

**Washington State Military Department
CONTRACT FACE SHEET**

1. Contractor Name and Address: Grant County Emergency Management 525 E Wheeler Road Moses Lake, WA 98837	2. Contract Amount: \$819,082	3. Contract Number E11-109
4. Contractor's Contact Person, phone number: Sam Lorenz (509) 762-1462 gcem@co.grant.wa.us	5. Contract Start Date: August 1, 2010	6. Contract End Date: December 31, 2012
7. MD Program Manager/phone number: Kristin Ramos (253) 512-7483 k.ramos@emd.wa.gov	8. Data Universal Numbering System (DUNS #): 010202562	9. UBI # (state revenue): 136-000-784

10. Funding Authority:
Washington State Military Department (Department) and the U.S. Department of Homeland Security (DHS)

11. Funding Source Agreement #: 2010-SS-T0-0084	12. Program Index # & OBJ/SUB-OJ 703SU, 703ST, 703SQ, 703SS, 703SA NZ	13. CFDA # & Title: 97.067 - SHSP	14. TIN or SSN: 91-6001319
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15. Service Districts: (BY LEGISLATIVE DISTRICT): 7, 12, 13 (BY CONGRESSIONAL DISTRICT): 4, 5	16. Service Area by County(ies): Grant County	17. Women/Minority-Owned, State Certified?: <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO <input type="checkbox"/> YES, OMWBE # _____
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18. Contract Classification: <input type="checkbox"/> Personal Services <input type="checkbox"/> Client Services <input checked="" type="checkbox"/> Public/Local Gov't <input type="checkbox"/> Collaborative Research <input type="checkbox"/> A/E <input type="checkbox"/> Other _____	19. Contract Type (check all that apply): <input checked="" type="checkbox"/> Contract <input type="checkbox"/> Grant <input type="checkbox"/> Agreement <input type="checkbox"/> Intergovernmental (RCW 39.34) <input type="checkbox"/> Interagency
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20. Contractor Selection Process: <input checked="" type="checkbox"/> "To all who apply & qualify" <input type="checkbox"/> Competitive Bidding <input type="checkbox"/> Sole Source <input type="checkbox"/> A/E RCW <input type="checkbox"/> N/A <input type="checkbox"/> Filed w/OFM? <input type="checkbox"/> Advertised? <input type="checkbox"/> YES <input type="checkbox"/> NO _____	21. Contractor Type (check all that apply): <input type="checkbox"/> Private Organization/Individual <input type="checkbox"/> For-Profit <input checked="" type="checkbox"/> Public Organization/Jurisdiction <input checked="" type="checkbox"/> Non-Profit <input type="checkbox"/> VENDOR <input checked="" type="checkbox"/> SUBRECIPIENT <input type="checkbox"/> OTHER
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22. BRIEF DESCRIPTION:
The U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) is providing funds to enhance the capability of state, local, and tribal units of government to prevent, deter, respond to, and recover from catastrophic and/or terrorist events through the FFY 2010 Homeland Security Grant, State Homeland Security Program. This funding is being provided to address the unique exercise, training, planning, equipment, organization, and management and administration needs for citizen preparedness and of emergency responders.

IN WITNESS WHEREOF, the Department and Contractor acknowledge and accept the terms of this contract and attachments hereto and have executed this contract as of the date and year written below. This Contract Face Sheet, Special Terms and Conditions, General Terms and Conditions (Exhibit A), Statement of Work (Exhibit B) and Budget (Exhibit C) govern the rights and obligations of both parties to this contract.

In the event of an inconsistency in this contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- (a) **Applicable Federal and State Statutes and Regulations**
- (b) **Statement of Work**
- (c) **Special Terms and Conditions**
- (d) **General Terms and Conditions, and if attached,**
- (e) **Any other provisions of the contract incorporated by reference.**

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

WHEREAS, the parties hereto have executed this contract on the day and year last specified below.

<p>FOR THE DEPARTMENT:</p> <p><i>James M. Mullen</i> 11-15-10 Signature Date</p> <p>James M. Mullen, Director Emergency Management Division Washington State Military Department</p> <p>PROVED AS TO FORM: Brian E. Buchholz (signature on file) 3/12/2010 Assistant Attorney General</p>	<p>FOR THE CONTRACTOR:</p> <p><i>Sam Lorenz</i> 11/02/2010 Signature Date</p> <p>Sam Lorenz, Director for Grant County Emergency Management</p>
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SPECIAL TERMS AND CONDITIONS

ARTICLE I -- COMPENSATION SCHEDULE:

This is a fixed price, reimbursement contract. Within the total contract amount, travel, subcontracts, salaries and wages, benefits, printing, equipment, and other goods and services or other budget categories will be reimbursed on an actual cost basis unless otherwise provided in this contract. Any travel or subsistence reimbursement allowed under the contract shall be paid in accordance with rates set pursuant to RCW 43.03.050 and RCW 43.03.060 as now existing or amended and in agreement with federal rates. Receipts and/or backup documentation for any approved budget line items including travel related expenses that are authorized under this contract must be maintained by the Contractor and be made available upon request by the Military Department.

