable fees that would be charged under this contract.
2. Costs for subcontractors are to be broken out separately. Please note if any subcontractors are certified by the Washington State Office of Minority and Women’s Business Enterprises.

### COMPUTATION

The maximum budget for this award is $115,000to perform all of the services outlined above. Proposals for more than $115,000 will receive zero points in this section. Proposals between $105,000 and $115,000 will be scored for completeness of information as it relates to the services.

### OMWBA CERTIFICATION (OPTIONAL AND NOT SCORED)

This optional section should include proof of certification issued by the Washington State Office of Minority and Women’s Business Enterprises if certified minority-owned firm and/or women-owned firm(s) will be participating on this project.

# EVALUATION AND CONTRACT AWARD

## EVALUATION PROCEDURE

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

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

## CLARIFICATION OF PROPOSAL

The RFQQ Coordinator may contact the Applicant for clarification of any portion of the proposal.

## EVALUATION WEIGHTING AND SCORING

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

|  |  |
| --- | --- |
| Qualifications Section – 80% | 115 points |
| Services Provided…………. 60 points (maximum) |  |
| Staffing and Experience...… 55 points (maximum) |  |
|  |  |
| Quotation Section – 20% Identification of Costs………. 25 points (maximum) Computation…………………. 10 points (maximum) | 35 points |
|  | Grand Total | 150 Points |

## NOTIFICATION TO PROPOSERS

Applicants whose proposals have not been selected for further negotiation or award will be notified by

E-mail.

## DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Upon request, a debriefing conference can be scheduled. The request for a debriefing conference must be received by the RFQQ Coordinator within three (3) business days after the Notification of Unsuccessful Applicant message is e-mailed to the Applicant. The debriefing must be held within three (3) business days of the request.

Discussion will be limited to a critique of the requesting Applicant’s proposal. Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a maximum of one hour.

## PROTEST PROCEDURE

This procedure is available to Applicant who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Applicant is allowed five (5) business days to file a protest of the acquisition with the RFQQ Coordinator. Protests may be submitted by email, but should be followed by the original document.

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

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

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

* A matter of bias, discrimination or conflict of interest on the part of the evaluator
* Errors in computing the score
* Non-compliance with procedures described in the procurement document or COMMERCE policy

Protests not based on procedural matters will not be considered. Protests will be rejected as without merit if they address issues such as: 1) An evaluator’s professional judgment on the quality of a proposal, or 2) COMMERCE’S assessment of its own and/or other agencies’ needs or requirements.

Upon receipt of a protest, a protest review will be held by the COMMERCE. The COMMERCE Director or an employee delegated by the Director who was not involved in the procurement, will consider the record and all available facts and issue a decision within five business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

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

The final determination of the protest shall:

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

If COMMERCE determines that the protest is without merit, COMMERCE will enter into a contract with the apparently successful contractor. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

# RFQQ EXHIBITS

* Exhibit A Certifications and Assurances
* Exhibit B Diverse Business Inclusion Plan
* Exhibit C Service Contract Format including General Terms and Conditions (GT&Cs)

Exhibit A CERTIFICATIONS AND ASSURANCES

1. I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):
2. I/we declare that all answers and statements made in the proposal are true and correct.
3. 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.
4. 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.
5. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
6. 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.
7. Unless otherwise required by law, the prices and/or cost data that have been submitted have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Proposer or to any competitor.
8. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
9. No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
10. I/we grant COMMERCE the right to contact references and others, who may have pertinent information regarding the Proposer’s prior experience and ability to perform the services contemplated in this procurement.
11. 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.
12. Neither I/we or any staff members or subcontractors who will perform work are subject to any agreements that prevent or impair their performance of the work contemplated by this RFQQ.

We (circle one) are / are not submitting proposed Contract exceptions and have attached them to this form.

On behalf of the Applicant submitting this proposal, my name below attests to the accuracy of the above statement. Submit a scanned signature of this form.

|  |
| --- |
|  |
| Signature of Proposer |
|  |
| Title | Date |

Exhibit B DIVERSE BUSINESS INCLUSION PLAN

1. Do you anticipate using, or is your firm, a State Certified Minority Business? Y/N
2. Do you anticipate using, or is your firm, a State Certified Women’s Business? Y/N
3. Do you anticipate using, or is your firm, a State Certified Veteran Business? Y/N
4. Do you anticipate using, or is your firm, a Washington State Small Business? Y/N

If you answered “No” to all of the questions above, please explain:

Please list the approximate percentage of work to be accomplished by each group:

Minority \_\_%

Women \_\_%

Veteran \_\_%

Small Business \_\_%

Please identify the person in your organization to manage your Diverse Inclusion Plan responsibility.

