



Department of Commerce

STATE OF WASHINGTON
DEPARTMENT OF COMMERCE
OLYMPIA, WASHINGTON

**REQUEST FOR QUALIFICATIONS
RFQ NO. 20-46108-715**

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

PROJECT TITLE: Racial Equity Trainer for Homeless Service Providers

RESPONSE DUE DATE: July 31, 2019

EXPECTED TIME PERIOD FOR CONTRACT: September 1, 2019 – June 30, 2021

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



TABLE OF CONTENTS

- 1. Introduction2**
 - 1.1 Purpose and Background.....3
 - 1.2 Objective3
 - 1.3 Minimum Qualifications3
 - 1.4 Funding3
 - 1.5 Period of Performance3
 - 1.6 Definitions.....3
 - 1.7 ADA4

- 2. General Information5**
 - 2.1 RFQ Coordinator5
 - 2.2 Estimated Schedule of Procurement Activities5
 - 2.4 Submission of Responses.....6
 - 2.5 Proprietary Information/Public Disclosure6
 - 2.6 Revisions to the RFQ7
 - 2.7 Diverse Business Inclusion Plan7
 - 2.8 Acceptance Period7
 - 2.9 Complaints7
 - 2.10 Responsiveness.....7
 - 2.11 Most Favorable Terms7
 - 2.12 Contract and General Terms & Conditions8
 - 2.13 Costs to Propose.....8
 - 2.14 No Obligation to Contract.....8
 - 2.15 Rejection of Responses8
 - 2.16 Commitment of Funds.....8
 - 2.17 Insurance Coverage.....8

- 3. Response Contents11**
 - 3.1 Letter of Submittal11
 - 3.2 Qualifications Section.....11

- 4. Evaluation and Contract Award14**
 - 4.1 Evaluation Procedure14
 - 4.2 Clarification of Response.....14
 - 4.3 Evaluation and Scoring14
 - 4.4 Presentations14
 - 4.5 Notification to Proposers15
 - 4.6 Debriefing of Unsuccessful Proposers15
 - 4.7 Protest Procedure15

- 5. RFQ Exhibits.....17**
 - Exhibit A Certifications and Assurances
 - Exhibit B Diverse Business Inclusion Plan
 - Exhibit C Sample Service Contract Format including General Terms and Conditions (GT&Cs)

1 INTRODUCTION

1.1 PURPOSE AND BACKGROUND

The purpose of this RFQ is to identify a subject matter expert to provide training on racial equity for The Department of Commerce (Commerce) homeless housing assistance providers and Commerce Housing Assistance Unit staff. This will include supporting a racial equity team retreat activity for the Office of Homeless Youth.

Background:

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.

Office of Homeless Youth

Every night, thousands of homeless youth in Washington go to sleep without safety, stability, and support of a family or home. The Office of Homeless Youth (OHY) leads the statewide efforts to reduce and prevent homelessness for youth and young adults through five priority service areas:

- Stable Housing - Every youth has a safe and healthy place to sleep at night.
- Family Reconciliation - Families are reunited when safe and appropriate.
- Permanent Connections - Youth have opportunities to establish positive, healthy relationships with adults.
- Education and Employment - Youth have opportunities to advance in their education or training and obtain employment.
- Social and Emotional Well-Being - Youth have access to behavioral and physical health care; services nurture each youth's individual strengths and abilities.

Office of Family and Adult Homelessness

The 2018 Point in Time Count revealed that over 20,000 people are experiencing homelessness in Washington. The Office of Family and Adult Homelessness (OFAH) supports homeless crisis response systems by administering state and federal homeless housing grants and leading statewide efforts to reduce homelessness. OFAH promotes best practices, sets high level performance standards, critically reviews data and supports innovative system change. OFAH's guiding principles include:

- All people deserve a safe place to live.
- Urgent and bold action is the appropriate response to people living outside.
- Interventions must be data driven and evidenced based.

