**STATE OF WASHINGTON**
**DEPARTMENT OF COMMERCE**

# REQUEST FOR PROPOSALS (RFP)

## RFP NO. WWGR52022

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

**PROJECT TITLE: Working Washington Grants: Round 5**

**LETTER OF INTENT DUE: April 4, 2022 at 11:59 PM, PST, Olympia, WA**

**PROPOSAL DUE: April 15, 2022 at 11:59 PM, PST, Olympia, WA**

**ESTIMATED TIME PERIOD FOR CONTRACT: May 23, 2022 – December 31, 2022**

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

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# 1. INTRODUCTION

## 1.1 PURPOSE AND BACKGROUND

The Washington State Department of Commerce hereafter called "COMMERCE," is initiating this Request for Proposals (RFP) to solicit proposals from firms interested in participating in a project to design and administer a grants management system for the State. The primary purpose of this project involves the distribution of individual grants up to $75,000 under the Working Washington grants program to eligible businesses and non-profits that have been impacted by COVID-19 and the health and safety restrictions associated with the pandemic.

**Program Background**: Since the pandemic began and stay-at-home orders went into effect, COMMERCE has provided emergency support to businesses through the Working Washington grant programs, disbursing thousands of individual grants to small businesses ranging up to $50,000. Over the last year, COMMERCE has provided over $500 million in small business grants statewide to address the economic fallout of COVID-19. This effort continues as we look to new funding strategies for businesses in the process of rebuilding and recovering.

This RFP is the result of the 2021-2023 proposed budget proviso of $70M in emergency economic relief grants to be distributed to small businesses, including non-profit organizations to support recovery. The appropriated funds are provided solely for COMMERCE to provide grants to small businesses through the Working Washington grant program. In coordination with COMMERCE, the successful Proposer will be responsible for designing a mobile-friendly, accessible online grant application, providing appropriate technical and customer service support to applicants, developing a plan and process for reviewing applications and facilitating grant disbursements. Experience in administering similar programs will be given weight in the selection to expedite the delivery of the benefits to eligible applicants.

See Exhibit E for the proposed budget proviso describing the budget and legislative grant eligibility for the Working Washington Grants: Round 5 program. **The budget proposal is subject to change pending the governor signings of the final budget on or about the end of March, 2022.**

This RFP may also take into account the ability for COMMERCE, through contract amendment, to use the proposed solution for a Convention Center Grant program with a budget of $5M. See Exhibit D for the proposed budget and legislative grant eligibility for the Convention Center grant program.

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

## 1.2 OBJECTIVES AND SCOPE OF WORK

The state is seeking a vendor to help solicit applications from small businesses impacted by the Covid-19 pandemic and distribute grants to eligible businesses across the state. The Washington State Department of Commerce (COMMERCE) will receive an estimated $70 million in funding that must be used to assist small businesses, including non-profit organizations that were adversely impacted by the COVID-19 pandemic for the Working Washington Grants: Round 5 program. COMMERCE will also receive funding for a Convention Center Grant Program for $5M and may contract with the same vendor for this program.

COMMERCE anticipates it will receive thousands of applications from small businesses and nonprofits, and as a result, will require a platform that can process and evaluate a high volume of applications in a short time frame. All applications must be thoroughly reviewed to prevent fraud and ensure that applicants meet the eligibility requirements provided by the state. Additionally, COMMERCE must ensure that the funds are distributed equitably across the state of Washington and that awardees receive funds quickly and efficiently. COMMERCE is seeking a partner that can help facilitate its work on this program. This work includes, but is not limited to, a solution that allows COMMERCE to review applications and communicate electronically to applicants in a collaborative manner. The vendor will also need to have the ability to assist COMMERCE in distributing funding awards to selected applicants,

and reports that track application outcomes for compliance purposes. This includes the issuance of end of the year tax forms, such as 1099s, and other legal documents related to the acceptance of grants by the awardees. A third party payment processor, as a subcontractor, is acceptable for such service, but the vendor must have a track record of providing an efficacious and simplified experience for the final awardees and the state.

Tasks include, but are not limited to:

- Design and provide the infrastructure to support a mobile friendly online application form, meeting all state requirements for system security and accessibility standards. This includes:
    - A production-ready system to allow small businesses or nonprofits to submit an online application, a method for determining eligibility, tracking application status, scoring the application, and prioritize scoring using a collaborative scoring method;
    - The ability to allow COMMERCE personnel to evaluate applications throughout the review process, download applicant information, and identify applications if the need arises to facilitate collaboration with other team members;
    - Allow for external partners or technical assistance providers to have easy access to the application tool to provide applicants with assistance and follow-up, if needed;
    - Allow COMMERCE and applicants to access and view the status of an application and grant disbursements for at least one year after the grant program closes;
    - Allow applicants and COMMERCE to upload required documentation to the application portal from a phone, tablet and computer. Documentation may include, but is not limited to, a valid government identification and financial documents.
- Provide sophisticated, detailed analysis of the application pool, this includes insight into ownership demographics, industry sectors and geographic locations of the businesses that applied.
- This portal should also include a user-friendly interface that supports and protects the applicants and state. This includes:
    - Allow COMMERCE the ability to communicate with applicants when needed and request follow up information from applicants;
    - The proposed system must be pre-approved by COMMERCE and the Office of the Chief Information Officer and must meet state specified standards for data security and retention;
    - Tools and security protections made available to reduce the risk of cyber security threats, including fraudulent applications that use invalid identifications.
- Process and review applications to determine eligible recipients and develop grant awardee workflow, including the following:
    - Provide a workflow that ensures a fair and equitable process for reviewing applications and making funding decisions;
    - Funding decisions will require a number of varying factors taken into account, including the requirement to deduct prior grant funding that the state would provide to the vendor;
    - Build an eligibility determination questionnaire that automatically determines if an individual is qualified to submit an application. The eligibility “quiz” must ensure that

each applicant meets the minimum eligibility requirements, which Commerce will provide;

- Score applications submitted based on COMMERCE's scoring rubric. This rubric will assign applications a score that will allow COMMERCE to identify final awardees;
- Ensure quality assurance for the application review that includes an internal escalation process for application verification in coordination with COMMERCE;
- Provide COMMERCE with a final list of eligible and approved recipients to review;
- Create scenarios to present to COMMERCE ahead of the final approval of awardees with different funding amounts for a range of eligible applicants, such as histogram examples. This is required in order to model the distribution of funds across different priority metrics and to ensure as equitable a distribution to as many eligible applicants as possible, while ensuring the grant amounts are sizable enough to be impactful.

