

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.

202101003

Originating Department:	Whatcom County Public Defender's Office
Division/Program: (i.e. Dept. Division and Program)	
Contract or Grant Administrator:	Julie Wiles, Office Administrator
Contractor's / Agency Name:	WA State Dept. of Commerce, Community Services and Housing Div., Office of Crime Victims Advocacy, Coronavirus Emergency Supplemental Fund

Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No Yes No
 Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____

Does contract require Council Approval? Yes No 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 No If yes, grantor agency contract number(s): F20-3144C-073 CFDA#: 16.751

Is this contract grant funded? Yes No If yes, Whatcom County grant contract number(s): _____

Is this contract the result of a RFP or Bid process? Contract _____
 Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____

Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.

If YES, indicate exclusion(s) below:

- Professional services agreement for certified/licensed professional. Goods and services provided due to an emergency
- Contract work is for less than \$100,000. Contract for Commercial off the shelf items (COTS).
- Contract work is for less than 120 days. Work related subcontract less than \$25,000.
- Interlocal Agreement (between Governments). Public Works - Local Agency/Federally Funded FHWA.

Contract Amount:(sum of original contract amount and any prior amendments):
 \$ 238,417.00
 This Amendment Amount:
 \$ _____
 Total Amended Amount:
 \$ _____

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.

Summary of Scope:

Addition of staff to assist in handling the number of deferred cases resulting from the Coronavirus

Term of Contract: 01/01/21 to 12/31/22 Expiration Date: 12/31/22

Contract Routing:	1. Prepared by: <u>Julie Wiles</u>	Date: <u>12/17/20</u>
	2. Attorney signoff: <u>Karen Frakes</u>	Date: <u>12/22/20</u>
	3. AS Finance reviewed: <u>M Caldwell</u>	Date: <u>12/21/2020</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: <u>1-5-2021</u>
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____



Washington State
Department of
Commerce

Grant Agreement with

Whatcom County
Public Defender's Office

through

Community Services and Housing Division
Office of Crime Victims Advocacy

For

Add an additional staff to assist in handling the number of deferred cases resulting from the Coronavirus

Start date: January 1, 2021

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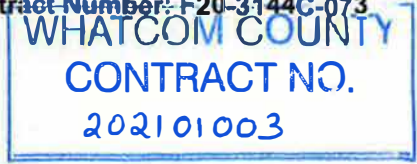
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Attachment A, Scope of Work

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FACE SHEET

Contract Number: F20-3144C-073



**Washington State Department of Commerce
Community Services and Housing Division
Office of Crime Victims Advocacy
Coronavirus Emergency Supplemental Fund**

1. Grantee Whatcom County Public Defender's Office 215 North Commercial Street Bellingham, WA 98225		2. Grantee Doing Business As (optional)	
3. Grantee Representative Julie Wiles Office Administrator 360-778-5646 jwiles@co.whatcom.wa.us		4. COMMERCE Representative Bill Johnston Program Manager 360-725-3030 Bill.Johnston@commerce.wa.gov 1011 Plum St SE P.O. Box 42525 Olympia, WA 98504-2525 	
5. Grant Amount \$ 238,417	6. Funding Source Federal: <input checked="" type="checkbox"/> State: <input type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/>	7. Start Date January 1, 2021	8. End Date December 31, 2022
9. Federal Funds (as applicable) \$ 238,417	Federal Agency: Department of Justice	CFDA Number: 16.751	Indirect Rate (if applicable):
10. Tax ID # 91-6001383	11. SWV # SWV0002435-57	12. UBI # 371-010-246	13. DUNS # 060044641
14. Grant Purpose Addition of staff to assist in handling the number of deferred cases resulting from the Coronavirus			
COMMERCE, defined as the Department of Commerce, and the Grantee, as defined above, acknowledge and accept the terms of this Grant and attachments and have executed this Grant on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Grant are governed by this Grant and the following other documents incorporated by reference: Grant Terms and Conditions including Attachment "A" – Statement of Work, and Attachment "B" – Budget.			
FOR GRANTEE _____ Satpal Singh Sidhu, Whatcom County Executive _____ Date Approved as to form: <i>Karen Frakes email approval 12/22/20 /SM</i> _____ Karen Frakes, Prosecuting Attorney's Office		FOR COMMERCE _____ Diane Klontz, Assistant Director _____ Date APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL APPROVAL ON FILE	

Last revision 10/13/2020

SPECIAL TERMS AND CONDITIONS**1. ACKNOWLEDGEMENT OF FEDERAL FUNDING**

Federal Award Date: April 14, 2020

Federal Award Identification Number (FAIN): 2020-VD-BX-0030

Total amount of the federal award: \$10,885,923

Awarding official: Katherine T. Sullivan

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. 2020-VD-BX-0030 awarded by Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the Department of Justice. Grant funds are administered by the Office of Crime Victims Advocacy, Community Services and Housing Division, Washington State Department of Commerce.”