1.2 OBJECTIVE

Homelessness in Washington is multifaceted. While housing affordability and wealth inequality are leading causes of homelessness, we also know certain experiences may compound an individual's experience of homelessness, making it harder for them to find and/or access resources. We know that trauma and mental health challenges are common amongst homeless populations, and that people of color and LGBTQ+ communities are disproportionately impacted by homelessness. To this end, OFAH and OHY require homeless housing service providers demonstrate competency in meeting the needs of these populations.

Data clearly identifies that homelessness disproportionately impacts people of color. Commerce wants service providers to have the knowledge and tools needed to deliver services in a way that fosters safe, welcoming environments and avoids causing further harm.

The objective of the racial equity training is that homeless housing service providers will learn more about themselves and their organization related to racial equity and shift their response to ensure better access and outcomes.

COMMERCE may award one or more contracts to trainers who submit Responses as a result of this RFQ.

1.3 MINIMUM QUALIFICATIONS

The Trainer must have at least 3 years of experience in developing anti-oppression and racial equity and inclusion curriculum and training. The Trainer must have experience training diverse audiences who are at varying degrees of development in their understanding and practice of racial equity work.

The Trainer must be licensed to do business in Washington State.

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

1.4 FUNDING

The maximum award for the contract is \$32,000 for all things inclusive of completing the scope of work.

In the event additional funding becomes available, any contract awarded may be renegotiated to provide for additional related services.

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

1.5 PERIOD OF PERFORMANCE

The period of performance of any contract(s) resulting from this RFQ is tentatively scheduled to begin on or about September 1, 2019 and to end on June 30, 2021. COMMERCE reserves the option at its sole discretion to extend the contract for two additional one-year periods.

1.6 DEFINITIONS

Definitions for the purposes of this RFQ include:

Apparently Successful Bidder (ASB). The Trainer(s) selected to enter into negotiations leading to a fully executed contract for the work described in this procurement document.

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

Trainer. Individual, company, or firm submitting a Response in order to attain a contract with COMMERCE.

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

Request for Qualifications (RFQ). Formal procurement document in which needed services are identified and firms are invited to submit their qualifications via a written Response to provide the services and their hourly rates; this procurement document.

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

1.7 ADA

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

2 GENERAL INFORMATION

2.1 RFQ COORDINATOR

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

Name	Kathy Kinard
Phone Number	360/725.2939
E-Mail Address	Kathy.kinard@commerce.wa.gov

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

2.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Issue Request for Qualifications	June 27, 2019
Question & answer period	July 1 -12, 2019
Answers issued no later than	July 16, 2019
Responses due	July 31, 2019 5:00 p.m.
Evaluate responses	August 1 – 9, 2019
Presentations (if deemed necessary by Commerce)	August 12, 2019
Announce “Apparent Successful Bidder” and send notification via e-mail to unsuccessful proposers	August 14, 2019
Hold debriefing conferences (if requested)	August 19, 2019
Negotiate contract	August 14, 2019
Begin contract work	September 1, 2019

COMMERCE reserves the right to revise the above schedule.

2.3 SUBMISSION OF RESPONSES

ELECTRONIC RESPONSES:

The Response must be received by the RFQ Coordinator no later than 5:00 p.m., Pacific Standard Time, in Olympia, Washington, on July 31, 2019.

Responses must be submitted electronically as an attachment to an e-mail to the RFQ 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 Responses.

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 Trainer to the offer. COMMERCE does

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

Trainers should allow sufficient time to ensure timely receipt of the Response by the RFQ Coordinator. Late Responses will not be accepted and will be automatically disqualified from further consideration, unless COMMERCE e-mail is found to be at fault.

All Responses and any accompanying documentation become the property of COMMERCE and will not be returned.

2.4 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE

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

Any information in the Response that the Trainer 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 Trainer 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 Response exempt from disclosure or as Proprietary Information will not be honored.

If a public records request is made for the information that the Trainer has marked as "Proprietary Information" COMMERCE will notify the Trainer of the request and of the date that the records will be released to the requester unless the Trainer obtains a court order enjoining that disclosure. If the Trainer fails to obtain the court order enjoining disclosure, COMMERCE will release the requested information on the date specified. If a Trainer 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 Trainer's 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 RFQ Coordinator is required. All requests for information should be directed to the RFQ Coordinator.