- Provide support services, including technical assistance, to applicants by email and phone, including the following (ability to provide technical support in Spanish and other languages commonly spoken in Washington state is highly desirable):
  - Establish and provide an accessible, centralized customer support system that is available via phone and email prior to the application launch, and is available Monday-Friday 8AM-5PM Pacific Time. Support during weekend hours are expected while the grant portal is open, which will likely only be 2-3 weeks in total. Once the grant portal closes, standard customer service support should be available until the program officially closes;
  - Respond to questions/requests from applicants and stakeholders within a reasonable time;
  - Provide technical assistance related questions and answers in an accessible online format for grant applicants, including those with vision and auditory impairment;
  - Notify applicants of grant awards and conduct necessary follow-up by phone and email to non-responsive applicants. Outreach may take multiple attempts to reach non-responsive applicants.

- Provide funds disbursement and required tax and compliance reporting, including the following:
  - Disbursement of funds to grantees electronically, such as Automated Clearing House (ACH) payment or by paper check if necessary. Electronic transfer of grant funds is preferred.
  - Delivery of required 1099 tax reporting forms and other compliance or required reporting documents in compliance with the IRS deadline.
  - Following the close of the grant portal, the successful Proposer must report to COMMERCE on applicant and awardee statistics when requested, including but not limited to:
    - Total number of applications received

        - Demographic information of awardees
        - Business sector/industry information of awardees
        - Geographic distribution of awardees across the state by county, including legislative district

- At the close of the program, the successful Proposer will be expected to provide a final list of awardees, amount dispersed and all of the data collected associated with the applications.
- Guarantee program integrity and administer fraud prevention, including the following:
    - The Proposer must develop a process to confirm the identity of applicants, ensure approved applicants meet eligibility criteria, and that duplicate awards are not made;
    - The Proposer must establish effective internal controls through the maintenance of records, appropriate policies and procedures to account for spending and distribution of federal funds;
    - The Proposer will immediately report to COMMERCE any suspicion or evidence of fraud involving employees, contractors, or applicants.

**Working Washington Grants: Round 5 Program Background and Grantee Eligibility**

- Grant Applicant eligibility for the next round of Working Washington grants has yet to be determined by COMMERCE. Eligible businesses and nonprofits, include but are not limited to:
    - Active small business or nonprofit (identified by UBI number or EIN number or 990 forms) physically located in Washington state;
    - Businesses that have not reported more than $5,000,000 in gross revenues in the most recent calendar year;
    - Businesses that have experienced a reduction in business income or activity related to COVID-19 or as a result of state or local COVID-19 related public health measures;
    - Have expenses that are necessary to continue business operations and the expense is not a federal, state, or local tax, fee, license, or other government revenue;
    - Self–attest that the expense is not funded by any other government or private entity;
    - Agree to operate in accordance with the requirements of applicable federal, state, and local public health guidance and directives.

- Eligible applications are anticipated to be reviewed based on the following priority criteria, including but not limited to:
    - Small businesses or nonprofits in certain industry sectors;
    - Businesses operating in a rural or low-income community and/or owned by someone from a historically underserved population (minority, veteran, LGBTQ+ or women-owned).

**Estimated Working Washington Grants: Round 5 Program Timeline**

| Program Milestone | Estimated Delivery Date |
|---|---|
| Implementation, Branding, Application building, Workflow testing | On or about 05/23/22 - 06/20/22 |
| Open Application Period | On or about 06/20/22 – 07/04/22 |
| Application Review | On or about 6/27/22 – 7/25/22 |
| Applicant Notifications (Awarded and Declined) | On or about 07/25/22 |
| Payment Distribution and Outreach | On or about 07/25/22 – 10/31/22 |
| Impact and Compliance Reporting, Final Deliverables | On or about 10/31/22 – 12/31/22 |
| Project Conclusion | On or about 12/31/22 |

## 1.3 MINIMUM QUALIFICATIONS

Minimum Proposer qualifications include:

- Licensed to do business in the State of Washington or submit a statement of commitment that it will become licensed in Washington within thirty (30) calendar days of being selected as the Apparently Successful Contractor;
- At least 3 years of experience developing and maintaining grant management software;
- At least 1 year of experience administering government small business grants focused on pandemic or emergency relief;
- Grant management software must meet or exceed the Web Accessibility Policy set forth by the WA ST Office of the Chief Information Officer (OCIO). These standards are consistent with the digital access sections of Web Content Accessibility Guidelines (WCAG) 2.0 and Section 508.

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

## 1.4 FUNDING

COMMERCE has budgeted an amount not to exceed 5% of the total grant funding appropriated by the legislature for this project. Proposals in excess of this amount will be considered non-responsive and will not be evaluated.

For a bid to meet the requirements of this RFP and move forward for evaluation, the cost proposal must be given as a percentage only and not list a dollar amount. This acknowledgement shows the proposer is aware the budget is not finalized but that only up to 5% of the budget is allowed for costs.

