



**STATE OF WASHINGTON  
DEPARTMENT OF COMMERCE  
OLYMPIA, WASHINGTON**

**REQUEST FOR APPLICATIONS  
RFA NO. 22-32J10210-001**

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

**PROJECT TITLE:** WA State Diaper Bank Project/Program Grant Opportunity

**APPLICATION DUE DATE:** October 27, 2021 at 11:59PM (Pacific Time Zone)

**EXPECTED TIME PERIOD FOR GRANT AGREEMENTS:** Nov. 30, 2021 – June 30, 2023.

**ORGANIZATION ELIGIBILITY:** This grant opportunity is open to those organizations which satisfy the minimum qualifications stated herein and that are available for work in Washington State.

**CONTENTS OF THE REQUEST FOR APPLICATIONS:**

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2. General Information for Applicants
3. Application Contents
4. Evaluation and Award
5. Exhibits
  - A. Certifications and Assurances
  - B. Diverse Business Inclusion Plan
  - C. Workers' Rights Certification
  - D. State Funded General Grant Agreement (Including General Terms and Conditions)

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## 1 INTRODUCTION

### 1.1 PURPOSE AND BACKGROUND

The purpose of this Request for Applications is for the Washington State Dept. of Commerce, (COMMERCE), to collect applications for grants, which will be administered via reimbursable grant agreements, to organizations for the purpose of purchasing diapers, wipes, and other essential baby products (for ages 3 and under), for distribution to families in need.

2021-23 operating budget; ESSB 5092, section 129 (124)

\$2,500,000 of the general fund—state appropriation for fiscal year 2022 and \$2,500,000 of the general fund—state appropriation for fiscal year 2023 are provided solely for the department to administer grants to diaper banks for the purchase of diapers, wipes, and other essential baby products, for distribution to families in need. The department must give priority to providers serving or located in marginalized, low-income communities or communities of color; and providers that help support racial equity.

COMMERCE will withhold an administrative fee of 5% from the allocated funds, totaling \$125,000 per state fiscal year.

### 1.2 OBJECTIVE

The objective of this RFA is to solicit applications for grants for the purpose stated above. COMMERCE must give priority to providers serving or located in marginalized, low-income communities or communities of color; and providers that help support racial equity.

COMMERCE intends to award multiple grant agreements to qualifying organizations who submit applications in response to this RFA.

### 1.3 MINIMUM QUALIFICATIONS

The Organization must:

1. be licensed to do business in the state of Washington, and
2. currently operate a distribution/diaper bank facility located in the state of Washington, and
3. have at least two (2) years of experience distributing diaper resources.

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

### 1.4 FUNDING

In the event additional funding becomes available, any grant agreements awarded may be renegotiated to provide for additional related activities.

Commerce intends to award funds for direct service delivery. Funds may not be sub-contracted.

Any grant agreement(s) awarded as a result of this grant opportunity are contingent upon the availability of funding.

### 1.5 PERIOD OF PERFORMANCE

The period of performance of any grant agreement(s) resulting from this RFA is tentatively scheduled to begin on or about **November 30, 2021** and to end on **June 30, 2023**. COMMERCE reserves the option at its sole discretion to extend the grant agreements for two additional two-year periods.

## 1.6 DEFINITIONS

Definitions for the purposes of this RFA include:

**Apparently Successful Grantee (ASG).** The Organization(s) selected to enter into negotiations leading to a fully executed grant agreements for the work described in this grant opportunity document.

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

**Organization.** Organization submitting an application in order to attain a grant agreement with COMMERCE.

**Grantee.** Organization whose Application has been accepted by COMMERCE and is awarded a fully executed, written grant agreement.

**Request for Applications (RFA).** Formal grant opportunity document in which needed activities are identified and organizations are invited to submit their qualifications via applications to this grant opportunity document.

