

**WHATCOM COUNTY
CONTRACT INFORMATION SHEET**

Whatcom County Contract Number:
201611025 – 9

Originating Department:	85 Health
Division/Program: (i.e. Dept. Division and Program)	8550 Human Services / 855040 Housing Program
Contract or Grant Administrator:	Barbara Johnson-Vinna
Contractor's / Agency Name:	Opportunity Council

Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:		

Does contract require Council Approval?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If No, include WCC:	
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	

Is this a grant agreement?				
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, grantor agency contract number(s):		CFDA#:	14.231

Is this contract grant funded?			
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, Whatcom County grant contract number(s):	202008014	

Is this contract the result of a RFP or Bid process?			Contract Cost	122200 / 122300 /
Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, RFP and Bid number(s):	16-47	Center:	122800

Is this agreement excluded from E-Verify?	No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>	If no, include Attachment D Contractor Declaration form.
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If YES, indicate exclusion(s) below:

<input type="checkbox"/> Professional services agreement for certified/licensed professional.	
<input type="checkbox"/> Contract work is for less than \$100,000.	<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).
<input type="checkbox"/> Contract work is for less than 120 days.	<input type="checkbox"/> Work related subcontract less than \$25,000.
<input type="checkbox"/> Interlocal Agreement (between Governments).	<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.

Contract Amount:(sum of original contract amount and any prior amendments):	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
\$ 1,594,032	
This Amendment Amount:	
\$ 271,615	
Total Amended Amount:	
\$ 1,865,647	

Summary of Scope: This contract provides funding for housing case management and supportive services to individuals and households who are homeless or at risk of homelessness.

Term of Contract:	6 Months	Expiration Date:	06/30/2021
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Contract Routing:	1. Prepared by:	JT	Date:	10/09/2020
	2. Health Budget Approval	KR/JG	Date:	11/30/20 / 12/03/20
	3. Attorney signoff:	RB	Date:	12/04/2020
	4. AS Finance reviewed:	M Caldwell	Date:	12/07/2020
	5. IT reviewed (if IT related):		Date:	
	6. Contractor signed:		Date:	
	7. Submitted to Exec.:		Date:	
	8. Council approved (if necessary):	AB2020-593	Date:	
	9. Executive signed:		Date:	
	10. Original to Council:		Date:	

Whatcom County Contract Number:

201611025 – 9

WHATCOM COUNTY CONTRACT AMENDMENT

PARTIES:

Whatcom County
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

AND CONTRACTOR:
Opportunity Council
1111 Cornwall Avenue
Bellingham, WA 98225

AMENDMENT NUMBER: 9

CONTRACT PERIODS:

Original:	01/01/2017 – 12/31/2017	Amendment #5:	10/01/2018 – 12/31/2018
Amendment #1:	01/01/2018 – 12/31/2018	Amendment #6:	01/01/2019 – 12/31/2019
Amendment #2:	01/01/2018 – 12/31/2018	Amendment #7:	07/01/2019 – 12/31/2019
Amendment #3:	01/01/2018 – 12/31/2018	Amendment #8:	01/01/2020 – 12/31/2020
Amendment #4:	07/01/2018 – 12/31/2018	Amendment #9:	01/01/2021 – 06/30/2021

THE CONTRACT IDENTIFIED HEREIN, INCLUDING ANY PREVIOUS AMENDMENTS THERETO, IS HEREBY AMENDED AS SET FORTH IN THE DESCRIPTION OF THE AMENDMENT BELOW BY MUTUAL CONSENT OF ALL PARTIES HERETO

DESCRIPTION OF AMENDMENT:

1. Extend the duration and other terms of this contract for 6 months, as allowed by WCC 3.08.100(A)(6) under the declaration of emergency for COVID-19.
2. Amend Exhibit A – Scope of Work to include compliance with Washington State Department of Commerce Emergency Solutions Grant (ESG – CFDA 14.231) terms and conditions (Section V – #8), update outcomes required in a 6-month period and reporting requirements (Section VI – #14) for households supported by ESG funding; revised Exhibit A is attached.
3. Amend Exhibit B – Compensation to reflect a 6-month budget; revised Exhibit B is attached.
4. Add Exhibit H – Special Terms and Conditions for Emergency Solutions Grant – COVID 19 ESG—CV (CFDA #14.231).
5. Funding for this contract period (01/01/2021 – 06/30/2021) is not to exceed \$271,615.
6. Funding for the total contract period (01/01/2017 – 06/30/2021) is not to exceed \$1,865,647.
7. All other terms and conditions remain unchanged.
8. The effective start date of the amendment is 01/01/2021.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO /REMAIN IN FULL FORCE AND EFFECT. ALL PARTIES IDENTIFIED AS AFFECTED BY THIS AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT. Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and bind the party thereto.

APPROVAL AS TO PROGRAM: _____
Anne Deacon, Human Services Manager Date

DEPARTMENT HEAD APPROVAL: _____
Erika Lautenbach, Health Department Director Date

APPROVAL AS TO FORM: _____
Royce Buckingham, Prosecuting Attorney Date

FOR THE CONTRACTOR:

Greg Winter, Executive Director		
Contractor Signature	Print Name and Title	Date

FOR WHATCOM COUNTY:

Satpal Singh Sidhu, County Executive Date

CONTRACTOR INFORMATION:

Opportunity Council
1111 Cornwall Avenue
Bellingham, WA 98225
Greg.Winter@oppco.org

EXHIBIT "A" – Amendment #9
(SCOPE OF WORK)

I. Background

According to the annual Point in Time Count of homeless persons conducted in 2019, at least 700 people in Whatcom County were homeless. Throughout the year, more may face the prospect of losing their homes. The Whatcom County Plan to End Homelessness provides a blueprint for how our community will work together to prevent and end homelessness. The provision of housing assistance and case management services are key strategies of the plan. Housing case management under Whatcom Homeless Service Center (WHSC) partnership includes both rental subsidy and housing case management components. The WHSC staff determines client eligibility for services and authorizes and distributes rent subsidies to local landlords on behalf of participating clients, makes referrals for case management to partner agencies, and coordinates required data collection efforts. Through this contract, Opportunity Council will serve as one of the WHSC partner agencies providing Housing Pool case management and other housing case management services. The purpose of this contract is to provide case management for individuals and families experiencing homelessness or at risk of homelessness in order to improve housing stability and reduce homelessness in Whatcom County.

II. Definitions

Housing Pool (HP)	Quasi wait list that serves clients waiting for housing services based on their needs and available resources instead of a first come, first served basis.
Permanent Supportive Housing Population	Chronically homeless individuals/households with significant barriers to permanent housing; will receive deep rent subsidies and intensive housing case management.
HMIS	Washington's Homeless Management Information Services, a data base.
Homeless Diversion	Diversion starts with problem-solving conversations to identify a household's own strengths and resources. Services are tailored to meet each family's most critical needs to quickly move into housing. Diversion services can include short-term/one-time financial support (i.e. deposit assistance, flex funding).
Whatcom Homeless Service Center (WHSC)	WHSC programs provide (1) centralized coordinated system of access (2) diversion assistance to reduce the number of households that become homeless, (3) re-housing of those who become homeless, (4) supportive services promoting housing stability and self-sufficiency, and (5) data management and tracking information for people receiving homeless housing services in Whatcom County and according to Washington State Department of Commerce HMIS data collection requirements.

III. Statement of Work

The contractor will provide housing case management services. Housing case management includes activities for the arrangement, coordination, monitoring, and delivery of services related to meeting the housing needs of households and helping them obtain housing stability. Services and activities include: developing, securing, and coordinating services; monitoring and evaluating household progress; assuring that households' rights are protected; developing an individualized housing and service plan, including a path to permanent housing stability subsequent to assistance. Housing case management also includes services or activities designed to assist households in locating, obtaining, and retaining suitable housing such as: tenant counseling, assisting individuals and households to understand leases, securing utilities, making moving arrangements, representative payee services concerning rent and utilities, and mediation and outreach to property owners related to locating or retaining housing.