Any contract 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 resulting from this RFP is tentatively scheduled to begin on or about **May 23, 2022 and to end on or by Dec 31, 2022.** Amendments extending the period of performance, if any, shall be at the sole discretion of COMMERCE.

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

## 1.6 CONTRACTING WITH CURRENT OR FORMER STATE EMPLOYEES

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. Proposers should familiarize themselves with the requirements prior to submitting a proposal that includes current or former state employees

## 1.7 DEFINITIONS

Definitions for the purposes of this RFP include:

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

**Contractor:** Proposer(s) whose proposal has been accepted by COMMERCE and is awarded a fully executed, written contract. Also called Grantee, Awardee, Recipient, or Vendor.

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

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

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

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

## 1.8 ADA

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

# 2. GENERAL INFORMATION FOR PROPOSERS

## 2.1 RFP COORDINATOR

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

| | |
|---|---|
| Name | Lauren Boyan |
| E-Mail Address | lauren.boyan@commerce.wa.gov |

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

## 2.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

| | |
|---|---|
| Issue Request for Proposals | 03/16/2022 |
| Question & answer period | 03/16/2022 – 03/25/2022 |
| Answers to Q&A posted no later than | 03/28/2022 |
| **Letters of Intent due** | **04/04/2022 @ 11:59 PM PST** |
| **Proposals due** | **04/15/2022 @ 11:59 PM PST** |
| Evaluate proposals | 04/18/2022 – 04/25/2022 |
| Conduct oral interviews with finalists alongside a demo of the grant application portal | 04/27/2022 – 04/29/2022 |
| Announce “Apparent Successful Contractor” and send notification via e-mail to unsuccessful Proposers | 05/04/2022 |
| Hold debriefing conferences (if requested) | 05/05/2022 – 05/06/2022 |
| Negotiate contract | 05/04/2022 – 05/20/2022 |
| Begin contract work | 05/23/2022 |

COMMERCE reserves the right to revise the above schedule.

## 2.3 LETTER OF INTENT REQUIRED

A Proposer's Letter of Intent must be received by the RFP Coordinator by the date specified in Section 2.2. **Proposals received by those who did not timely submit a Letter of Intent will be disqualified.** Submitting a Letter of Intent is not binding and the submitter may choose not to propose without penalty. Letters of Intent should be on organization letterhead and include the RFP number, a statement of intent to submit a proposal to this RFP, and identify the organization's contact person.

## 2.4 SUBMISSION OF PROPOSALS

**ELECTRONIC PROPOSALS:**

The proposal must be **received by the RFP Coordinator** no later than **April 15, 2022 at 11:59 PM PST**.

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

Proposals may not be transmitted using facsimile transmission.

Proposers should allow sufficient time to ensure timely receipt of the proposal by the RFP Coordinator. **Late proposals will not be accepted and will be automatically disqualified from further consideration,** unless COMMERCE e-mail is found to be at fault at COMMERCE'S sole determination. Requests for deadline extensions will not be granted. All proposals and any accompanying documentation become the property of COMMERCE and will not be returned.

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

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

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

## 2.6 REVISIONS TO THE RFP

In the event it becomes necessary to revise any part of this RFP, addenda will be provided via e-mail to all individuals who have made the RFP Coordinator aware of their interest. Addenda will also be published on Washington's Electronic 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 RFP and will be placed on the website. Such addenda will also be published on an Agency page, located at http://www.commerce.wa.gov/serving-communities/current-opportunities/.

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

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

## 2.7 DIVERSE BUSINESS INCLUSION PLAN

Proposers are 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.

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

## 2.8 ACCEPTANCE PERIOD

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

## 2.9 COMPLAINT PROCESS

Vendors 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 RFP coordinator in a timely manner;
c) The complaint should clearly articulate the basis for the complaint; and

d) The complaint should include a proposed remedy.

The RFP coordinator will respond to the complaint in writing. The response to the complaint and any changes to the solicitation will be posted on WEBS. The Director of COMMERCE will be notified of all complaints and will be provided a copy of COMMERCE'S response. The complaint may not be raised again during the protest period. COMMERCE'S action or inaction in response to the complaint will be final. There will be no appeal process.

## 2.10 RESPONSIVENESS

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

Disqualified Proposers will be notified after the announcement of the Apparently Successful Contractor(s).

Disqualified Proposers will be afforded a Debriefing consistent with Section 4.5.

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

## 2.11 MOST FAVORABLE TERMS

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

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

## 2.12 CONTRACT 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 D. This sample contract is for information and review only and should not be returned with your proposal. In no event is a Proposer to submit its own standard contract terms and conditions in response to this solicitation. The Proposer may submit exceptions as allowed in the Certifications and Assurances form, Exhibit A to this solicitation. All exceptions to the contract terms and conditions must be submitted as an attachment to Exhibit A, Certifications and Assurances form. COMMERCE will review requested exceptions and accept or reject the same at its sole discretion.

## 2.13 COSTS TO PROPOSE

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

## 2.14 NO OBLIGATION TO CONTRACT

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

## 2.15 REJECTION OF PROPOSALS

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

## 2.16 COMMITMENT OF FUNDS

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

## 2.17 ELECTRONIC PAYMENT

The state of Washington prefers to utilize electronic payment in its transactions. The successful contractor will be provided a form to complete with the contract to authorize such payment method.

## 2.18 INSURANCE COVERAGE

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

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

# 3. PROPOSAL CONTENTS

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

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

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 Proposer in preparing a thorough response.

Items 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.

## 3.1 LETTER OF SUBMITTAL AND CERTIFICATIONS AND ASSURANCES (MANDATORY)

The Letter of Submittal and the attached Certifications and Assurances form (Exhibit A to this RFP) must be signed and dated by a person authorized to legally bind the Proposer to a contractual relationship, e.g., the President or Executive Director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship.