**Application.** A formal response submitted in response to this RFA.

## 1.7 ADA

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

## 2 GENERAL INFORMATION FOR APPLICANTS

### 2.1 RFA COORDINATOR

The RFA Coordinator is the sole point of contact in COMMERCE for this grant opportunity. All communication between the applicant and COMMERCE upon receipt of this RFA shall be with the RFA Coordinator, as follows:

Name	Angie Hong
Phone Number	360-506-1706
E-Mail Address	Angie.hong@commerce.wa.gov

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

### 2.2 ESTIMATED SCHEDULE OF GRANT OPPORTUNITY ACTIVITIES

Issue Request for Applications	October 1, 2021
Question & answer period	October 11 – 18, 2021
Answers issued no later than	October 20, 2021
Applications due	October 27, 2021 at 11:59 PM Pacific Time
Evaluate applications	October 28, 2021 - November 10, 2021
Announce “Apparent Successful Grantees” and send notification via e-mail to unsuccessful applicants	November 15, 2021
Hold debriefing conferences (if requested)	November 19 – 23, 2021
Negotiate grant agreements	Starting November 16, 2021
Execute Grant Agreements (soonest date possible)	November 30, 2021

COMMERCE reserves the right to revise the above schedule.

### 2.3 SUBMISSION OF APPLICATIONS

The Application must be received by the RFA Coordinator via email no later than 11:59PM, Pacific Standard Time, in Olympia, Washington, on *October 27, 2021*.

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

Applications may not be transmitted using facsimile transmission.

Organizations should allow sufficient time to ensure timely receipt of the Application by the RFA Coordinator. Late Applications will not be accepted and will be automatically disqualified from further consideration, unless COMMERCE e-mail is found to be at fault. All Applications and any accompanying documentation become the property of COMMERCE and will not be returned.

#### **2.4 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE**

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

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

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

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

#### **2.5 REVISIONS TO THE RFA**

In the event it becomes necessary to revise any part of this RFA, addenda will be provided via e-mail to all individuals who have made the RFA Coordinator aware of their interest. Addenda will also be published on Washington's Electronic Business Solution (WEBS). The website can be located at <https://fortress.wa.gov/ga/webs/>. For this purpose, the published questions and answers and any other pertinent information shall be provided as an addendum to the RFA and will be placed on the website.

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

COMMERCE also reserves the right to cancel or to reissue the RFA in whole or in part, prior to execution of grant agreements.

#### **2.6 DIVERSE BUSINESS INCLUSION PLAN**

Responders will be required to submit a Diverse Business Inclusion Plan with their Application. In accordance with legislative findings and policies set forth in RCW 39.19, the state of Washington encourages participation in all grant agreements by organizations certified by the office of Minority and Women's Business Enterprises (OMWBE), set forth in RCW 43.60A.200 for organizations certified by the Washington State Department of Veterans Affairs, and set forth in RCW 39.26.005 for organizations that are Washington Small Businesses. Participation shall be on a direct service delivery basis. However, no preference on the basis of participation is included in the evaluation of Diverse Business Inclusion Plans submitted, and no minimum level of minority- and women-owned

business enterprise (MWBE), Washington Small Business, or Washington State certified Veteran Business participation is required as a condition for receiving an award. Any affirmative action requirements set forth in any federal Governmental Rules included or referenced in the grant agreement documents will apply.

COMMERCE has the following agency goals:

- 10% participation by Minority Owned Business
- 6% participation by Women Owned Business
- 5% participation by Veteran Owned Business
- 5% participation by Small Businesses

## **2.7 ACCEPTANCE PERIOD**

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

## **2.8 COMPLAINTS**

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

- a) The RFA unnecessarily restricts competition;
- b) The RFA evaluation or scoring process is unfair; or
- c) The RFA requirements are inadequate or insufficient to prepare an Application.

A complaint may be submitted to COMMERCE at any time prior to 5 days before the application due date. The complaint must meet the following requirements:

- a) The complaint must be in writing;
- b) The complaint must be sent to the RFA coordinator in a timely manner;
- c) The complaint should clearly articulate the basis for the complaint; and
- d) The complaint should include a proposed remedy.

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

## **2.9 RESPONSIVENESS**

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

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

## **2.10 MOST FAVORABLE TERMS**

COMMERCE reserves the right to make an award without further discussion of the Application submitted. COMMERCE does reserve the right to contact an Organization for clarification of its Application.

The Organization should be prepared to accept this RFA for incorporation into a grant agreement. Grant agreement negotiations may incorporate some, or all, of the Organization's Application. It is understood that the Application will become a part of the official grant opportunity file on this matter without obligation to COMMERCE.