Cumulative changes to budget categories in excess of 10% of the contract award will not be reimbursed without the prior written authorization from the Department. Budget categories are as specified or defined in the budget sheet of the contract.

ARTICLE II -- REPORTS:

In addition to the reports as may be required elsewhere in this contract, the Contractor shall prepare and submit the following reports to the Department's Key Personnel:

<u>Financial</u>	<u>#/Copies</u>	<u>Due Date</u>
Invoices	1	Within 30 days after the end of the period in which the work was performed.

Invoices must be submitted no more often than monthly, but at least quarterly. Failure to submit invoices in a timely manner will cause the Department to hold all requests for equipment approval until invoices are submitted.

Final Invoice (shall not exceed overall contract amount)	1	No later than 45 days following the contract end date
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<u>Technical</u>	<u>#/Copies</u>	<u>Due Date</u>
Bi-Annual Progress Report	Electronic	January 15 and July 15 of each year of the contract performance period

Close Out Report	Electronic	No later than 45 days following the contract end date
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Failure to meet ANY of the reporting and invoicing deadlines will prohibit the Contractor from being reimbursed and will prevent vetting of equipment requests while contract requirements are outstanding.

All contract work must end on the contract end date, including receipt of supplies and equipment, however the Contractor has up to 45 days after the contract end date to submit all final reports, invoices, and/or deliverables.

ARTICLE III -- KEY PERSONNEL:

The individuals listed below shall be considered Key Personnel. The Key Personnel for each of the parties shall be the contact person for all communications and billings regarding the performance of this Contract. Any substitution must be made by written notification to the Military Department.

CONTRACTOR:

MILITARY DEPARTMENT:

Name	Sam Lorenz	Name	Kristin Ramos
Title	Director	Title	HLS Program Coordinator
E-Mail	<u>gcem@co.grant.wa.us</u>	E-Mail	<u>k.ramos@emd.wa.gov</u>
Phone	(509) 762-1462	Phone	(253) 512-7483

ARTICLE IV -- ADMINISTRATIVE REQUIREMENTS:

The Contractors shall comply with all financial and procurement guidance, including competitive processes and other procurement requirements, to include but not limited to: Office of Management and Budget (OMB) Circulars, A-122 (Cost Principles for Non-Profit Organizations), A-133 (Audits of States, Local Governments, and Non-Profit Organizations), The Federal Emergency Management Agency's codified regulations, and the 44 Code of Federal Regulations (CFR). Local and state procurement and contracting regulations take precedence over these requirements when local and state regulations are more stringent.

ARTICLE V -- ADDITIONAL SPECIAL CONDITIONS AND MODIFICATION TO GENERAL CONDITIONS:

1. The Contractor shall use the funds to perform tasks as described in the Statement of Work and Budget portions of this contract.
2. The Contractor shall submit required Progress Reports to the e-mail address hls.reporting@emd.wa.gov as required in the contract Milestones.
3. The Contractor shall submit at a maximum monthly and a minimum of quarterly, signed and approved, invoice vouchers (State Form A-19) and a Reimbursement Spreadsheet to the Department for costs incurred.
4. The Contractor agrees that all exercises must comply with the Homeland Security Exercise Evaluation Program (HSEEP). Upon completion of the exercise, an After Action Report and an Improvement Plan must be prepared and submitted to the FEMA portal within 60 days of completion of the exercise. Reimbursements for exercise related expenditures cannot be made until this requirement has been met.
5. The Contractor agrees that to receive any federal preparedness funding, all Environmental and Historical Preservation (EHP) Program compliance requirements outlined in applicable guidance must be met. The Contractor is advised that all projects that involve disturbing earth, communication towers, physical security enhancements, new construction, renovation, and modifications to buildings and structures that are 50 years old or older require EHP review. All other projects, including training and exercise activities, must be evaluated to determine impact. If impact is identified they must also go through an EHP review.
6. The Contractor agrees that to receive any federal preparedness funding, all National Incident Management System (NIMS) compliance requirements outlined in applicable guidance must be met.
7. The Contractor agrees that grant funds may not be used to replace or supplant existing funding.
8. The Contractor agrees to provide a match of \$0 of non-federal origin.
9. The Contractor acknowledges that since this contract involves federal funding, the period of performance described herein will likely begin prior to the availability of appropriated federal funds. The Contractor agrees that it will not hold the Department, the State of Washington, or the United States liable for any damages, claim for reimbursement, or any type of payment whatsoever for services performed under this contract prior to distribution of appropriated federal funds.
10. The Contractor agrees that it will not hold the Department, the State of Washington, or the United States liable for any damages, claim for reimbursement or any type of payment if federal funds are not appropriated or are not appropriated in a particular amount.