2. GRANT 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 Grant.

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

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

3. COMPENSATION

COMMERCE shall pay an amount not to exceed \$238,417 for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

4. BILLING PROCEDURES AND PAYMENT

COMMERCE will pay Grantee upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE at least quarterly but 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 Grant Number F20-31443-073.

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 Grantee.

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

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.

SPECIAL TERMS AND CONDITIONS

Duplication of Billed Costs

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

Disallowed Costs

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subgrants/subcontracts.

5. SUBCONTRACTOR DATA COLLECTION

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

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 Grantee shall instruct the insurers to give COMMERCE thirty (30) calendar days advance notice of any insurance cancellation, non-renewal or modification.

The Grantee shall submit to COMMERCE within fifteen (15) calendar days of 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 Grant, if required or requested, the Grantee shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The Grantee shall provide, at COMMERCE's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications 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 Grantee shall provide insurance coverage that shall be maintained in full force and effect during the term of this Grant, as follows:^[CS(1)]

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 Grant activity but no less than \$1,000,000 per occurrence. Additionally, the Grantee is responsible for ensuring that any Subgrantee/subcontractor provide adequate insurance coverage for the activities arising out of subgrants/subcontracts.

Automobile Liability. In the event that performance pursuant to this Grant involves the use of vehicles, owned or operated by the Grantee or its Subgrantee/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 Grantee shall maintain Professional Liability or Errors and Omissions Insurance. The Grantee shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Grantee and licensed

SPECIAL TERMS AND CONDITIONS

staff employed or under contract to the Grantee. 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 Grantee 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 Grant shall be \$100,000 or the highest of planned reimbursement for the Grant period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.
- B.** Subgrantees/subcontractors that receive \$10,000 or more per year in funding through this Grant shall secure fidelity insurance as noted above. Fidelity insurance secured by Subgrantee/subcontractors pursuant to this paragraph shall name the Grantee as beneficiary.

6. ORDER OF PRECEDENCE

In the event of an inconsistency in this Grant, 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
- The Contractor's proposal for funding submitted in response to the Coronavirus Emergency Supplemental Funding Local Government, Tribes, & Non-Profit Initiative

GENERAL TERMS AND CONDITIONS**1. DEFINITIONS**

As used throughout this Grant, 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 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. "Grantee" shall mean the entity identified on the face sheet performing service(s) under this Grant, and shall include all employees and agents of the Grantee.
- 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. "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.
- I. "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.
- J. "Vendor" is an entity that agrees to provide the amount and kind of services requested by COMMERCE; provides services under the grant only to those beneficiaries individually determined to be eligible by COMMERCE and, provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standards.

2. ACCESS TO DATA

In compliance with RCW 39.26.180, the Grantee shall provide access to data generated under this Grant 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 Grantee'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 Grant shall be made by COMMERCE.

4. 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.

GENERAL TERMS AND CONDITIONS**5. 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.

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

The Grantee 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 Grant, nor any claim arising under this Grant, shall be transferred or assigned by the Grantee without prior written consent of COMMERCE.

8. ATTORNEYS' FEES

Unless expressly permitted under another provision of the Grant, in the event of litigation or other action brought to enforce Grant terms, each party agrees to bear its own attorney's 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:

- 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.

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

- A. Grantee, defined as the primary participant and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that 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 Grant, 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 Grant had one or more public transactions (Federal, State, or local) terminated for cause of default.
- B. Where the Grantee is unable to certify to any of the statements in this Grant, the Grantee shall attach an explanation to this Grant.