## **2.11 GRANT AGREEMENTS AND GENERAL TERMS & CONDITIONS**

The apparent successful grantees will be expected to enter into grant agreements which are substantially the same as the applicable sample state funded general grant agreement and its general terms and conditions attached as Exhibit D. In no event is an Organization to submit its own standard grant agreement terms and conditions in response to this RFA. The Organization may submit exceptions as allowed in the Certifications and Assurances section, Exhibit A to this RFA. COMMERCE will review requested exceptions and accept or reject the same at its sole discretion.

It is anticipated the first deliverable under each grant agreement will be a scoping plan, which will define the specific activities to be provided by the GRANTEE based upon agreement between COMMERCE and the GRANTEE.

## **2.12 COSTS TO APPLY**

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

## **2.13 NO OBLIGATION TO GRANT AGREEMENTS**

This RFA does not obligate the state of Washington or COMMERCE to enter into grant agreements for activities specified herein.

## **2.14 REJECTION OF APPLICATIONS**

COMMERCE reserves the right at its sole discretion to reject any and all Applications received without penalty and not to issue grant agreements as a result of this RFA.

## **2.15 COMMITMENT OF FUNDS**

The Director of COMMERCE or the Director's delegate are the only individuals who may legally commit COMMERCE to the expenditures of funds for grant agreements resulting from this RFA. No cost chargeable to the proposed work may be incurred before receipt of a fully executed grant agreement.

## **2.16 INSURANCE COVERAGE**

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

The Grantee shall, at Grantee's own expense, obtain and keep in force insurance coverage, which shall be maintained in full force and effect during the term of the grant agreement. The Grantee shall furnish evidence in the form of a Certificate of Insurance that insurance shall be provided, and a copy shall be forwarded to COMMERCE within fifteen (15) days of the grant agreement effective date.

### **Liability Insurance**

*Commercial General Liability Insurance (CGL):* Grantee shall maintain general liability insurance and, if necessary, commercial umbrella insurance, with a limit of not less than \$1,000,000 per each occurrence. If CGL insurance contains aggregate limits, the general aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit. CGL insurance shall be written on ISO occurrence from CG 00 01 (or a substitute form providing equivalent coverage). All insurance shall cover liability assumed under an insured grant agreement (including the tort liability of another assumed in a business grant agreement), and contain separation of insureds (cross liability) condition.

*Business Auto Policy:* As applicable, the Grantee shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident.



Such insurance shall cover liability arising out of "Any Auto." Business auto coverage shall be written on ISO form CA 00 01, 1990 or later edition, or substitute liability form providing equivalent coverage.

### **Employers Liability ("Stop Gap") Insurance**

In addition, the Grantee shall buy employers liability insurance and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

### **Additional Provisions**

Above insurance policy shall include the following provisions:

- **Additional Insured.** COMMERCE, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella and property insurance policies. All insurance provided in compliance with this grant agreement shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state.
- **Cancellation.** COMMERCE shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications. Insurers subject to 48.18 RCW (Admitted and Regulation by the Insurance Commissioner): The insurer shall give the state 45 days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the state shall be given 10 days advance notice of cancellation. Insurers subject to 48.15 RCW (Surplus lines): The state shall be given 20 days advance notice of cancellation. If cancellation is due to non-payment of premium, the state shall be given 10 days advance notice of cancellation.
- **Identification.** Policy must reference the COMMERCE grant agreement number and the agency name.
- **Insurance Carrier Rating.** All insurance and bonds should be issued by companies admitted to do business within the state of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by COMMERCE, the risk manager for the state of Washington, before the grant agreement is accepted or work may begin. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.
- **Excess Coverage.** By requiring insurance herein, the state does not represent that coverage and limits will be adequate to protect Grantee, and such coverage and limits shall not limit Grantee's liability under the indemnities and reimbursements granted to the state in this grant agreement.

### **Workers' Compensation Coverage**

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

### **3 APPLICATION CONTENTS**

Applications must be written in English and submitted electronically to the RFA Coordinator in the order noted below:

1. Letter of Submittal, including signed Certifications and Assurances (Exhibit A to this RFA)
2. Qualifications
3. Diverse Business Inclusion Plan (Exhibit B to this RFA)
4. Workers' Rights Certification (Exhibit C to this RFA)

Applications must provide information in the same order as presented in this document with the same headings. This will not only be helpful to the evaluators of the Application, but should assist the Organization in preparing a thorough application.