Along with introductory remarks, the Letter of Submittal is to include by attachment the following information about the Proposer and any proposed subcontractors:

**A.** Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom contract would be written.

**B.** Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.)

**C.** Legal status of the Proposer (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.

**D.** Federal Employer Tax Identification number or Social Security number and the Washington Uniform Business Identification (UBI) number issued by the state of Washington Department of Revenue. If the Proposer does not have a UBI number, the Proposer must state that it will become licensed in Washington within thirty (30) calendar days of being selected as the Apparently Successful Contractor.

**E.** Location from which the Proposer would operate.

**F.** Identify any state employees or former state employees employed or on the firm's governing board as of the date of the proposal. Include their position and responsibilities within the Proposer's organization. If following a review of this information, it is determined by COMMERCE that a conflict of interest exists, the Proposer may be disqualified from further consideration.

**G.** Explain how the proposal meets the minimum qualifications as outlined in section 1.3.

## 3.2 TECHNICAL PROPOSAL (SCORED)

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

**A. Project Approach/Methodology**: Include a complete description of the Proposer's proposed approach and methodology for the project. This section should convey Proposer's understanding of the proposed project.

**B. Work Plan:** Include all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project defined in this RFP. This section of the technical proposal must contain sufficient detail to convey to members of the evaluation team the Proposer's knowledge of the subjects and skills necessary to successfully complete the project. Include any required involvement of COMMERCE staff. The Proposer may also present any creative approaches that might be appropriate and may provide any pertinent supporting documentation.

**C. Project Schedule**: Include a project schedule indicating when the elements of the work will be completed. Project schedule must ensure that any deliverables requested are met.

**D. Outcomes and Performance Measurement:** Describe the impacts/outcomes the Proposers propose to achieve as a result of the delivery of these services including how these outcomes would be monitored, measured and reported to the state agency.

**E. Risks:** The Proposer must identify potential risks that are considered significant to the success of the project. Include how the Proposer would propose to effectively monitor and manage these risks, including reporting of risks to the COMMERCE contract manager.

**F. Deliverables**: Fully describe deliverables to be submitted under the proposed contract. Deliverables must support the requirements set forth in Section 1.2, Objectives and Scope of Work.

## 3.3 MANAGEMENT PROPOSAL

### A. Project Management (SCORED)

1. **Project Team Structure and Internal Controls**: Provide a description of the proposed project team structure and internal controls to be used during the course of the project, including any subcontractors. Provide an organizational chart of your firm indicating lines of authority for personnel involved in performance of this potential contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management. Include who within the firm will have prime responsibility and final authority for the work.

2. **Staff Qualifications and Experience**: Identify staff, including subcontractors, who will be assigned to the potential contract, indicating the responsibilities and qualifications of such personnel, and include the amount of time each will be assigned to the project. Provide resumes for the named staff, which include information on the individual's particular skills related to this project, education, experience, significant accomplishments and any other pertinent information. The Proposer must commit that staff identified in its proposal will actually perform the assigned work. Any staff substitution must have the prior approval of COMMERCE.

**B. Experience of the Proposer (SCORED)**

1. Indicate the experience the Proposer and any subcontractors have in the following areas:

   a. Describe the experience the Proposer has in developing and maintaining grant management software.

   b. Describe the experience the Proposer has in contracting with government agencies, particularly those that are statewide or serve a population greater than 5 million people on similar projects. Experience in administering similar programs will be given weight in the selection to expedite the delivery of the benefits to eligible participants.

   c. Describe how the Proposer would engage with COMMERCE to collaborate and design the online grant application portal.

   d. Describe how the Proposer would work with COMMERCE to implement the grant program and distribute funds to awardees in order to meet anticipated timelines.

   e. Describe how the Proposer would set up and manage a customer service platform to meet the needs of applicants, including those that may need language translation assistance.

   f. Describe how the Proposer has addressed applications with a focus on supporting intended recipients from unserved and historically disadvantaged backgrounds.

2. Indicate other relevant experience that indicates the qualifications of the Proposer, and any subcontractors, for the performance of the potential contract.

3. Include a list of contracts the Proposer has had during the last five years that relate to the Proposer's ability to perform the services needed under this RFP. List contract reference numbers, contract period of performance, contact persons, telephone numbers, and fax numbers/e-mail addresses.

**C. Related Information (MANDATORY)**

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

### D. References (MANDATORY)

List names, addresses, telephone numbers, and fax numbers/e-mail addresses of three (3) business references for the Proposer and three (3) business references for the lead staff person for whom work has been accomplished and briefly describe the type of service provided. Do not include current COMMERCE staff as references. By submitting a proposal the Proposer and any partners or agents authorize COMMERCE to contact these references and others, who from COMMERCE'S perspective, may have pertinent information. COMMERCE may or may not, at COMMERCE'S discretion, contact references. COMMERCE may evaluate references at COMMERCE'S discretion.

### E. OMWBE Certification (OPTIONAL AND NOT SCORED)

Include proof of certification issued by the Washington State Office of Minority and Women's Business Enterprises (OMWBE) if certified minority-, women-, or veteran-owned firm(s) will be participating on this project. For more information please visit: http://www.omwbe.wa.gov.

## 3.4 COST PROPOSAL

The maximum fee for this contract must not exceed the amount specified in section 1.4 to be considered responsive to this RFP.

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

# 4. EVALUATION AND CONTRACT AWARD

## 4.1 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(s), to be designated by COMMERCE, which will determine the ranking of the proposals.

COMMERCE, at its sole discretion, will invite the top-scoring Proposers as finalists for an oral presentation and demonstration.

The RFP Coordinator may contact the Proposer for clarification of any portion of the Proposer's proposal. Proposers are not permitted to submit, or resubmit, any materials of any kind after the date and time stated in section 2.5 SUBMISSION OF PROPOSALS.