2.5 REVISIONS TO THE RFQ

In the event it becomes necessary to revise any part of this RFQ, addenda will be provided via e-mail to all individuals who have made the RFQ 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 RFQ and will be placed on the website.

If you downloaded this RFQ from the COMMERCE website located at www.commerce.wa.gov, you are responsible for sending your name, e-mail address, and telephone number to the RFQ Coordinator in order for your organization to receive any RFQ addenda.

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

2.5 DIVERSE BUSINESS INCLUSION PLAN

Applicants will be required to submit a Diverse Business Inclusion Plan with their Response. 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.

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

2.6 ACCEPTANCE PERIOD

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

2.7 COMPLAINT PROCESS

Applicants 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 bid response deadline. The complaint must meet the following requirements:

- a) The complaint must be in writing;
- b) The complaint must be sent to the RFQ 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 RFQ 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 is no appeal process.

2.8 RESPONSIVENESS

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

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

2.9 MOST FAVORABLE TERMS

COMMERCE reserves the right to make an award without further discussion of the Response submitted. Therefore, the Response should be submitted initially on the most favorable terms which the Trainer can propose. COMMERCE does reserve the right to contact a Trainer for clarification of its Response.

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

2.10 CONTRACT AND GENERAL TERMS & CONDITIONS

The apparent successful bidder 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 a Trainer to submit its own standard contract terms and conditions in response to this solicitation. The Trainer 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.

It is anticipated the first deliverable under the contract will be a scoping plan, which will define the specific services to be provided by the CONTRACTOR based upon agreement between COMMERCE and the CONTRACTOR.

2.11 COSTS TO PROPOSE

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

2.12 NO OBLIGATION TO CONTRACT

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

2.13 REJECTION OF RESPONSES

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

2.14 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 RFQ. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

2.15 INSURANCE COVERAGE

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

The Contractor shall, at Contractor's 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 a copy shall be forwarded to COMMERCE within fifteen (15) days of the contract effective date.

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.

Workers' Compensation Coverage

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

3 RESPONSE CONTENTS

Responses must be written in English and submitted electronically to the RFQ Coordinator.

Responses should provide information in the same order as outlined below.

- Items marked “mandatory” must be included for the Response to be considered complete, however, these items are not scored.
 - Items marked “scored” are awarded points as part of the evaluation conducted by the evaluation team.
1. Letter of Submittal – mandatory
 2. Qualifications and Staffing - scored
 3. References - mandatory
 4. Exhibit A Certifications and Assurances – mandatory
 5. Exhibit B Diverse Business Inclusion Plan – optional

3.1 LETTER OF SUBMITTAL (MANDATORY)

The Letter of Submittal must be signed and dated by a person authorized to legally bind the Trainer 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 Trainer and any proposed subcontractors:

1. Name, address, principal place of business, telephone number, and e-mail address of legal entity or individual with whom contract would be written. Location of the facility from which the Trainer would operate if different than principal place of business.
2. Legal status of the Trainer (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
3. 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 Trainer does not have a UBI number, the Trainer must submit a statement that it will become licensed in Washington within thirty (30) calendar days of being selected as the Apparently Successful Contractor.

4. Identify any state employees or former state employees employed or on the firm's governing board as of the date of the Response. Include their position and responsibilities within the Trainer's organization. If following a review of this information, it is determined by COMMERCE that a conflict of interest exists, the Trainer may be disqualified from further consideration for the award of a contract.
5. If the Trainer'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.
6. If the Trainer 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 Trainer'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.

7. Submit full details of the terms for default, including the other party's name, address, and phone number. Present the Trainer's position on the matter. COMMERCE will evaluate the facts and may, at its sole discretion, reject the Response on the grounds of the past experience. If no such termination for default has been experienced by the Trainer in the past five years, so indicate.

3.2 QUALIFICATIONS (SCORED)

The qualifications section of the Response must contain information that will demonstrate to the evaluation committee the Trainer's understanding of the RFQ and the firm's ability to accomplish the work.