ARTICLE VII -- PROCUREMENT AND FINANCIAL MANAGEMENT:

1. All sole source contracts over \$100,000 must be reviewed and approved by the Department prior to execution of a contract. This requirement must be passed on to all of the Contractor's subcontractors, at which point the Contractor will be responsible for reviewing and approving their subcontractors' sole source justifications.
2. All contracts with individual consultants that are not competitively bid must be approved by the Department before the contract is executed. This requirement must be passed on to all of the Contractor's subcontractors, at which point the Contractor will be responsible for reviewing and approving their subcontractors' contract.
3. No costs will be reimbursed in advance of their being incurred by the Contractor.
4. No costs will be reimbursed until the items have been received by the Contractor and invoiced by the vendor.

5. Each A-19 will be accompanied by a spreadsheet detailing the expenditures. Related financial documents and invoices must be kept on file by the Contractor and be made available upon request to the Department, and local, state, or federal auditors.
6. Requests for reimbursement of equipment purchases will include a copy of the vendor's invoice and packing slip or a statement **signed** and **dated** by the Contractor's authorized representative that states "all items invoiced have been received in good working order, are operational, and have been inventoried according to contract and local procurement requirements". Equipment must be received and inventoried by the contract end date in order to be reimbursed.
7. No travel or subsistence costs, including lodging and meals, reimbursed with federal funds may exceed federal maximum rates which can be found at <http://www.gsa.gov>.

ARTICLE VIII – EQUIPMENT MANAGEMENT:

1. If purchasing equipment, the Contractor must meet the following requirements:
 - o Equipment must be in compliance with the FEMA Authorized Equipment List (AEL), as detailed at: <http://www.rkb.us/>.
 - o Determine whether or not it is in the best interest of the Contractor to make purchases using its own procurement process or ask the Department to make purchases on its behalf.
 - o Make a request to the Department in writing that authorizes the Department to de-obligate funding from the Contractor's contract and use the state's procurement process to purchase equipment on behalf of the Contractor. This will necessitate an amendment to the contract reducing the Contractor's award by an amount sufficient for the Department to make the purchase(s). The Department will pay the vendor directly and all items will be drop shipped to a location designated by the Contractor.
2. The Contractor or a Subcontractor shall submit all proposed equipment purchases to the Committee on Homeland Security, Subcommittee on Equipment to ensure that the requested equipment is on the Authorized Equipment List, is aligned with the statewide equipment purchasing strategy, and meets all statewide interoperability and standardization requirements. No reimbursement for equipment costs will occur until the appropriate approvals have been obtained.
3. All equipment purchased under this contract, by the Contractor or a subcontractor, will be recorded and maintained in the Contractor's equipment inventory system, unless specific de-obligated funds are contracted directly between a county, or other entity, and the State, in which case the contracted county maintains the equipment records.
4. Upon successful completion of the terms of this contract, all equipment purchased through this contract will be owned by the Contractor, or a recognized subcontractor/subgrantee for which a contract, subgrant agreement, or other means of legal transfer of ownership is in place.
5. The Contractor, or a recognized subcontractor/subgrantee, shall be responsible for any and all operation and maintenance expenses and for the safe operation of their equipment including all questions of liability.
6. The Contractor shall maintain equipment records that include: a description of the equipment; the manufacturer's serial number, model number, or other identification number; the source of the equipment, including the Catalogue of Federal Domestic Assistance (CFDA) number; who holds title; the acquisition date; the cost of the equipment and the percentage of Federal participation in the cost; the location, use and condition of the equipment at the date the information was reported; and disposition data including the date of disposal and sale price of the equipment.
7. Records for equipment shall be retained by the Contractor for a period of six years from the date of the disposition, replacement or transfer. If any litigation, claim, or audit is started before the expiration of the six year period, the records shall be retained by the Contractor until all litigations, claims, or audit findings involving the records have been resolved.
8. For the purpose of inventory and disposal of equipment purchased under this contract the 44 CFR Section 13.3 definition of equipment will be used. It defines equipment as a tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

This definition will be used for equipment purchased with contract funds, unless local or state regulations are more restrictive.