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

#### **3.1 LETTER OF SUBMITTAL (MANDATORY)**

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

1. Name, address, principal place of business, telephone number, and e-mail address of legal entity or individual with whom a grant agreement would be written.
2. Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.)
3. Legal status of the Organization (sole proprietorship, nonprofit, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
4. Location of the facility from which the Organization would operate.
5. Identify any state employees or former state employees employed or on the organization's governing board as of the date of the Application. Include their position and responsibilities within the organization. If following a review of this information, it is determined by COMMERCE that a conflict of interest exists, the Organization may be disqualified from further consideration for the award of a grant agreement.

#### **3.2 QUALIFICATIONS**

The activities to be provided under these grant agreements are for the purchase of diapers, wipes, and other essential baby products (for ages 3 and under), for distribution to families in need. Payments to grantees will be provided under a reimbursement basis only.

The qualifications section of the Application must contain information that will demonstrate to the evaluation committee the Organization's experience in providing diaper bank services.

The qualifications section is to be submitted in three sections as follows: 1) Business Information, 2) Experience, Minimum Qualifications, and Staffing/Volunteers, and 3) Demonstrated Performance. The optional fourth section would include proof of certification for minority and women-owned businesses participating on the project.

##### **3.2.1 BUSINESS INFORMATION (MANDATORY)**

1. State the name of the company, address, phone number, fax number, e-mail address, legal status of entity (ownership) and year entity was established as it now substantially exists.

2. Provide the organization's Federal Employer Tax Identification number or Social Security number and the Washington Uniform Business Identification (UBI) number issued by the state of Washington Department of Revenue.
3. Indicate how many employees are with the organization. Name the organization principals and their roles.
4. If the Organization has had a grant agreement terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the Organization's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Applicant, or (b) litigated and such litigation determined that the Applicant was in default.
5. Submit full details of the terms for default, including the other party's name, address, and phone number. Present the Organization's position on the matter. COMMERCE will evaluate the facts and may, at its sole discretion, reject the Application on the grounds of the past experience. If no such termination for default has been experienced by the Organization in the past five years, so indicate.

### 3.2.2 EXPERIENCE (SCORED)

1. Provide a Statement of Need including a clear overview of the organizations reasons for applying with the WA State Diaper Project/Program. Statement of Need should also include an explanation of the financial and/or service delivery challenges experienced by the organization and identify how funding through the WA State Diaper Project/Program can address/resolve issues in the area served by the organization (Note: Payments to grantees will be provided under a reimbursement basis only).
2. Provide a financial summary of the last three years of expenses as it pertains to your organization's purchase and distribution of diapers, wipes, and other essential baby products to families in need.
3. Describe how your organization currently integrates the values of Diversity, Equity and Inclusion (DEI) into the delivery of diaper bank resources. Specifically:
  - a. *Diversity*: describe the populations served by your organization and the strategies you have used in the past to meet their needs.
  - b. *Equity*: does your organization serve marginalized, low-income communities or communities of color? If so, please provide service area data (county, city, neighborhood/zip code) from the American Consumer Survey Index (ACSI), 2020 Census data, national diaper bank data, or other data resources that identify the demographics within these specific populations.
  - c. *Inclusion*: if applicable, address expansion efforts in the areas of outreach, partnership development or subcontracting as it pertains to expanding service delivery to include additional, unreached people groups across the state with diaper bank resource needs.

### 4. MINIMUM QUALIFICATIONS (MANDATORY AND NOT SCORED)

Answer yes or no.

- a. Is the organization licensed to do business in the state of Washington?
- b. Does your organization currently operate a distribution/diaper bank facility located in the state of Washington?
- c. Does your organization have at least two (2) years of experience distributing diaper resources?

## **5. STAFFING AND VOLUNTEERS (SCORED)**

Based upon previous and anticipated demand, provide a description of the proposed staffing structure (including volunteers) and internal controls to be used during the period of this grant.

### **3.2.3 DEMONSTRATED PERFORMANCE (SCORED)**

1. Describe the organization's years' of experience meeting contractual performance expectations, distributing resources, and reporting on activities/performance on a quarterly or annual basis.