The additional types of housing case management services to be provided include:

Intake services: People who are seeking homeless housing assistance will receive housing intake services to collect client information and assess eligibility for housing programs. Services will be provided to low-income and/or homeless individuals and households residing in Whatcom County. Individuals and households served shall have incomes at or below 50% Area Median Income (AMI).

Housing Pool (HP) services: HP case management services are designed to make persons who are homeless or at imminent risk of homelessness aware of available programs and provide them with a point of access to housing services. HP case management provides supportive services designed to assist people waiting for housing to be able to move rapidly into permanent housing by helping clients stabilize, identify barriers to housing, and engage in activities required to remove those barriers. HP case management diverts people from entering the homeless shelter system whenever possible.

Diversion services: Diversion can be the first response to resolving an episode of homelessness by focusing on re-housing a family without their entering a longer-term housing program. Diversion starts with problem-solving conversations to identify a household's own strengths and resources. Services are tailored to meet each family's most critical needs to quickly move into housing. Diversion services can include short-term/one-time financial support (i.e. deposit assistance, flex funding).

IV. Program Outcomes

During this contract period, the housing case management services provided by the Contractor will deliver the following outcomes:

1. At least 75 households will receive Housing Pool case management during the first six months of 2021.
2. At least 4 households will receive short-term housing case management during the first six months of 2021 (excludes motels/transitional housing).
3. Total number of households in motels that received short-term housing CM (no specific target).
4. At least 30 families with children will receive diversion case management.
5. At least 10 households in PSH will receive case management.
6. At least 8 households receiving Skagit HOME TBRA rental assistance will receive case management.
7. Median number of days in case management prior to being housed will be 75.
8. Mean number of days in case management prior to being housed will be 80.
9. At least 85% of families that reached a 12 month period of time since exiting the Ending Family Homelessness project or Rapid ReHousing case management will have retained stable housing.
10. Of the households in PSH, at least 90% will be stably housed (including exits from PSH to permanent housing).
11. At least 40 WCHD funded case management households (from ES, Diversion, EFH, Housing Pool, TBRA RRH or unstably housed, and EFH) will achieve housing stability.
12. At least 15 households will be housed directly from the Housing Pool with deposit/move in assistance (this is contingent upon availability of rental assistance and referrals).
13. At least 8 unduplicated households will be stably housed with EFH RRH while receiving case management.
14. At least 20 unduplicated households will receive assistance funded through and eligible for the ESG-CV.

V. Additional Requirements

The contractor will:

1. Participate in HMIS data collection efforts as directed by the WHSC; including HMIS training, HMIS data entry, updating client data as necessary, and exiting clients from HMIS. Services which must be inputted into HMIS include (but are not limited to) financial services—including deposits, rental payments, and completed home visits.
2. Comply with the following HP Referral procedure. When Contractor believes a referral from the HP is not a good fit for their program – a situation that should be rare - the following procedure must be followed:
 - a. Contractor will submit a written description of the situation that justifies returning the client to the HP, and
 - b. An in-person case conference must be scheduled within five days of request to return a referral. The case conference will include Contractor staff, WHSC housing referral specialist, and HP case management services coordinator (or designee).
 - c. The course of action mutually agreed to at the case conference will be recorded in writing, constituting a binding agreement.
 - d. As the parties to this contract learn more about referral success factors, procedures may be amended accordingly.
3. Promote public health in homeless housing and preserve the safety and stability of available housing stock for homeless housing by:
 - a. Informing clients/tenants of the importance of upholding safety and health in homeless housing, and of preserving continued access to housing by our homeless housing system.
 - b. Informing clients/tenants that they may be expected to participate in cleaning and decontaminating their housing unit when necessary for health reasons.
 - c. Informing clients/tenants that damage to their unit may result in eviction and loss of the unit in the future for our homeless housing system.
 - d. Informing prospective tenants what they need to do to maintain a safe and clean apartment in advance of receiving housing and periodically after they are in housing.
 - e. In scattered site, master lease, public housing, and staffed housing programs, case managers will work with the client/tenant to address issues of health and safety that arise, including that of suspected methamphetamine use. The WCHD will provide Case managers free and confidential technical assistance on effective methods for cleaning apartment units that have been contaminated whenever requested.
 - f. Document in each client file that these expectations were communicated to the client/tenant.
4. Requiring professional development training for direct service staff and supervisors.
5. Attending Whatcom County Coalition to End Homelessness meetings and sponsored activities.
6. Attending meetings and events coordinated by WHSC.
7. Comply with the State of Washington, Department of Commerce Consolidated Homeless Grant (CHG) requirements, policies and procedures in the Consolidated Homeless Grant Guidelines including periodic updates to the Guidelines* which can be accessed at:
<http://www.commerce.wa.gov/serving-communities/homelessness/consolidated-homeless-grant/>