9. The Contractor shall take a physical inventory of the equipment and reconcile the results with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the records shall be investigated by the Contractor to determine the cause of the difference. The Contractor shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.
10. The Contractor shall develop a control system to ensure adequate safeguards to prevent loss, damage, unauthorized use and theft of equipment, to include small and attractive items. Any loss, damage or theft shall be investigated and a report generated.
11. The Contractor will develop adequate maintenance procedures to keep the equipment in good condition.
12. If the Contractor is authorized or required to sell the equipment, proper sales procedures must be established to ensure the highest possible return.
13. When original or replacement equipment is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:
 - Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of by the Contractor with no further obligation to the awarding agency.
 - Items of equipment with a current per-unit fair market value of more than \$5,000 may be retained or sold and the Contractor shall compensate the Federal-sponsoring agency for its share.
14. Equipment purchased with funds from DHS grant programs should be marked with "Purchased with funds provided by the U.S. Department of Homeland Security" whenever possible.
15. As a subrecipient of federal funds, the Contractor must pass on equipment management requirements that meet or exceed the requirements outlined above for all subcontractors, consultants, and subrecipients who receive pass-through funding from this contract.

ARTICLE IX – SUBRECIPIENT MONITORING

The Department will monitor the activities and equipment acquisition of the Contractor from award to closeout and for the life of equipment purchased under this contract. The goal of the Department's monitoring activities will be to ensure that agencies receiving federal pass-through funds are in compliance with federal and state audit requirements, federal grant guidance, and applicable federal and state financial regulations.

The Department's monitoring activities may include, but not limited to:

- review of performance reports and documentation of contract deliverables completion;
- documentation of phone calls, meetings, e-mails and correspondence;
- review of reimbursement requests to ensure allowability and consistency with contract budget and contract deliverables;
- observation and documentation of contract related activities, such as planning, exercises, training, funded events and equipment demonstrations;
- on-site visits to review equipment records and inventories, to verify source documentation for reimbursement requests and performance reports, and to verify completion of deliverables.

As a subrecipient of federal funds, the Contractor is required to meet or exceed the monitoring activities, as outlined above, for all subcontractors, consultants, and subrecipients who receive pass-through funding from this contract.

**Washington Military Department
GENERAL TERMS AND CONDITIONS**

DEFINITIONS

As used throughout this contract, the following terms shall have the meaning set forth below:

- a. **"Department"** shall mean the Washington Military Department, as a state agency, any division, section, office, unit or other entity of the Department, or any of the officers or other officials lawfully representing that Department.
- b. **"Contractor"** shall mean that firm, organization, group, individual, or other entity performing services under this contract, and shall include all employees of the Contractor. It shall include any subcontractor retained by the prime Contractor as permitted under the terms of this contract. "Contractor" shall be further defined as one or the other of the following and so indicated on face sheet of the contract.
 - 1) **"Subrecipient"** shall mean a contractor that operates a federal or state assistance program for which it receives federal funds and which has the authority to determine both the services rendered and disposition of program funds.
 - 2) **"Vendor"** shall mean a contractor that agrees to provide the amount and kind of service or activity requested by the Department and that agrees to provide goods or services to be utilized by the Department.
- c. **"Subcontractor"** shall mean one, not in the employment of the Contractor, who is performing all or part of those services under this contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.
- d. **"Recipient"**— a nonfederal entity that expends federal awards received directly from a federal awarding agency to carry out a federal program.
- e. **"Pass-Through Entity"** means the Washington State Military Department as it is applied to this contract. As found in SAAM 50.30.30 – "A nonfederal entity that provides a federal award to a subrecipient to carry out a federal program."
- f. **"Nonfederal Entity"** is defined as a state local government or nonprofit organization (as defined in federal Circular A-133).
- g. **"Cognizant State Agency"** shall mean a state agency that has assumed the responsibility of implementing single audit requirements and coordinating audit follow-up for a particular grantee by virtue of providing the majority of federal assistance. If funds are received from more than one state agency, the cognizant state agency shall be the agency who contributes the largest portion of federal financial assistance to the subrecipient unless the designation has been reassigned to a different state agency by mutual agreement.
- h. **"Federal Financial Assistance"** – Assistance that nonfederal entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations or other assistance. It does not include amounts received for provision of vendor services to federal agencies or reimbursement for services rendered directly to individuals.
- i. **"Grant"** - For the purposes herein, the term "grant" may be used to mean "contracts" or "grants" or "agreements".
- j. **"CFDA Number"** – The five-digit number assigned to a federal assistance program in the federal Catalog of Federal Domestic Assistance (CFDA) or, in the absence of a catalog defined number, the number defined by instructions from the federal audit clearinghouse.
- k. **"CFR"** – Code of Federal Regulations
- l. **"OMB"** – Office of Management and Budget
- m. **"RCW"** - Revised Code of Washington
- n. **"WAC"** - Washington Administrative Code.