## 4.2 EVALUATION BREAKDOWN

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

**Technical Proposal – 80%**
Project Approach/Methodology
Work Plan
Project Schedule
Outcome and Performance Measurement
Risks
Deliverables

**Management Proposal – 20%**
Project Team Structure
Internal Controls
Staff Qualifications and Experience

**Workers' Rights Certification** – Those Proposers that certify they **do not** require their employees to sign an individual arbitration clause as a condition of employment will receive an extra 5% added to their score (see Exhibit C).

## 4.3 PRODUCT DEMONSTRATIONS/ORAL EVALUATION WILL BE REQUIRED

After evaluating the written proposals COMMERCE will schedule demonstrations/oral evaluations of the finalists. COMMERCE will contact the top-scoring firm(s) from the written evaluation to schedule a date, time, and method. Evaluation/demonstration will not exceed 4 hours, up to 3 hours for product demonstration and one hour for an oral evaluation. A demonstration of the proposed solution is required. COMMERCE is looking for detailed, interactive, product demonstrations of available functionality. By "product demonstration" we mean an actual interactive demonstration of the product, not simply a slide presentation. Proposer should anticipate questions from participants during demonstration. Additionally, Proposers should present technical diagrams and other non-demonstrable aspects of the product. Proposers must demonstrate what requirements are out of the box or need customization, refer to section 1.2. Commitments made by the Proposer at the oral interview, if any, will be considered binding.

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

| Award Scoring | Percentages: |
|---|---|
| Submitted Proposal | 40% |
| Product Demonstration / Oral Evaluation | 60% |

**COMMERCE reserves the right to award the contract to the Proposer whose proposal is deemed to be in the best interest of COMMERCE and the state of Washington.**

### 4.4 NOTIFICATION TO PROPOSERS

COMMERCE will notify the Apparent Successful Contractor(s) of their selection in writing upon completion of the evaluation process. Proposers who were not selected for further negotiation or award will be notified separately by e-mail.

### 4.5 DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Any Proposer who has submitted a proposal and received notice that they were not selected for contract award may request a debriefing. The request for a debriefing conference must be received by the RFP Coordinator within three (3) business days after the Unsuccessful Proposer Notification is e-mailed or faxed to the Proposer. Debriefing requests must be received by the RFP Coordinator no later than 5:00 PM, local time, in Olympia, Washington, on the third business day following the transmittal of the Unsuccessful Proposer Notification. The debriefing must be scheduled within three (3) business days of the request.

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

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

Comparisons between proposals or evaluations of the other proposals is not allowed. Debriefing conferences may be conducted on the telephone or by other electronic means and will be scheduled for a maximum of thirty (30) minutes.

### 4.6 PROTEST PROCEDURE

Protests may be made only by Proposers who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Proposer is allowed five (5) business days to file a protest with the RFP Coordinator. Protests must be received by the RFP Coordinator no later than 5:00 PM, local time, in Olympia, Washington on the fifth business day following the debriefing. Protests must be submitted by email.

Proposers 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 Proposers under this procurement.

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

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

- A matter of bias, discrimination, or conflict of interest on the part of an evaluator;
- Errors in computing the score;
- Non-compliance with procedures described in this 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 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 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 Proposer that also submitted a proposal, such Proposer will be given an opportunity to submit its views and any relevant information on the protest to the RFP 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 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 proposals, or
    - Reissue the solicitation document and begin a new process, or
    - 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 Apparent Successful Contractor(s). If the protest is determined to have merit, one of the options above will be taken.

## 5. RFP EXHIBITS

| | |
|---|---|
| Exhibit A | Certifications and Assurances |
| Exhibit B | Diverse Business Inclusion Plan |
| Exhibit C | Workers' Rights Certification |
| Exhibit D | Service Contract Format with General Terms and Conditions |
| Exhibit E | Working Washington Grants: Round 5 Budget Language |
| Exhibit F | Convention Center Grants Budget Language |

**EXHIBIT A**

## CERTIFICATIONS AND ASSURANCES

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

1. I/we declare that all answers and statements made in the proposal are true and correct.

2. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.

3. The attached proposal is a firm offer for a period of 60 days following receipt, and it may be accepted by COMMERCE without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.

4. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. If there are exceptions to these assurances, I/we have described them in full detail on a separate page attached to this document.

5. I/we understand that COMMERCE will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of COMMERCE, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.

6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Proposer and will not be knowingly disclosed by him/her prior to opening, directly or indirectly, to any other Proposer or to any competitor.

7. I/we agree that submission of the attached proposal constitutes acceptance of the 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.

8. 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.

9. I/we grant COMMERCE the right to contact references and others who may have pertinent information regarding the ability of the Proposer and the lead staff person to perform the services contemplated by this RFP.

10. If any staff member(s) who will perform work on this contract has retired from the State of Washington under the provisions of the 2008 Early Retirement Factors legislation, his/her name(s) is noted on a separately attached page.

11. I/we are not debarred from doing business with the state of Washington or the United States.

**We (*check one*):**

☐ **are** 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.

☐ **are not** submitting proposed Contract exceptions (*default if neither are checked*).