*The County will provide notification by email when updates to the CHG Guidelines are available by Commerce.

8. Comply with relevant State of Washington, Department of Commerce Emergency Solutions COVID-19 Grant guidelines, including periodic updates to the guidelines which can be accessed at:
<https://deptofcommerce.app.box.com/s/s2w7o65zm4buhz2bk7t0n3femanl7tml> and
<https://www.commerce.wa.gov/serving-communities/homelessness/emergency-solutions-grant/>

VI. Reporting Requirements

The contractor shall submit quarterly reports* to the WCHD utilizing HMIS data by using the quarterly reporting template accessed on the County website as noted below. Reports will demonstrate the contractor's progress toward achieving the program outcomes identified above. Quarterly reports are due on April 15, July 15, October 15, January 15.

*Contractors will be notified via email of updates to quarterly reporting templates. Current reporting templates will be posted on the Whatcom County Health Department Housing Program website which may be accessed at:
<http://www.whatcomcounty.us/DocumentCenter/View/37569/WCHDquarterlyCMreport2019CCS>

Reports will include data for only those clients served under this contract and include:

1. # of households that received Housing Pool (HP) case management this quarter.
2. # of households that received short-term housing (excluding motels & transitional housing) CM this quarter (carry-over in Q1 and new thereafter).
3. # of households that received short term housing C/M this quarter in motels (carry-over in Q1, new thereafter).
4. #of FWC that received diversion CM this quarter (carry-over in Q1, new thereafter).
5. Total # of households in PSH that received CM during the quarter (carry-over in Q1, new thereafter).
6. # of households that received Skagit HOME TBRA served with CM this quarter.
7. Median # of days in CM prior to being housed this quarter.
8. Mean # of days in CM prior to being housed.
9. For families that reached a 12 month period time in the quarter since exiting the Ending Family Homelessness project or Rapid ReHousing CM, the % that retained stable housing for those 12 months.
10. Of the households that were in PSH at the beginning of the quarter, the % that remained housed at the end of the quarter. Exits to stable housing are included in housing retention.
11. Number of WCHD funded case managed households (from ES, Diversion, EFH, HP, TBRA RRH or unstably housed) that achieved housing stability this quarter.
12. # of households directly from the HP with deposit/move-in assistance (contingent upon rent assistance and referrals).
13. Unduplicated # of households that become stably housed with EFH RRH that received case management during this quarter.
14. Unduplicated # of households that received assistance funded through and eligible for the ESG-CV.

Additionally, Projects falling under the specific intervention types and funded by the Consolidated Homeless Grant (CHG), will be expected to meet or demonstrate progress towards the system-wide performance measures as set by the Washington State Department of Commerce. CHG System Wide Mandatory Performance Measures and benchmarks specific to intervention type (HMIS project type), and periodic updates provided by Commerce, are accessible on the County website at: <http://whatcomcounty.us/910/Housing-Program>.