2. SUBRECIPIENT MONITORING

- a. The Department, as a Recipient and/or Pass-Through Entity, receives federal financial assistance under federal programs and is charged with maintaining compliance with federal and state laws and regulations regarding the monitoring, documentation, and auditing of subrecipient grant activities using federal financial assistance. Management and implementation guidelines for the federal programs ensure compliance with statutes, grant guidelines, the sub-award agreement, Office of Management and Budget (OMB) circulars (including OMB Circular A-133), subrecipient audits, and other guidance found in the Federal Register.
- b. The Contractor shall perform under the terms of the contract and the Department has responsibility for reasonable and necessary monitoring of the Contractor's performance. The Department shall conduct contract monitoring activities on a regular basis. Monitoring is defined as any planned, ongoing, or periodic activity that measures and ensures contractor compliance with the terms, conditions, and requirements of a contract.

Monitoring involves prudent collection of information about Contractor operations and is not limited to site visits or the completion of formal reviews. Monitoring may include periodic contractor reporting to the Department, Department review of audit reports, invoice reviews, onsite reviews and observations, and surveys. Adequate documentation is essential for effective contract monitoring and will include copies of letters, meeting notes, and records of phone conversations as evidence that conscientious monitoring has occurred during the period of the contract. Subrecipient monitoring will occur throughout the year rather than relying solely on a once-a-year audit. The Contractor agrees to cooperate with all monitoring activities and to comply with reporting requirements.

The Department as the Recipient and/or Pass-Through Entity will conduct on-site visits as appropriate and required by contract for "for-profit" subrecipients, since the A-133 Single Audit does not apply to "for-profit" organizations.

RECORDS, MONITORING AND AUDIT ACCESS

- a. The Contractor shall cooperate with and fully participate in all monitoring or evaluation activities that are pertinent to this contract.
- b. Access to public records-the Contractor acknowledges that the Department is subject to the Public Records Act, Chapter 42.56 RCW, and that records prepared, owned, used or retained by the Department relating to the conduct of government or the performance of any governmental or proprietary function are available for public inspection and copying, except as exempt under RCW 42.56 or other statute which exempts or prohibits disclosure of specific information or records.
- c. The Contractor shall maintain all books, records, documents, data and other evidence relating to this contract and the provision of any materials, supplies, services and/or equipment under this contract herein, including, but not limited to, records of accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review and audit by personnel duly authorized by the Department, the Washington State Auditor's Office, and federal officials so authorized by law, rule, regulation, or contract. The Contractor will retain all books, records, documents, and other materials relevant to this contract and make them available for inspection, review or audit for six (6) years from the end date of this contract, date of final payment or conclusion of services performed under this contractor, whichever is later. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.

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

4. **SINGLE AUDIT ACT REQUIREMENTS (INCLUDING ALL AMENDMENTS)**

Non-federal entities as subrecipients that expend **\$500,000** or more in one fiscal year of federal funds from all sources, direct and indirect, are required to have a single or a program-specific audit conducted in accordance with the Office of Management and Budget (OMB) Circular A-133-Audits of States, Local Governments, and Non-Profit Organizations (revised June 27, 2003, effective for fiscal years ending after December 31, 2003). Non-federal entities that spend less than **\$500,000** a year in federal awards are exempt from federal audit requirements for that year, except as noted in Circular No. A-133. Circular A-133 is available on the OMB Home Page at <http://www.omb.gov> and then select "Grants Management" followed by "Circulars".

Contractors required to have an audit must ensure the audit is performed in accordance with Generally Accepted Auditing Standards (GAAS) as found in the Government Auditing Standards (the Revised Yellow Book) developed by the Comptroller General and the OMB Compliance Supplement. The Contractor has the responsibility of notifying the Washington State Auditor's Office and requesting an audit. Costs of the audit may be an allowable grant expenditure.

The Contractor shall maintain auditable records and accounts so as to facilitate the audit requirement and shall ensure that any subcontractors also maintain auditable records.

The Contractor is responsible for any audit exceptions incurred by its own organization or that of its subcontractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Contractor must respond to Department requests for information or corrective action concerning audit issues or findings within 30 days of the date of request. The Department reserves the right to recover from the Contractor all disallowed costs resulting from the audit.