Describe the firm's qualifications, services and recent experience with the following:

The Trainer must have at least 3 years of experience in developing anti-oppression and racial equity and inclusion curriculum and training. The Trainer must have experience training diverse audiences who are at varying degrees of development in their understanding and practice of racial equity work. Sample racial equity and inclusion training/materials that the trainer has developed/delivered, training dates and locations, and other supporting documentation that represents the trainer's experience should be included in the response.

The Trainer must have a strong understanding and analysis of anti-oppression and intersectionality, racial equity and inclusion as it relates to homelessness. They must have demonstrated experience in racial equity work and a commitment to social justice. The Trainer must possess the professional capacity to educate and inform others about how people of color experiencing homelessness are impacted by bias, prejudice and racism.

The Trainer should be skilled in using training techniques that educate, challenge and inspire participants to engage in difficult conversations. The Trainer must also be committed to providing skills-based education that provides trainees with the tools to grow their understanding of barriers experienced by people of color experiencing homelessness and move their work culture toward positive change.

Scope of Work to be performed:

1. Develop curriculum and materials, that at a minimum, that are targeted at training homeless housing service providers on the following:
 - a. Racial equity 101 (key terms and concepts) including civil rights particularly as it pertains to access to shelter, housing, etc. and ways to uphold these rights within programs.
 - b. Build a clear understanding of key concepts such as racial equity, structural racism and unconscious bias
 - c. How racism shows up in homelessness (population/data, systems); relationship between historical trauma and homelessness.
 - d. Gain tools and practices for counteracting racial bias.
 - e. Translating awareness into desire/action for transformation (tools and skills for change); develop strategies to advance racial equity.
2. Submit training agenda/outline and supporting documents with the RFQ Response.

3. Deliver 12 one-day trainings between September 2019 and June 2021 for an average class size of 30 people. Commerce will identify training sites, arrange logistics (room set up, projector/screen) and manage class registration.
4. Develop a post training participant satisfaction survey and send results to Commerce after each training event.
5. Develop an annual training summary outlining participant feedback and other significant take-aways and send to Commerce by June 20 each calendar year of the contract.
6. Provide training participants resources or a toolkit that assesses an organization's racial equity practices and guides homeless service organizations in a systematic and well-planned implementation of best practices. Submit toolkit proposal/outline with the RFQ Response.
7. Support racial equity and inclusion discussion at Office of Homeless Youth (OHY) retreat in calendar year 2019.

Full day retreat with staff to develop strategies and actions to advance the Office's racial equity work. The goals of the day include: developing a deeper awareness and assessment of where we are as individuals and as an Office in our comprehension of racism, white supremacy, and its impact on our work and the young people we serve; and developing clear, actionable steps and timelines to take effective action toward racial equity.

Role and estimated hours for supporting this deliverable:

- 4-6 hours preparation: designing agenda in consultation with OHY staff, preparing materials for facilitation, assisting with any advance-reading or assignments for staff prior to the retreat
- Max of 8 hours for facilitation and attendance at retreat
- Max 12 hours of follow up with staff after retreat, via phone consultation

STAFFING (SCORED)

1. Provide the name and a resume' of the person who will be the lead contact.
2. Provide names and resumes' for the Trainers, which includes information on the individual's particular skills related to this project, education, experience, significant accomplishments and any other pertinent information.
3. List any sub-contractors you may want to include to complete your roster of services. Describe what services each would provide and include resumes. Provide the information in Section 3.1 about each.

REFERENCES (MANDATORY)

List names, addresses, telephone numbers and e-mail addresses of three business references for whom similar work has been accomplished and briefly describe the type of service provided for them.

By submitting a Response in response to this Work Request, the vendor and team members grant 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.

4 EVALUATION AND CONTRACT AWARD

4.1 EVALUATION PROCEDURE

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

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

4.2 CLARIFICATION OF RESPONSE

The RFQ Coordinator may contact the Trainer for clarification of any portion of the Trainer's Response.

4.3 EVALUATION AND SCORING

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

Qualifications Section 5	
Firm Experience.....	50 points (maximum)
Staff Qualifications.....	50 points (maximum)
Grand Total	<u>100 Points</u>

4.4 PRESENTATIONS MAY BE REQUIRED

Sample training presentations, if considered necessary by COMMERCE, may be utilized in selecting the winning Response. COMMERCE at its sole discretion, may select the top-scoring Trainers(s) from the written evaluation and schedule a date, time and local for a sample training presentation.