#### **2. REFERENCE (MANDATORY) (NOT SCORED)**

List names, addresses, telephone numbers, and e-mail addresses of three business references for whom work has been accomplished and briefly describe the type of service provided for them. By submitting an Application in response to this grant opportunity, the vendor and team members grant permission to COMMERCE to contact these references and others, who from COMMERCE'S perspective, may have pertinent information. COMMERCE may or may not, at COMMERCE'S discretion, contact references.

#### **3. OMWBE CERTIFICATION (OPTIONAL AND NOT SCORED)**

Include proof of certification issued by the Washington State Office of Minority and Women's Business Enterprises if certified minority-owned organization and/or women-owned organization(s) will be participating on this project.

## 4 EVALUATION AND GRANT AWARD

### 4.1 EVALUATION PROCEDURE

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

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

Per [ESSB 5092 - 2021-2023 Operating Budget](#) COMMERCE must give priority in evaluation ranking to organizations serving or located in marginalized, low-income communities or communities of color; and organizations that help support racial equity.

### 4.2 CLARIFICATION OF APPLICATION

The RFA Coordinator may contact the Organization for clarification of any portion of the Organization's Application.

### 4.3 EVALUATION AND SCORING

An application may receive a maximum score of 105. To be considered for funding under this grant, an application must score a minimum of 60 points.

Those organizations which certify they **do not** require their employees to sign an individual arbitration clause as a condition of employment will receive an extra 5 points added to their score (see Attachment C).

The following points will be assigned to the Application for evaluation purposes:

Financial summary of expenses for purchase and distribution of diapers, wipes, and other essential baby products	25 Points maximum
Statement of Need	25 points maximum
Diversity, Equity, Inclusion	20 points maximum
Staffing and Volunteers	10 points maximum
Demonstrated Performance	20 points maximum
Arbitration Clause	5 points
<b>Total Points Possible</b>	<b>105 Points</b>

### 4.4 ORAL PRESENTATIONS MAY BE REQUIRED

Oral presentations, if considered necessary by COMMERCE, may be utilized in selecting the Apparent Successful Grantees. COMMERCE, at its sole discretion, may select the top-scoring organization(s) from the written evaluation for an oral presentation and contact the top-scoring organization(s) to schedule a date, time and location for an oral presentation. Commitments made by the Organization at the oral interview, if any, will be considered binding.

If held, the oral presentation shall determine the apparently successful grantees.

### 4.5 NOTIFICATION TO APPLICANTS

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

#### **4.6 DEBRIEFING OF UNSUCCESSFUL APPLICANTS**

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

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

#### **4.7 PROTEST PROCEDURE**

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

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

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

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

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

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

Upon receipt of a protest, a protest review will be held by the COMMERCE. The COMMERCE Director or an employee designated by the Director who was not involved in the grant opportunity, will consider the record and all available facts and issue a decision within ten (10) business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

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

The final determination of the protest shall:

- Find the protest lacking in merit and uphold COMMERCE'S action, or
- Find only technical or harmless errors in COMMERCE'S acquisition process and determine COMMERCE to be in substantial compliance and reject the protest, or
- Find merit in the protest and provide COMMERCE options which may include:
  - Correct the errors and re-evaluate all Applications
  - Reissue the RFA document and begin a new process

- Make other findings and determine other courses of action as appropriate

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

## **5 RFA EXHIBITS**

- Exhibit A Certifications and Assurances
- Exhibit B Diverse Business Inclusion Plan
- Exhibit C Workers' Rights Certification
- Exhibit D State Funded General Grant Agreement (Including General Terms and Conditions)

**CERTIFICATIONS AND ASSURANCES**

1. I/we make the following certifications and assurances as a required element of the Response to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):
2. I/we declare that all answers and statements made in the Response are true and correct.
3. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single Response.
4. The attached Response is a firm offer for a period of 60 days following receipt, and it may be accepted by COMMERCE without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
5. In preparing this Response, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this Response or prospective contract, and who was assisting in other than his or her official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
6. I/we understand that COMMERCE will not reimburse me/us for any costs incurred in the preparation of this Response. All Responses become the property of COMMERCE, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this Response.
7. Unless otherwise required by law, the prices and/or cost data that have been submitted have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Proposer or to any competitor.
8. I/we agree that submission of the attached Response constitutes acceptance of the RFA contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
9. No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a Response for the purpose of restricting competition.
10. I/we grant COMMERCE the right to contact references and others, who may have pertinent information regarding the Proposer's prior experience and ability to perform the services contemplated in this procurement.
11. If any staff member(s) who will perform work on this contract has retired from the State of Washington under the provisions of the 2008 Early Retirement Factors legislation, his/her name(s) is noted on a separately attached page.