Once the single audit has been completed, the Contractor must send a full copy of the audit to the Department and a letter stating there were no findings, or if there were findings, the letter should provide a list of the findings. The Contractor must send the audit and the letter no later than nine (9) months after the end of the Contractor's fiscal year(s) to:

**Accounting Manager
Washington Military Department
Finance Division, Building #1 TA-20
Camp Murray, WA 98430-5032**

In addition to sending a copy of the audit, the Contractor must include a corrective action plan for any audit findings and a copy of the management letter if one was received.

The Contractor shall include the above audit requirements in any subcontracts.

5. **RECAPTURE PROVISIONS**

In the event that the Contractor fails to expend funds under this contract in accordance with applicable state and federal laws and/or the provisions of this contract, the Department reserves the right to recapture funds in an amount equivalent to the extent of the noncompliance in addition to any other remedies available at law or in equity.

Such right of recapture shall exist for a period not to exceed six (6) years following contract termination or audit resolution, whichever is later. Repayment by the Contractor of funds under this recapture provision shall occur within 30 days of demand. The Department is required to institute legal proceedings to enforce the recapture provision.

6. **COMPLIANCE WITH APPLICABLE LAW**

The Contractor and all subcontractors shall comply with all applicable federal, state, tribal government, and local laws, regulations, and policies.

This obligation includes, but is not limited to, compliance with Ethics in Public Service (RCW 42.52); Covenant Against Contingent Fees (48 C.F.R. § 52.203-5); Public Records Act (RCW 42.56); Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq. and 15 C.F.R. Part 29); Lobbying Restrictions (31 U.S.C. § 1352 and 15 C.F.R. Part 28); and safety and health regulations. The Department is not responsible for advising the Contractor about, or determining the Contractor's compliance with, applicable laws, regulations and policies.

In the event of the Contractor's or a subcontractor's noncompliance or refusal to comply with any applicable law, regulation or policy, the Department may rescind, cancel, or terminate the contract in whole or in part. The Contractor is responsible for any and all costs or liability arising from the Contractor's failure to comply with applicable law, regulation or policy.

7. **NONDISCRIMINATION**

During the performance of this contract, the Contractor shall comply with all federal and state nondiscrimination statutes and regulations. These requirements include, but are not limited to:

- a. Nondiscrimination in Employment: The Contractor shall not discriminate against any employee or applicant for employment because of race, color, sex, sexual orientation, religion, national origin, creed, marital status, age, Vietnam era or disabled veterans status, or the presence of any sensory, mental, or physical handicap. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment selection for training, including apprenticeships and volunteers. This requirement does not apply, however, to a religious corporation, association, educational institution or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its activities.
- b. Nondiscrimination laws and policies (such as RCW 49.60, Washington's Law Against Discrimination, and Title VII of the Civil Rights Act).

8. **AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, 42 U.S.C. § 12101 et seq. and 28 C.F.R Part 35 and other implementing regulations.** The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunication.

9. **UTILIZATION OF MINORITY AND WOMEN BUSINESS ENTERPRISES (MWBE)**

The Contractor is encouraged to utilize firms that are certified by the Washington State Office of Minority and Women's Business Enterprises as minority-owned and/or women-owned in carrying out the purposes of this contract.

10. **PUBLICITY**

The Contractor agrees to submit to the Department all advertising and publicity relating to this contract wherein the Department's name is mentioned or language used from which the connection of the Department's name may, in the Department's judgment, be inferred or implied. The Contractor agrees not to publish or use such advertising and publicity without the prior written consent of the Department.

11. **DISCLOSURE**

The use or disclosure by any party of any information concerning the Department for any purpose not directly connected with the administration of the Department's or the Contractor's responsibilities with respect to services provided under this contract is prohibited except by prior written consent of the Department or as required to comply with the Public Records Act or court order.

12. **CERTIFICATION REGARDING DEBARMENT SUSPENSION OR INELIGIBILITY**

If federal funds are the basis for this contract, the Contractor certifies that neither the Contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this contract by any federal department or agency. If requested by the Department, the Contractor shall complete and sign a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion form. Any such form completed by the Contractor for this Contract shall be incorporated into this Contract by reference.

Further, the Contractor agrees not to enter into any arrangements or contracts related to this grant with any party that is on the "General Service Administration List of Parties Excluded from Federal Procurement or Non-procurement Programs" which can be found at www.epls.gov.

13. **LIMITATION OF AUTHORITY -- "Authorized Signature"**

The signatories to this contract represent that they have the authority to bind their respective organizations to this contract. Only the assigned Authorized Signature for each party, or the assigned delegate by writing 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 Signature(s).