4.5 NOTIFICATION TO PROPOSERS

Applicants whose Responses have not been selected for further negotiation or award will be notified by e-mail.

4.6 DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Upon request, a debriefing conference will be scheduled with an unsuccessful Applicant. The request for a debriefing conference must be received by the RFQ Coordinator within three (3) business days after the Notification of Unsuccessful Trainer notice is emailed to the Trainer. The debriefing must be held within three (3) business days of the request.

Discussion will be limited to a critique of the requesting Trainer's Response. *Comparisons between Responses or evaluations of the other Responses will not be allowed.* Debriefing conferences may be conducted in person or by telephone and will be scheduled for a maximum of thirty (30) minutes.

4.7 PROTEST PROCEDURE

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

Trainers 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 Trainers 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 RFQ 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 this procurement document or current 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 or assessment of the quality of a Response, 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 designated by the Director who was not involved in the procurement, will consider the record and 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 affect the interest of another Trainer that submitted a Response, such Trainer will be given an opportunity to submit its views and any relevant information on the protest to the RFQ Coordinator.

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 acquisition 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 errors and re-evaluate all Responses
 - 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 bidder. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

5 RFQ EXHIBITS

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

CERTIFICATIONS AND ASSURANCES

This document must be signed and dated by a person authorized to legally bind the Trainer 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.

1. I/we make the following certifications and assurances as a required element of the Response 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 Response 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 Response.
4. The attached Response 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 Response, 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 Response 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 Response. All Responses become the property of COMMERCE, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this Response.
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 Response 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 Response 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.

We (circle one) **are / are not** submitting proposed Contract exceptions. (See Section 2.12, Contract and General Terms and Conditions.) If Contract exceptions are being submitted, I/we have attached them to this form.

On behalf of the Trainer submitting this Response, my name below attests to the accuracy of the above statement. We are submitting a scanned signature on this form with our Response.

Signature of Proposer

Title

Date

DIVERSE BUSINESS INCLUSION PLAN

Per chapter [39.19 RCW](#), state agencies are encouraged to contract with Washington small businesses, micro-businesses, and mini-businesses, and minority and women-owned businesses.

Please check all the statements that apply to your business.

___ "Micro-business" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned and operated independently from all other businesses; and (b) has a gross revenue of less than one million dollars annually as reported on its federal tax return or on its return filed with the department of revenue.

___ "Mini-business" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned and operated independently from all other businesses; and (b) has a gross revenue of less than three million dollars, but one million dollars or more annually as reported on its federal tax return or on its return filed with the department of revenue.

___ "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity that 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.

___ Per RCW 39.19, please check this statement if your business is [certified with the Office of Women and Minority Business](#).

___ Per [RCW 43.60A.200](#), please check this statement if your business is a veteran-owned [businesses certified by the Department of Veterans Affairs](#).

I hereby certify, under penalty of perjury, that my business meets the above definition of a small business, micro-businesses, or mini-business.

Name of business	
Signature of person authorized to sign	
Written name	
Date	



Department of Commerce

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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TABLE OF CONTENTS

Special Terms and Conditions	1
Face Sheet	1
1. Contract Management	2
2. Compensation.....	2
3. Billing Procedures and Payment	2
4. Subcontractor Data Collection.....	3
5. Insurance.....	3
6. Order of Precedence.....	4
General Terms and Conditions	5
1. Definitions.....	5
2. Access to Data	5
3. Advance Payments Prohibited	5
4. All Writings Contained Herein	5
5. Amendments	5
6. Americans With Disabilities Act (ADA)	5
7. Assignment.....	5
8. Attorneys' Fees.....	5
9. Confidentiality/Safeguarding of Information	6
10. Conflict of Interest.....	7
11. Copyright.....	7
12. Disputes	8
13. Duplicate Payment.....	8
14. Governing Law and Venue	8
15. Indemnification	8
16. Independent Capacity of the Contractor.....	9
17. Industrial Insurance Coverage	9
18. Laws.....	9
19. Licensing, Accreditation and Registration	9
20. Limitation of Authority	9
21. Noncompliance With Nondiscrimination Laws.....	10
22. Pay Equity	10
23. Political Activities	10
24. Publicity	10
25. Recapture.....	10
26. Records Maintenance.....	10
27. Registration With Department of Revenue.....	10
28. Right of Inspection.....	10
29. Savings.....	11
30. Severability	11
31. Site Security	11
32. Subcontracting.....	11
33. Survival.....	11