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

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

---

Signature of Proposer

---

Title

---

Date



**DIVERSE BUSINESS INCLUSION PLAN**

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

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

---

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

Minority            \_\_\_%  
Women             \_\_\_%  
Veteran            \_\_\_%  
Small Business   \_\_\_%

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

Name: \_\_\_\_\_  
Phone: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

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

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

Solicitation No.: 22-32J10210-001

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

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

OR

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

OR

This firm certifies it has no employees.

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

FIRM NAME: \_\_\_\_\_  
Name of Contractor/Bidder – Print full legal entity name of firm

By: \_\_\_\_\_  
Signature of authorized person Printed Name

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

Date: \_\_\_\_\_

Return Contractor Certification to Procurement Coordinator as part of your complete response.

**State Funded General Grant including General Terms and Conditions**

**Grant Agreement with**

**<Grantee organization here>**

**through**

**WA State Diaper Bank Project/Program**

**For**

The purpose of administering grants to Diaper Banks in Washington State for the purchase of diapers, wipes, and other essential baby products, (for children 3 years and under) for distribution to families in need.

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

- Special Terms and Conditions..... 1
  - Face Sheet ..... 1
    - 1. Contract Management ..... 2
    - 2. Compensation ..... 2
    - 3. Billing Procedures and Payment ..... 2
    - 4. Subcontractor Data Collection ..... 3
    - 5. Insurance ..... 3
    - 6. Order of Precedence ..... 4
- General Terms and Conditions..... 5
  - 1. Definitions ..... 5
  - 2. Access to Data..... 5
  - 3. Advance Payments Prohibited ..... 5
  - 4. All Writings Contained Herein ..... 5
  - 5. Amendments..... 5
  - 6. Americans With Disabilities Act (ADA)..... 5
  - 7. Assignment ..... 5
  - 8. Attorneys’ Fees..... 5
  - 9. Confidentiality/Safeguarding of Information ..... 6
  - 10. Conflict of Interest..... 7
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  - 13. Duplicate Payment ..... 8
  - 14. Governing Law and Venue..... 8
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  - 16. Independent Capacity of the Contractor ..... 9
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  - 18. Laws..... 9
  - 19. Licensing, Accreditation and Registration..... 9
  - 20. Limitation of Authority ..... 9
  - 21. Noncompliance With Nondiscrimination Laws ..... 10
  - 22. Pay Equity..... 10
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  - 25. Recapture ..... 10
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  - 30. Severability ..... 11
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35.	Termination for Cause .....	11
36.	Termination for Convenience .....	12
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Attachment A, Scope of Work

Attachment B, Budget

Grant Number: <Insert Number>

Washington State Department of Commerce

Community Services and Housing Division  
Community Economic Opportunities Unit  
WA State Diaper Program

<b>1. Grantee</b> <Insert legal name> <Insert mailing address> <Insert physical address> <Insert location>		<b>2. Grantee Doing Business As (optional)</b> <Insert DBA name> <Insert DBA mailing address> <Insert DBA physical address> <Insert DBA location>	
<b>3. Grantee Representative</b> <Insert name> <Insert title> <Insert phone> <Insert FAX> <Insert e-mail>		<b>4. COMMERCE Representative</b> Karen Dunn Program Manager, WA State Diaper Program 360-185-2984 Karen.Dunn@commerce.wa.gov PO Box 42525 1011 Plum Street Olympia, WA 98504-2225	
<b>5. Grant Amount</b> <Insert \$ amount>	<b>6. Funding Source</b> Federal: <input type="checkbox"/> State: <input checked="" type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/>	<b>7. Start Date</b> Date of Execution	<b>8. End Date</b> June 30, 2023
<b>9. Federal Funds (as applicable)</b> N/A		<b>CFDA Number</b> N/A <i>Federal Agency:</i> N/A	
<b>10. Tax ID #</b> <Insert number>	<b>11. SWV #</b> <Insert number>	<b>12. UBI #</b> <Insert number>	<b>13. DUNS #</b> <Insert number>
<b>14. Grant Purpose</b> The purpose of these funds is for Commerce to administer grants to diaper banks in Washington State for the purchase of diapers, wipes, and other essential baby products, (for children 3 years and under) for distribution to families in need. Commerce must give priority to providers serving or located in marginalized, low-income communities or communities of color; and providers that help support racial equity.			
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" – Scope of work, Attachment "B" – Budget			
<b>FOR GRANTEE</b>  _____ <insert name>, <insert title>  _____ Date		<b>FOR COMMERCE</b>  _____ Diane Klontz, Assistant Director, Community Services and Housing Division  _____ Date  APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL APPROVAL ON FILE	