Changes to the CHG System-wide Mandatory Performance Measures may be made without contract amendment. In the event of an update, the County will provide email notification with a link to the current chart on the County's website. CHG Grantees must meet or demonstrate progress towards established performance measure targets by meeting the indicated benchmarks. Diversion performance measures are exempted from the following "Consequences of non-compliance" as per Commerce, wherein "Grantee" refers to the County being the CHG recipient:

- a. If Commerce determines that a Grantee is failing to comply with the Guidelines, Terms and Conditions, Commerce will notify Grantee that Grantee will receive technical assistance and be required to respond to a corrective action plan to address and remedy the non-compliance.
- b. If the Grantee is still out of compliance after the technical assistance, Commerce may move the Grantee into a probationary period with a second corrective action plan and may reduce the grant total by 20%.
- c. If the Grantee remains out of compliance after the probation period, Commerce may terminate the grant per the General Terms and Conditions TERMINATION FOR CAUSE.

EXHIBIT "B" – Amendment #9
(COMPENSATION)

- I. **Source of Funding:** The source of funding for this contract, in an amount not to exceed \$271,615, is local document recording fees and the Consolidated Homeless Grant and Emergency Solutions COVID-19 (CFDA 14.231) Grants from the Washington Department of Commerce. COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor's performance of this contract. The budget for this contract is as follows:

CONTRACT BUDGET (01/01/2021 – 06/30/2021)		
Cost Description	Documents Required Each Invoice	Budget
<i>Personnel (salary, taxes and benefits):</i> Housing Case Manager Case Management Services Coordinator Homeless Housing Programs Manager Information & Referral Specialist	Approved Composite Billing Rate Worksheet for each staff member and Timesheets for the period.	\$202,285
PSH CH FWC (CHG) Case Management		23,699
Communications – does not include system upgrades or capital costs	GL detail	\$970
Printing & Duplicating		\$225
Occupancy		\$7,554
Mileage	Mileage log to include: name of the staff member, date of travel, starting point and destination of travel, the number of miles traveled, the federal reimbursement rate (per www.gsa.gov), and a brief description of the purpose of travel.	\$2,250
Travel/Training	Ground transportation, coach airfare, and ferries will be reimbursed at cost when accompanied by receipts. Reimbursement requests for allowable travel must include name of staff member, dates of travel, starting point and destination, and a brief description of purpose. Receipts for registration fees or other documentation of professional training expenses. Lodging and meal costs for training are not to exceed the U.S. General Services Administration Domestic Per Diem Rates (www.gsa.gov), specific to location. Receipts for meals are not required.	\$1,500
Office Equipment and Supplies	GL detail	\$3,125
Postage		\$405.50
Flex Funds	Flex Fund Spreadsheet plus copies of receipts	\$500
SUBTOTAL		\$242,513.50
Indirect Costs @ 12%		\$29,101.6
TOTAL		\$271,615

Changes to the line item budget that exceed 10% of the line item amount must be approved in writing by the County. Indirect costs shall not exceed the current federally approved rate.

II. Invoicing

1. The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly invoices must be submitted by the 15th of the month following the month of service. Invoices submitted for payment must include the items identified in the table above.
2. The Contractor shall submit invoices to HL-BusinessOffice@co.whatcom.wa.us.
3. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.
4. Invoices must include the following statement, with an authorized signature and date:

I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.

5. Duplication of Billed Costs or Payments for Service: The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.

“Exhibit H”

(Special Terms and Conditions for Commerce Emergency Solutions Grant – COVID 19 ESG-CV –
CFDA #14.231)

The funds allocated for services performed under this grant are Washington State Department of Commerce funds. The terms included in this agreement and any additional agreements herein are a result of the grant funding requirements. Commerce and the State of Washington are liable for claims or damages arising from the Contractor's performance of this subgrant.

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. “Grant” or “Agreement” means the entire written agreement between COMMERCE and the Grantee, including any attachments, 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. “Grantee” shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Grantee.
- E. “Personal Information” shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- F. “State” shall mean the state of Washington.
- G. “Subgrantee/Subcontractor” shall mean one not in the employment of the Grantee, who is performing all or part of those services under this Grant under a separate Grant with the Grantee. The terms “subgrantee/subcontractor” refers to any tier.
- H. “Subrecipient” shall mean a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. It also excludes vendors that receive federal funds in exchange for goods and/or services in the course of normal trade or commerce.