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

_____

Signature of Proposer Date

_____

Printed Name Title

**EXHIBIT B**

## DIVERSE BUSINESS INCLUSION PLAN

| | Yes | No |
|---|---|---|
| Do you anticipate using, or is your organization, a State Certified Minority Business? | ☐ | ☐ |
| Do you anticipate using, or is your organization, a State Certified Women's Business? | ☐ | ☐ |
| Do you anticipate using, or is your organization, a State Certified Veteran Business? | ☐ | ☐ |
| Do you anticipate using, or is your organization, a Washington State Small Business? | ☐ | ☐ |

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 who will manage your Diverse Inclusion Plan responsibility:

Name: _____
Phone: _____
E-Mail: _____

**EXHIBIT C**

## CONTRACTOR CERTIFICATION
## EXECUTIVE ORDER 18-03 – WORKERS' RIGHTS
## WASHINGTON STATE GOODS & SERVICES CONTRACTS

*Pursuant to the Washington State Governor's Executive Order 18-03 (dated June 12, 2018), the Washington State Department of Commerce is seeking to contract with qualified entities and business owners who certify that their employees are not, as a condition of employment, subject to mandatory individual arbitration clauses and class or collective action waivers.*

Solicitation No.: **WWGR52022**

I hereby certify, on behalf of the organization identified below, as follows (check one):

☐ NO MANDATORY INDIVIDUAL ARBITRATION CLAUSES AND CLASS OR COLLECTIVE ACTION WAIVERS FOR EMPLOYEES. This organization does NOT require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

OR

☐ MANDATORY INDIVIDUAL ARBITRATION CLAUSES AND CLASS OR COLLECTIVE ACTION WAIVERS FOR EMPLOYEES. This organization requires its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

OR

☐ This organization certifies it has no employees.

I hereby certify, under penalty of perjury under the laws of the State of Washington, that the certifications herein are true and correct and that I am authorized to make these certifications on behalf of the organization listed herein.

NAME: _____
Print full legal entity name of organization

By: _____ _____
Signature of authorized person Printed Name

Title: _____ Place: _____
Title of person signing certificate Print city and state where signed

Date: _____

Return to Procurement Coordinator as part of your complete response.

EXHIBIT D

# 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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# FACE SHEET

**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 | 2. Contractor Doing Business As (optional) |
|---|---|
| <Insert legal name><br><Insert mailing address><br><Insert physical address><br><Insert location> | <Insert DBA name><br><Insert DBA mailing address><br><Insert DBA physical address><br><Insert DBA location> |
| **3. Contractor Representative** | **4. COMMERCE Representative** |
| <Insert name><br><Insert title><br><Insert phone><br><Insert FAX><br><Insert e-mail> | <Insert name><br><Insert title><br><Insert phone><br><Insert FAX><br><Insert e-mail><br><Insert mailing address><br><Insert physical address><br><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) | | CFDA Number: | Indirect Rate (if applicable): |
|---|---|---|---|
| <Insert $ amount> | *Federal Agency:*<br><Insert agency name> | <Insert number> | <Insert indirect rate> |

| 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: Contract Terms and Conditions including Attachment "A" - <insert title>, Attachment "B" – <insert title>, Attachment "C" – <insert title>, <etc.>**

| FOR CONTRACTOR | FOR COMMERCE |
|---|---|
| _____<br><insert name>, <insert title> | _____<br><insert name>, <insert title> |
| _____<br>Date | _____<br>Date |
| | *APPROVED AS TO FORM ONLY*<br>BY ASSISTANT ATTORNEY GENERAL<br>APPROVAL ON FILE |

**Last revision 10/13/2020**

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

1. **ACKNOWLEDGEMENT OF FEDERAL FUNDING**

**Federal Award Date: XXXX**

**Federal Award Identification Number (FAIN): XXXX**

**Total amount of the federal award: $XXXXX**

**Awarding official: XXXX (XXX) XXX-XXXX**

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

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

2. **CONTRACT MANAGEMENT**

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

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

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

3. **COMPENSATION**

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

4. **BILLING PROCEDURES AND PAYMENT**

**COMMERCE will pay Contractor upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE [*not more often than monthly.*]**

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

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

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

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

**Invoices and End of Fiscal Year**

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

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

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

**Duplication of Billed Costs**

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

**Disallowed Costs**

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

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

**5. SUBCONTRACTOR DATA COLLECTION**

**Contractor will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this 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.**

**6. INSURANCE**

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

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

**The Contractor shall submit to COMMERCE within fifteen (15) calendar days of the Contract start date OR a written request by COMMERCE, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Contract, if required or requested, the Contractor shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.**

**The Contractor shall provide, at COMMERCE's request, copies of insurance instruments or certificates from the insurance issuing agency. The instruments or certificates shall show the**

**insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days' advance written notice of cancellation.**

**The Contractor shall secure 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.**

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

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

**A. The amount of fidelity coverage secured pursuant to this Contract shall be $100,000 or the highest of planned reimbursement for the Contract period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.**

**B. Subcontractors that receive $10,000 or more per year in funding through this Contract shall secure fidelity insurance as noted above. Fidelity insurance secured by Subcontractors pursuant to this paragraph shall name the Contractor as beneficiary.**

**7. <u>FRAUD AND OTHER LOSS REPORTING</u>**

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

**8. <u>ORDER OF PRECEDENCE</u>**

**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**
**FEDERAL 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. "Modified Total Direct Costs (MTDC" shall mean all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of $25,000.**

**F. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.**

**G. "State" shall mean the state of Washington.**

**H. "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**

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

**9. AUDIT**

**If the Grantee is a subrecipient and expends $750,000 or more in federal awards from any and/or all sources in any fiscal year, the Grantee shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Grantee shall:**

1. **Submit to COMMERCE the reporting package specified in Uniform Guidance 2 CFR 200, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.**
2. **Submit to COMMERCE follow-up and developed corrective action plans for all audit findings.**

**If the Grantee is a subrecipient and expends less than $750,000 in federal awards from any and/or all sources in any fiscal year, the Grantee shall notify COMMERCE they did not meet the single audit requirement.**

**The Grantee shall send all single audit documentation to the Federal Audit Clearinghouse.**

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

**A. Contractor, defined as the primary participant and it principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief they:**

i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

ii. **Have not within a three-year period preceding this Contract, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;**

iii. **Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and**

iv. **Have not within a three-year period preceding the signing of this Contract had one or more public transactions (Federal, State, or local) terminated for cause of default.**