Last revision 10/13/2020

SPECIAL TERMS AND CONDITIONS  
GENERAL GRANT  
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1. 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.

2. COMPENSATION

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

3. 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 [*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 [REDACTED]. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

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

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

Duplication of Billed Costs

The 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 (if allowed).

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

**4. GRANTEE 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 formed by recipients and the portion of Grant funds expended for work performed by recipients, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

**5. INSURANCE**

The 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 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:

**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.

**Automobile Liability.** In the event that performance pursuant to this Grant involves the use of vehicles, owned or operated by the Grantee, 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 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.



SPECIAL TERMS AND CONDITIONS  
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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.

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 state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget

GENERAL TERMS AND CONDITIONS  
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**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.** "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.** "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.

**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.

GENERAL TERMS AND CONDITIONS  
GENERAL GRANT  
STATE FUNDS

**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. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

**A.** "Confidential Information" as used in this section includes:

1. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;
2. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and
3. 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.

**10. CONFLICT OF INTEREST**

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

SPECIAL TERMS AND CONDITIONS

## GENERAL GRANT STATE FUNDS

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 Commerce program administering this Grant, including but not limited to formulating or drafting the legislation, participating in grant procurement planning and execution, awarding grants, and monitoring grants, during the 24 month period preceding the start date of this Grant. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by COMMERCE that a conflict of interest exists, the Grantee may be disqualified from further consideration for the award of a Grant.

In the event this contract is terminated as provided above, COMMERCE shall be entitled to pursue the same remedies against the 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 contract.

### **11. 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.

### **12. 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.

SPECIAL TERMS AND CONDITIONS  
GENERAL GRANT  
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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
- 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.

**13. 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.

**14. 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.

**15. 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 attorneys' 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.

The 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.

SPECIAL TERMS AND CONDITIONS  
GENERAL GRANT  
STATE FUNDS

**16. 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.

**17. 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.

**18. 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.

**19. 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.

**20. LIMITATION OF AUTHORITY**

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

**21. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this 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.

**22. 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;

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- 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.
  - (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 Grantee is not in compliance with this provision.

**23. POLITICAL ACTIVITIES**

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

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

**24. PUBLICITY**

The 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.

**25. 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.

**26. 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.

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**27. REGISTRATION WITH DEPARTMENT OF REVENUE**

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

**28. 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.

**29. SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this 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.

**30. 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.

**31. 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.

**32. SUBGRANTING/SUBCONTRACTING**

The Grantee may not subcontract work contemplated under this Grant.

**33. 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.

**34. 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.

**35. 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 SPECIAL



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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.

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.

**36. 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.

**37. 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:

- A. completed work and services for which no separate price is stated, (ii) partially completed work and services,
- B. 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. 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;
- C. 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;
- D. 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;
- E. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and

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- F. 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.

**38. 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.

**39. WAIVER**

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

SCOPE OF WORK

The Grantee shall provide specific services in accordance with the Work Statement, incorporated herein by reference, or as revised upon prior approval by Commerce. Through funding provided by ESSB these grant funds are awarded for the purchase of diapers, wipes, and other essential baby products (for ages 3 and under), for distribution to families in need.

Grantee shall administer all services/products without discrimination because of race, creed, sex, national origin, age, economic status, sexual orientation, gender identity or gender expression.