14. **CONTRACTOR NOT EMPLOYEE – INDEPENDENT STATUS OF CONTRACTOR**

The parties intend that an independent contractor relationship will be created by this contract. The Contractor and/or employees or agents performing under this contract are not employees or agents of the Department in any manner whatsoever, and will not be presented as nor claim to be officers or employees of the Department or of the State of Washington by reason hereof, nor will the Contractor and/or employees or agents performing under this contract make any claim, demand, or application to or for any right, privilege or benefit applicable to an officer or employee of the Department or of the State of Washington, including, but not limited to, Worker's Compensation coverage, unemployment insurance benefits, social security benefits, retirement membership or credit, or privilege or benefit which would accrue to a civil service employee under Chapter 41.06 RCW.

It is understood that if the Contractor is another state department, state agency, state university, state college, state community college, state board, or state commission, that the officers and employees are employed by the state of Washington in their own right.

If the Contractor is an individual currently employed by a Washington State agency, the Department shall obtain proper approval from the employing agency or institution. A statement of "no conflict of interest" shall be submitted to the Department.

15. **NONASSIGNABILITY**

This contract, the work to be provided under this contract, and any claim arising thereunder, are not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

16. **SUBCONTRACTING**

Neither the Contractor nor any subcontractor shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the Department. Contractor shall use a competitive process in award of any contracts with subcontractors that are entered into after original contract award. All subcontracts entered into pursuant to this contract shall incorporate this contract in full by reference. In no event shall the existence of the subcontract operate to release or reduce the liability of the Contractor to the Department for any breach in the performance of the Contractor's duties. The Military Department may request a copy of any and/or all subcontracts for work being completed under this contract.

17. **CONTRACT MODIFICATIONS**

The Department and the Contractor may, from time to time, request changes to the contract or grant. Any such changes that are mutually agreed upon by the Department and the Contractor shall be incorporated herein by written amendment to this contract. It is mutually agreed and understood that no alteration or variation of the terms of this contract shall be valid unless made in writing and signed by the parties hereto, and that any oral understanding or agreements not incorporated herein, unless made in writing and signed by the parties hereto, shall not be binding.

18. **SEVERABILITY**

In the event any term or condition of this contract, any provision of any document incorporated by reference, or application of this contract to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this contract which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this contract are declared severable.

19. **ADVANCE PAYMENTS PROHIBITED**

The Department shall make no payments in advance or in anticipation of goods or services to be provided under this contract. Contractor shall not invoice the Department in advance of delivery of such goods or services.

20. **TAXES, FEES AND LICENSES**

Unless otherwise provided in this contract, the Contractor shall pay for and maintain in current status all taxes, unemployment contributions, fees, licenses, assessments, permit charges and expenses of any other kind for the Contractor or its staff required by statute or regulation that are necessary for contract performance.

21. **TRAVEL AND SUBSISTENCE REIMBURSEMENT**

Unless the contract specifically provides for different rates, any travel or subsistence reimbursement allowed under the contract shall be paid in accordance with rates set pursuant to RCW 43.03.050 and RCW 43.03.060 as now existing or amended. The Contractor may be required to provide to the Department copies of receipts for any travel related expenses other than meals and mileage (example: parking lots that do not provide receipts) that are authorized under this contract.

22. **GOVERNING LAW AND VENUE**

This contract shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the state of Washington. Venue of any suit between the parties arising out of this contract shall be the Superior Court of Thurston County, Washington.

23. **HOLD HARMLESS AND INDEMNIFICATION**

Each party to this contract shall be responsible for injury to persons or damage to property resulting from negligence on the part of itself, its employees, agents, officers, or subcontractors. Neither party assumes any responsibility to the other party for the consequences of any act or omission of any third party.

24. **WAIVER OF DEFAULT**

Waiver of any default or breach shall not be deemed to be a waiver of any other or subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing signed by The Adjutant General or the Authorized Signature for the Department and attached to the original contract.

25. **DISPUTES**

The parties shall make every effort to resolve disputes arising out of or relating to this contract through discussion and negotiation. Should discussion and negotiation fail to resolve a dispute arising under this contract, the parties shall select a dispute resolution team to resolve the dispute. The team shall consist of a representative appointed by each party and a third representative mutually agreed upon by both parties. The team shall attempt, by majority vote, to resolve the dispute.

Both parties agree that this disputes process shall precede any action in a judicial or quasi-judicial tribunal. Nothing in this section shall preclude the parties from mutually agreeing to a different dispute resolution method in lieu of the procedure outlined above.