**B. Where the Contractor is unable to certify to any of the statements in this Contract, the Contractor shall attach an explanation to this Contract.**

**C. The Contractor agrees by signing this Contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared**

**ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.**

**D. The Contractor further agrees by signing this Contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:**

**LOWER TIER COVERED TRANSACTIONS**

**i) The lower tier contractor certifies, by signing this Contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.**

**ii) Where the lower tier contractor is unable to certify to any of the statements in this Contract, such contractor shall attach an explanation to this Contract.**

**E. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact COMMERCE for assistance in obtaining a copy of these regulations.**

**11. <u>CONFIDENTIALITY/SAFEGUARDING OF INFORMATION</u>**

**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.**

**12. CONFLICT OF INTEREST**

**Notwithstanding any determination by the Executive Ethics Board or other tribunal, the 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 on the (YOUR PROGRAM NAME) 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 Grant. 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 Grant.**

**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.**

**13. COPYRIGHT PROVISIONS**

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

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

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

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

**14. DISPUTES**

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

**The request for a dispute hearing must:**

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

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

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

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

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

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

**15. DUPLICATE PAYMENT**

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

**16. GOVERNING LAW AND VENUE**

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

**17. INDEMNIFICATION**

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

**The Contractor's obligation 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 the Contractor's or any subcontractor's performance or failure to perform the contract. The 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.**

**18. INDEPENDENT CAPACITY OF THE CONTRACTOR**

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

**19. INDIRECT COSTS**

**The Grantee shall provide their indirect cost rate that has been negotiated between their entity and the Federal Government. If no such rate exists a de minimis indirect cost rate of 10% of modified total direct costs (MTDC) will be used.**

**20. INDUSTRIAL INSURANCE COVERAGE**

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

**21. LAWS**

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

**22. LICENSING, ACCREDITATION AND REGISTRATION**

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

**23. LIMITATION OF AUTHORITY**

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

**24. 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.**

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

**25. PAY EQUITY**

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

**A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;**

**B. Contractor may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:**

**(i) A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.**

**(ii) A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.**

**(iii) A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.**

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

**26. POLITICAL ACTIVITIES**

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

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

**27. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS**

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

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

**A. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of contracts using federal funds.**

**B. Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.**

**C. Minimum procedural requirements, as follows:**

**i. Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.**

**ii. Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.**

**iii. Positive efforts shall be made to use small and minority-owned businesses.**

**iv. The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the Contractor, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.**

**v. Contracts shall be made only with reasonable subcontractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.**

**vi. Some form of price or cost analysis should be performed in connection with every procurement action.**

**vii. Procurement records and files for purchases shall include all of the following:**

**1) Contractor selection or rejection.**

**2) The basis for the cost or price.**

**3) Justification for lack of competitive bids if offers are not obtained.**

**viii. A system for contract administration to ensure Contractor conformance with terms, conditions and specifications of this Contract, and to ensure adequate and timely follow-up of all purchases.**

**D. Contractor and Subcontractor must receive prior approval from COMMERCE for using funds from this Contract to enter into a sole source contract or a contract where only one bid or proposal is received when value of this Contract is expected to exceed $5,000.**

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

**28. PUBLICITY**

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

**29. RECAPTURE**

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

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

**30. RECORDS MAINTENANCE**

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

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

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

**31. REGISTRATION WITH DEPARTMENT OF REVENUE**

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

**32. RIGHT OF INSPECTION**

**The Contractor shall provide right of access to its facilities to COMMERCE, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.**

**33. SAVINGS**

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

**34. SEVERABILITY**

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

**35. SITE SECURITY**

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

**36. SUBCONTRACTING**

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

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

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

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

**37. SURVIVAL**

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

**38. TAXES**

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

**39. TERMINATION FOR CAUSE**

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

**In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.**

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

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

**40. TERMINATION FOR CONVENIENCE**

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

**41. TERMINATION PROCEDURES**

Upon termination of this contract, COMMERCE, in addition to any other rights provided in this contract, may require the Contractor to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.
**COMMERCE shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Contractor and COMMERCEY for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Contractor such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.**

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

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Contractor shall:
**A. Stop work under the contract on the date, and to the extent specified, in the notice;**

**B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;**

**C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;**

**D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;**

**E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;**

**F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and**

**G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which COMMERCE has or may acquire an interest.**

**42. <u>TREATMENT OF ASSETS</u>**

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

**A. Any property of COMMERCE furnished to the Contractor shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this contract.**

**B. The Contractor shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.**

**C. If any COMMERCE property is lost, destroyed or damaged, the Contractor shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.**

**D. The Contractor shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract**

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

**43. <u>WAIVER</u>**

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

**Attachment A**

# Scope of Work

**Attachment B**

# Budget

**EXHIBIT E**

**WORKING WASHINGTON GRANTS: ROUND 5 ($70m)**

(86)(a) ~~((($50,000,000))~~ $70,000,000 of the coronavirus state fiscal recovery fund—federal appropriation is provided solely for the department to provide grants to small businesses through the working Washington grant program.

(b) Of the amount provided in this subsection, ~~((($30,000,000))~~ $42,000,000 of the coronavirus state fiscal recovery fund—federal appropriation is provided solely to assist businesses maintain their operations. To be eligible for a grant under this subsection, the business must:

(i) Apply for or have applied for the grant;
(ii) ~~((Have reported annual gross receipts of $5,000,000 or less to the department of revenue for calendar year 2019))~~ Have not reported annual gross receipts of more than $5,000,000 in calendar year 2019;
(iii) Have expenses that are necessary to continue business operations and the expense is not a federal, state, or local tax, fee, license, or other government revenue;
(iv) Self–attest that the expense is not funded by any other government or private entity;
(v) Have experienced a reduction in business income or activity related to COVID-19 or state or local actions in response to COVID-19; and
(vi) Agree to operate in accordance with the requirements of applicable federal, state, and local public health guidance and directives.