Name:

E-Mail:

Exhibit C Service Contract Format including General Terms and Conditions (GT&Cs)

Services Contract with

<Individual or contractor organization here>

through

<Name of COMMERCE program issuing/administering contract here>

For

<List project title, if applicable, and/or describe the primary purpose for the funding or the intended outcome/deliverables in approx. 25 words or less>

Start date: <Month> <Day>, <Year>

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Special Terms and Conditions 1

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Attachment A, Scope of Work

Attachment B, Budget

Contract Number: <Insert Number>

# Washington State Department of Commerce

#

<Insert Unit or Office>

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

|  |  |
| --- | --- |
| 1. Contractor | 2. Contractor Doing Business As (optional) |
| <Insert legal name><Insert mailing address><Insert physical address><Insert location> | <Insert DBA name><Insert DBA mailing address><Insert DBA physical address><Insert DBA location> |
| 3. Contractor Representative | 4. COMMERCE Representative |
| <Insert name><Insert title><Insert phone><Insert FAX><Insert e-mail> | <Insert name><Insert title><Insert phone><Insert FAX><Insert e-mail> | <Insert mailing address><Insert physical address><Insert location> |
| 5. Contract Amount | 6. Funding Source | 7. Start Date | 8. End Date |
| <Insert $ amount> | Federal: [ ]  State: [ ]  Other: [ ]  N/A: [ ]  | <Insert date> | <Insert date> |
| 9. Federal Funds (as applicable)<Insert $ amount> | Federal Agency:<Insert name> | CFDA Number<Insert number> |
| 10. Tax ID # | 11. SWV # | 12. UBI # | 13. DUNS # |
| <Insert number> | <Insert number> | <Insert number> | <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 | FOR COMMERCE |
|  <insert name>, <insert title> Date |  <insert name>, <insert title> DateAPPROVED AS TO FORM ONLYBY ASSISTANT ATTORNEY GENERALAPPROVAL ON FILE |

1. 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.

1. 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 following terms:

1. 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.*]

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.

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.

1. 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 Grant performed by subcontractors and the portion of Grant 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.

1. INSURANCE

The Contractor shall provide 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.

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, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Contract, 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 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.

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.

* 1. 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 on the Face Sheet
1. DEFINITIONS

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

1. “Authorized Representative” shall mean the Director and/or the designee authorized in writing to act on the Director’s behalf.
2. “COMMERCE” shall mean the Department of Commerce.

## “Contract” or “Agreement” 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.

1. "Contractor" 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.
2. “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.
3. ”State” shall mean the state of Washington.
4. "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.
5. 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.

1. 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.

1. 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.

1. 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.

1. 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.

1. 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.

1. 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.

1. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION
2. “Confidential Information” as used in this section includes:
3. All material provided to the Contractor by COMMERCE that is designated as “confidential” by COMMERCE;
4. All material produced by the Contractor that is designated as “confidential” by COMMERCE; and
5. All personal information in the possession of the Contractor that may not be disclosed under state or federal law. “Personal information” includes but is not limited to information related to a person’s name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver’s license number and other identifying numbers, and “Protected Health Information” under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
	* 1. 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.
		2. 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.
6. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, COMMERCE may, in its sole discretion, by written notice to the CONTRACTOR terminate this contract if it is found after due notice and examination by COMMERCE that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the CONTRACTOR in the procurement of, or performance under this contract.

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The CONTRACTOR and their subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked with the COMMERCE program executing this Contract, including but not limited to formulating or drafting the legislation, participating in grant procurement planning and execution, awarding grants, and monitoring grants, during the 24-month period preceding the start date of this Contract. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by COMMERCE that a conflict of interest exists, the CONTRACTOR may be disqualified from further consideration for the award of a Contract.

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

1. COPYRIGHT

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.

1. 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.

1. 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.

1. 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.

1. 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 to indemnify, defend, and hold harmless includes any claim by Contractor’s agents, employees, representatives, or any subcontractor or its employees.

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

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.

1. 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.

1. 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.

1. 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.

1. 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.

1. 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.

1. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Contract, the Contractor shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Contractor’s non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with COMMERCE. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the “Disputes” procedure set forth herein.

1. PAY EQUITY

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

* 1. 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;
	2. 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.

1. POLITICAL ACTIVITIES

Political activity of Contractor 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.

1. 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.

1. 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.

1. 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.

1. REGISTRATION WITH DEPARTMENT OF REVENUE

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

1. 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.

1. 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 suspend or terminate the Contract under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

1. 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.

1. 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.

1. 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.

1. 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.

1. 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.

1. 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.

1. 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.

1. 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 the Authorized Representative. 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:

1. Stop work under the contract on the date, and to the extent specified, in the notice;
2. 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;
3. 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;
4. 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;
5. 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;
6. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
7. 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.
8. 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.

1. 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.
2. 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.
3. 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.
4. The Contractor shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract

All reference to the Contractor under this clause shall also include Contractor’s employees, agents or Subcontractors.

1. 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.

Scope of Work

Budget