2. ACKNOWLEDGMENT OF FEDERAL FUNDS

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. E-20-DW-53-0001 awarded by U.S. Department of Housing and Urban Development (HUD) as a supplemental appropriation through the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act). Points of view in this document are those of the author and do not necessarily represent the official position or policies of the HUD. Grant funds are administered by the Housing Assistance Unit in the Community Services and Housing Division, Washington State Department of Commerce.”

3. ALL WRITINGS CONTAINED HEREIN

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

4. AMENDMENTS

This Grant 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.

5. ASSIGNMENT

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

6. 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:

- A. Submit to COMMERCE the reporting package specified in OMB Super Circular 2 CFR 200.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.
 - B. 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 auditreview@commerce.wa.gov.

7. CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION

- A. "Confidential Information" as used in this section includes:
 - i. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;
 - ii. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and
 - iii. All personal information in the possession of the Grantee 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 Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Grant 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 Grantee 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 Grantee shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Grant whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by COMMERCE. Upon request, the Grantee shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.
- C. Unauthorized Use or Disclosure. The Grantee 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.

8. COPYRIGHT

Unless otherwise provided, all Materials produced under this Grant 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 Grantee 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 Grant, but that incorporate pre-existing materials not produced under the Grant, the Grantee 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 Grantee warrants and represents that the Grantee has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Grantee shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Grant, 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 Grant. The Grantee shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Grant. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

9. DUPLICATE PAYMENT

COMMERCE shall not pay the Grantee, if the Grantee has charged or will charge the State of Washington or any other party under any other Grant, subgrant/subcontract, or agreement, for the same services or expenses.

10. GOVERNING LAW AND VENUE

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

11. INDEMNIFICATION

To the fullest extent permitted by law, the Grantee 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, suite, 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 Grantee's obligation to indemnify, defend, and hold harmless includes any claim by Grantee's agents, employees, representatives, or any subgrantee/subcontractor or its employees.

Grantee expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Grantee's or any subgrantee's/subcontractor's performance or failure to perform the Grant. Grantee'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 Grantee 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.

12. LAWS

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

13. LICENSING, ACCREDITATION AND REGISTRATION

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

14. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS

A Grantee which is a local government or Indian Tribal government must establish procurement policies and procedures in accordance with 2 CFR Part 200, for all purchases funded by this Grant.

A Grantee which is a nonprofit organization shall establish procurement policies in accordance with 2 CFR Part 200, for all purchases funded by this Contract.

The Grantee'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 with only reasonable subgrantees/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 Subgrantee/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.

15. PUBLICITY

The Grantee 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.

16. RECAPTURE

In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Grant, 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 Grantee 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 Grant.

17. RECORDS MAINTENANCE

The Grantee shall maintain books, records, documents, data and other evidence relating to this Grant 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 Grant.

The Grantee 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 Grant, 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.

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

19. SEVERABILITY

The provisions of this Grant 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 Grant.

20. SUBGRANTING/SUBCONTRACTING

The Grantee may only subcontract work contemplated under this Grant if it obtains prior written approval of COMMERCE.

If COMMERCE approves subcontracting, the Grantee 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 Grantee to amend its subcontracting procedures as they relate to this Grant; (b) prohibit the Grantee from subcontracting with a particular person or entity; or (c) require the Grantee to rescind or amend a subcontract.

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

21. SITE SECURITY

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

22. SURVIVAL

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

23. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Grantee, for the cost of which the Grantee is entitled to be reimbursed as a direct item of cost under this Grant, shall pass to and vest in COMMERCE upon delivery of such property by the Grantee. Title to other property, the cost of which is reimbursable to the Grantee under this Grant, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this Grant, or (ii) commencement of use of such property in the performance of this Grant, 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 Grantee shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this Grant.
- B. The Grantee shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Grantee or which results from the failure on the part of the Grantee to maintain and administer that property in accordance with sound management practices.
- C. If any COMMERCE property is lost, destroyed or damaged, the Grantee shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.
- D. The Grantee shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this Grant.

All reference to the Grantee under this clause shall also include Grantee's employees, agents, or Subgrantees/Subcontractors.

24. WAIVER

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