GENERAL TERMS AND CONDITIONS

- C. The Grantee agrees by signing this Grant 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 Grantee further agrees by signing this Grant 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

- a) The lower tier Grantee certifies, by signing this Grant 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.
 - b) Where the lower tier Grantee is unable to certify to any of the statements in this Grant, such contractor shall attach an explanation to this Grant.
- 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. CONFIDENTIALITY/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.

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 Grantee terminate this contract if it is found after due

GENERAL TERMS AND CONDITIONS

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 Grantee and their subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked on the program subject to this Agreement including but not limited to formulating or drafting the legislation, participating in grant procurement planning and execution, awarding and/or 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 Grantee may be disqualified from further consideration for the award of a Grant.

In the event this grant is terminated as provided above, COMMERCE shall be entitled to pursue the same remedies against the Grantee as it could pursue in the event of a breach of the contract by the Grantee. 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 grant.

13. COPYRIGHT PROVISIONS

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.

14. DISPUTES

Except as otherwise provided in this Grant, 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 Grantee's name, address, and Contract number; and

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- be mailed to the Director and the other party's (respondent's) Grant 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 Grant 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 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.

16. GOVERNING LAW AND VENUE

This Grant 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 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, 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 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.

18. INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent contractor relationship will be created by this Grant. 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.

GENERAL TERMS AND CONDITIONS**20. INDUSTRIAL INSURANCE COVERAGE**

The Grantee shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Grantee 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 Grantee the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Grantee to the accident fund from the amount payable to the Grantee 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 Grantee.

21. 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.

22. 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.

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 Grant, the Grantee shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Grantee's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Grant may be rescinded, canceled or terminated in whole or in part, and the Grantee may be declared ineligible for further Grants with COMMERCE. The Grantee 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 Grantee 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.** Grantee 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.

GENERAL TERMS AND CONDITIONS

(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 Grant 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 Grantee's employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

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

27. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS

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 only with 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.

GENERAL TERMS AND CONDITIONS

- 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.

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 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.

29. 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.

30. 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.

31. REGISTRATION WITH DEPARTMENT OF REVENUE

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

32. RIGHT OF INSPECTION

The Grantee 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 Grant.

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 Grant and prior to normal completion, COMMERCE may 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.

GENERAL TERMS AND CONDITIONS**34. 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.

35. 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.

36. SUBGRANTING/SUBCONTRACTING

The Grantee may only subcontract work contemplated under this Grant if it obtains the 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.

37. 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.

38. TAXES

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

39. TERMINATION FOR CAUSE

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

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

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

GENERAL TERMS AND CONDITIONS

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

41. TERMINATION PROCEDURES

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

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

- A.** Stop work under the Grant on the date, and to the extent specified, in the notice;
- B.** Place no further orders or subgrants/subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Grant 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 Grantee under the orders and subgrants/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 subgrants/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 Grant 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 Grant, which is in the possession of the Grantee and in which COMMERCE has or may acquire an interest.

GENERAL TERMS AND CONDITIONS**42. 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.

43. WAIVER

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

Scope of Work

- The Contractor shall hire a Deputy II Public Defender qualified to handle felony referrals.
- The hired Public Defender will comply with the standards on Indigent Defense (CrR 3.1) and the COVID-19 modification adopted by the Washington State Bar Association.
- The Contractor will report on a quarterly basis on each of the supported activities including those identified above, the number of cases the additional Public Defender handles, the backlog of cases at the beginning of this project and at the end of each reporting quarter. In addition to quantitative performance measures the Contractor will provide a brief narrative summary of the activities and benefits of this project. Quarterly reports will be due the 15th day of the month following the end of each calendar quarter of the award period,

Budget

The Budget for the award period of January 1, 2021 through December 31, 2022 is \$238,417.

Budget by Categories of Expense and expenditure Period:

	Year 1 CY 2021	Year 2 CY 2022	Total
Salaries	80,059	83,263	163,322
Benefits	35,798	36,531	72,329
Goods & Services	<u>2,766</u>	<u>-0-</u>	<u>2,766</u>
Total	118,623	119,794	238,417

The Contractor may shift up to 10% of the total award between the categories of expense shown above, and between fiscal years within the award period.

Note: The Contractor may not obligate or expend any funds under this award unless and until it has submitted a completed Federal Eligibility Package as identified in that application package. The required eligibility package may be found at:

<https://deptofcommerce.app.box.com/s/6lx7hqbcnw2nglye3s95bfrqzcr2woxf>