Grantee shall provide the following services/supplies during the term of this grant:

1. Purchase diapers at a negotiated bulk rate price from a diaper manufacturer, ensuring that the diapers are of an acceptable quality based on factors of performance, including absorbency, chassis (shape), and if applicable tape closure.
2. Serve eligible individuals and families with children ages three and under by distributing diapers, wipes, ointments, and other essential baby/toddler needs.
3. Provide supplies purchased under this grant without discrimination based on race, color, national origin, religion, age, disability, political beliefs, sexual orientation, gender identity or gender expression.
4. Ensure that any assistance directly or loosely linked to diaper supplies purchased under this grant does/will not require attendance at religious services or classes, nor is there any inducement of conversion to a faith group, institution or cause in order to receive assistance.
5. Purchase diapers at a negotiated bulk rate price from a diaper manufacturer, ensuring that the diapers are of an acceptable quality based on factors of performance, including absorbency, chassis (shape), and if applicable tape closure.
6. No products purchased under this grant will be sold, traded or bartered, nor used for fundraising, auctions or raffles by the grantee.
7. Items will only be used to provide supplies to the clients of the grantee/recipient agency, and will not be used as gifts to staff or volunteers.
8. Make every effort to avoid duplication of services with other agencies and to avoid providing diapers to clients who will sell, exchange or barter the diapers/supplies.
9. Maintain a database, recording distribution occurrences that allow families to pick up monthly diapers and supplies at one time or in smaller amounts according to their convenience, and safeguarding against fraud.
10. Supplies provided under this agreement are to be used as part of a broader effort by the grantee to assist individuals and families in need.
11. Grantee will establish efforts to provide some level of case management or resource referrals to individuals and families receiving supplies funded by this grant so they may have the opportunity to work toward self-sufficiency.
12. Without prior written consent from COMMERCE, Grantee agrees that items purchased under this grant will not be redistributed to another organization or agency.
13. Maintain an inventory management system, tracking diaper and supply distributions by locations and anticipating supply needs, including diaper size, based on the storage capacity of the grantee's facility(ies).
14. Store diapers and supplies purchased under this agreement in a secure and dry space, shelving the diapers as needed for distribution.
15. Indemnifies, defends, and holds harmless COMMERCE from any and all liabilities for the quality or safety of products purchased under this grant agreement, consisting of diapers, ointments, wipes, etc.

## Exhibit D – Attachment A

16. Hereby forever releases and discharges COMMERCE, its officers, directors, and/or employees from any and all claims for any known, unknown or future damages, because of the quality or safety of the products purchased under this grant agreement.
17. Acknowledges that COMMERCE reserves the right to terminate this grant agreement if the Grantee does not adhere to the terms of this agreement, or if any portion of their application is found to be misstated/misrepresented.
18. Provide written notice to COMMERCE in the event diapers, essential supplies will no longer be supplied by the Grantee.

Reporting Requirements – Grantee agrees to the following:

1. Comply with annual reporting requirements and notify COMMERCE of any changes in the organization's contact information or mission.
2. Complete an annual report identifying diaper and supply usage and other related information.
3. Provide an annual narrative report identifying accomplishments and challenges, and summarizing grant activities.
4. Obtain demographic information from clients upon distribution of supplies and provide summary of client demographics when submitting annual reports to COMMERCE.

For assistance with reporting requirements or submission of reports, contact:

Karen Dunn, WA State Diaper Bank Program Manager  
[Karen.Dunn@Commerce.WA.Gov](mailto:Karen.Dunn@Commerce.WA.Gov)  
Or  
Rebecca Hanson, Program Specialist  
[Rebecca.Hanson@Commerce.WA.Gov](mailto:Rebecca.Hanson@Commerce.WA.Gov)

### Monitoring Grant Activities

#### Program Monitoring:

1. Program monitoring will include review of documentation to support grantee reimbursement requests.
2. Grantee shall provide COMMERCE with read-only access to its electronic records upon request to allow for audits related to performance and fraud prevention.

#### Fiscal Compliance and Contract Monitoring:

1. Fiscal monitoring can include review of the organizational budget, the general ledger, quarterly balance sheet, cost allocation procedures and plan, State and Federal tax forms, audited financial statement, fiscal policy manual, supporting documentation for selected invoices, cash receipts and disbursement journals.

Budget

Attachment will be provided upon grant issuance