(c) Of the amount provided in this subsection, ~~((($20,000,000))~~ $28,000,000 of the coronavirus state fiscal recovery fund—federal appropriation is provided solely to assist the reopening of businesses that temporarily totally closed their operations. To be eligible for a grant under this subsection, the business must:

(i) Apply for the grant;
(ii) ~~((Have reported annual gross receipts of $5,000,000 or less to the department of revenue for calendar year 2019))~~ Have not reported annual gross receipts of more than $5,000,000 in calendar year 2019;
(iii) Demonstrate the business was actively engaged in business, and as a result of the governor's proclamations 20-25.8, issued on November 15, 2020, through 20-25.12 ("stay safe-stay healthy"), temporarily totally closed operations. Demonstration of active engagement in business can be given through but is not limited to taxable activity reported to the department of revenue. The department may use other methods to determine if this criterion has been met;
(iv) Have expenses that are necessary to reopen business operations and the expense is not a federal, state, or local tax, fee, license, or other government revenue;
(v) Self–attest that the expense is not funded by any other government or private entity; and
(vi) Agree to operate in accordance with the requirements of applicable federal, state, and local public health guidance and directives.

(d) Grant awards are subject to the availability of amounts appropriated in this subsection. The department must conduct outreach to underrepresented and unserved communities observed from prior rounds of awards. The department must ensure equitable distributions of grant funding, including considerations for geographic location and businesses owned by members of historically disadvantaged communities.

(e)(i) Eligible businesses may receive up to a $75,000 grant

(ii) ~~((If a business received one or more working Washington small business grants before July 1, 2021, including grants provided pursuant to chapter 3, Laws of 2021, the grant awarded under this subsection must be reduced to reflect the amounts received from previous working Washington small business grants.))~~ If a business was awarded one or more working Washington small business grants after February 1, 2021, the grant award under this subsection may be reduced to reflect the amounts received from previous working Washington small business grants. The department may prioritize businesses and nonprofit organizations that have not yet received a grant under the working Washington small business grant program.

(f) For purposes of this subsection, reopening costs include, but are not limited to:

(i) Upgrading physical workplaces to adhere to new safety or sanitation standards;

(ii) Procuring required personal protective supplies for employees and business patrons and clients;

(iii) Updating business plans;

(iv) Employee costs, including payroll, training, and onboarding;

(v) Rent, lease, mortgage, insurance, and utility payments; and

(vi) Securing inventory, supplies, and services for operations.

(g) Nonprofit organizations are eligible to receive funding under (b) or (c) of this subsection if they have a primary business activity that has been impacted as described in (b)(v) or (c)(iii) of this subsection.

(h) The department is authorized to shift funding among the purposes in (b) and (c) of this subsection based on overutilization or underutilization of the different types of grants.

(i) Of the total amount provided in this subsection, ((the department must prioritize allocating the funds as follows: (A) ~~$25,000,000))~~ $45,000,000 of the coronavirus state fiscal recovery fund—federal appropriation is provided solely for grants under (b) or (c) of this subsection to eligible businesses and nonprofit organizations in the arts, heritage, and science sectors, including those that operate live entertainment venues((; ~~and (B) $25,000,000 for grants under (b) or (c) of this subsection to eligible businesses and nonprofit organizations located in counties that are in phase 2 of the governor's "healthy Washington: roadmap to recovery" plan at the time the business or nonprofit organization applies for funding)).~~ The department must develop criteria for successful applications under this subsection in combination with the Washington state arts commission.

**EXHIBIT F**

**CONVENTION CENTER GRANTS ($5 million)**

(140) $5,000,000 of the coronavirus state fiscal recovery fund— federal appropriation is provided solely for the department to establish a grant program to assist businesses and nonprofits that are dependent to maintain their operations on the economic activity created through conventions hosted in Washington state. The amount provided under this subsection is subject to the following conditions and limitations:

(a) To be eligible for a grant under this subsection, a business must:

(i) Apply for or have applied for the grant;

(ii) Have not reported annual gross receipts of more than $100,000,000 in calendar year 2019;

(iii) Have expenses that are necessary to continue business operations and the expense is not a federal, state, or local tax, fee, license, or other government revenue;

(iv) Self-attest that the expense is not funded by any other government or private entity;

(v) Have experienced a reduction in business income or activity related to COVID-19 or state or local actions in response to COVID-19;

(vi) Agree to operate in accordance with the requirements of applicable federal, state, and local public health guidance and directives; and

(vii) Have met one or more of the following criteria:

(A) Hosted a convention in Washington state;

(B) Provided support services to conventions in Washington state; or

(C) Depended on the function of conventions to sell goods and services in Washington state.

(b)(i) Eligible businesses may receive a grant of up to $500,000 for revenue lost due to a cancellation or a reduction of participants in a convention hosted in Washington state in 2020 or 2021.

(ii) To receive a grant under this subsection, eligible businesses must provide the department with:

(A) Financial records from 2019 that provide a basis for revenue received from convention activity in Washington state prior to the COVID-19 pandemic; and

(B) Financial records from 2020 and 2021 that show a reduction in gross revenue received from convention activity in Washington state during the COVID-19 pandemic.

(iii) If a business received one or more working Washington small business grants, the grant awarded under this subsection must be reduced to reflect the amounts received from previous working Washington small business grants.

(c) Nonprofit organizations are eligible to receive funding under this subsection if they have a primary business activity that has been impacted as described in (a)(v) of this subsection.

(d) The department may use up to 10 percent of the amount provided in this subsection for administrative costs.