34.	Taxes	11
35.	Termination for Cause	11
36.	Termination for Convenience	12
37.	Termination Procedures	12
38.	Treatment of Assets.....	13
39.	Waiver	13

Attachment A, Scope of Work

Attachment B, Budget

FACE SHEET

DRAFT – DO NOT COMPLETE

Contract Number: <Insert Number>

Washington State Department of Commerce

<Select Division, Board, or Commission>
 <Insert Unit or Office>
 <Insert Program(s) and/or Project(s)>

1. Contractor <Insert legal name> <Insert mailing address> <Insert physical address> <Insert location>		2. Contractor Doing Business As (optional) <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 \$ amount>	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>		<u>CFDA Number</u> <Insert number> <i>Federal Agency:</i> <Insert name>	
10. Tax ID # <Insert number>	11. SWV # <Insert number>	12. UBI # <Insert number>	13. DUNS # <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> _____ Date		FOR COMMERCE _____ <insert name>, <insert title> _____ Date APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL APPROVAL ON FILE	

**SPECIAL TERMS AND CONDITIONS
SERVICES CONTRACT
STATE FUNDS**

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.

2. 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:

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 current state travel reimbursement rates.

3. 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.

NOTE: Optional Provision - COMMERCE shall withhold 10 percent from each payment until acceptance by COMMERCE of the final report (or completion of the project, etc.).

4. SUBCONTRACTOR DATA COLLECTION

**SPECIAL TERMS AND CONDITIONS
SERVICES CONTRACT
STATE FUNDS**

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.

5. 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. 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:

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.

6. 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

**GENERAL TERMS AND CONDITIONS
SERVICES CONTRACT
STATE FUNDS**

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" shall mean the Department of Commerce.
- C. "*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.
- D. "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.
- E. "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.
- F. "State" shall mean the state of Washington.
- G. "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.

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

**GENERAL TERMS AND CONDITIONS
SERVICES CONTRACT
STATE FUNDS**

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. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

- A.** "Confidential Information" as used in this section includes:
1. All material provided to the Contractor by COMMERCE that is designated as "confidential" by COMMERCE;
 2. All material produced by the Contractor that is designated as "confidential" by COMMERCE; and
 3. 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).
- 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.

10. 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

**GENERAL TERMS AND CONDITIONS
SERVICES CONTRACT
STATE FUNDS**

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.

11. 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.

12. 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.

**GENERAL TERMS AND CONDITIONS
SERVICES CONTRACT
STATE FUNDS**

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

**GENERAL TERMS AND CONDITIONS
SERVICES CONTRACT
STATE FUNDS**

20. 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 of any clause or condition of this contract is not effective or binding unless made in writing and signed by the Authorized Representative.

21. 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.

22. 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.

23. 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.

24. 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.

25. RECAPTURE

**GENERAL TERMS AND CONDITIONS
SERVICES CONTRACT
STATE FUNDS**

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.

26. 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.

27. REGISTRATION WITH DEPARTMENT OF REVENUE

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

28. 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.

29. 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.

30. 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.

31. 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.

32. 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

**GENERAL TERMS AND CONDITIONS
SERVICES CONTRACT
STATE FUNDS**

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.

33. 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.

34. 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.

35. 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.

36. 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.

37. 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

**GENERAL TERMS AND CONDITIONS
SERVICES CONTRACT
STATE FUNDS**

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.

38. 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.

**GENERAL TERMS AND CONDITIONS
SERVICES CONTRACT
STATE FUNDS**

D. 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.

39. 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