26. **ATTORNEY'S FEES**

In the event of litigation or other action brought to enforce contract terms, or alternative dispute resolution process, each party agrees to bear its own attorney's fees and costs.

27. **LOSS OR REDUCTION OF FUNDING**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the Department may reduce its scope of work and budget or unilaterally terminate all or part of the contract as a "Termination for Cause", without providing the Contractor an opportunity to cure. Alternatively, the parties may renegotiate the terms of this contract under "Contract Modifications" to comply with new funding limitations and conditions, although the Department has no obligation to do so.

28. **TERMINATION OR SUSPENSION FOR CAUSE**

In the event the Department, in its sole discretion, determines the Contractor has failed to fulfill in a timely and proper manner its obligations under this contract, is in an unsound financial condition so as to endanger performance hereunder, is in violation of any laws or regulations that render the Contractor unable to perform any aspect of the contract, or has violated any of the covenants, agreements or stipulations of this contract, the Department has the right to immediately suspend or terminate this contract in whole or in part.

The Department may notify the Contractor in writing of the need to take corrective action and provide a period of time in which to cure. The Department is not required to allow the Contractor an opportunity to cure if it is not feasible as determined solely within the Department's discretion. Any time allowed for cure shall not diminish or eliminate the Contractor's liability for damages or otherwise affect any other remedies available to the Department. If the Department allows the Contractor an opportunity to cure, the Department shall notify the Contractor in writing of the need to take corrective action. If the corrective action is not taken within ten (10) calendar days or as otherwise specified by the Department, or if such corrective action is deemed by the Department to be insufficient, the contract may be terminated in whole or in part.

The Department reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach, pending corrective action by the Contractor, if allowed, or pending a decision by the Department to terminate the contract in whole or in part.

In the event of termination, the Contractor shall be liable for all damages as authorized by law, including but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of administering the competitive solicitation process, mailing, advertising and other associated staff time. The rights and remedies of the Department provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

If it is determined that the Contractor: (1) was not in default or material breach, or (2) failure to perform was outside of the Contractor's control, fault or negligence, the termination shall be deemed to be a "Termination for Convenience".

29. **TERMINATION FOR CONVENIENCE**

Notwithstanding any provisions of this contract, the Contractor may terminate this contract by providing written notice of such termination to the Department's Key Personnel identified in the contract, specifying the effective date thereof, at least thirty (30) days prior to such date.

Except as otherwise provided in this contract, the Department, in its sole discretion and in the best interests of the State of Washington, may terminate this contract in whole or in part by providing ten (10) calendar days written notice, beginning on the second day after mailing to the Contractor. Upon notice of termination for convenience, the Department reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds. In the event of termination, the Contractor shall be liable for all damages as authorized by law. The rights and remedies of the Department provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

30. **TERMINATION PROCEDURES**

In addition to the procedures set forth below, if the Department terminates this contract, the Contractor shall follow any procedures specified in the termination notice. Upon termination of this contract and in addition to any other rights provided in this contract, the Department may require the Contractor to deliver to the Department any property specifically produced or acquired for the performance of such part of this contract as has been terminated.

If the termination is for convenience, the Department shall pay to the Contractor the agreed upon price, if separately stated, for properly authorized and completed work and services rendered or goods delivered to and accepted by the Department prior to the effective date of contract termination, and the amount agreed upon by the Contractor and the Department for (i) completed work and services and/or equipment or supplies provided for which no separate price is stated, (ii) partially completed work and services and/or equipment or supplies provided which are accepted by the Department, (iii) other work, services and/or equipment or supplies which are accepted by the Department, and (iv) the protection and preservation of property.

Failure to agree with such amounts shall be a dispute within the meaning of the "Disputes" clause of this contract. If the termination is for cause, the Department shall determine the extent of the liability of the Department. The Department shall have no other obligation to the Contractor for termination. The Department may withhold from any amounts due the Contractor such sum as the Department determines to be necessary to protect the Department against potential loss or liability.

The rights and remedies of the Department provided in this contract shall not be exclusive and are in addition to any other rights and remedies provided by law.

After receipt of a notice of termination, and except as otherwise directed by the Department in writing, the Contractor shall:

- a. Stop work under the contract on the date, and to the extent specified, in the notice;
- b. Place no further orders or subcontracts for materials, services, supplies, equipment and/or facilities in relation to this contract except as may be necessary for completion of such portion of the work under the contract as is not terminated;
- c. Assign to the Department, in the manner, at the times, and to the extent directed by the Department, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Department has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- d. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Department to the extent the Department may require, which approval or ratification shall be final for all the purposes of this clause;
- e. Transfer title to the Department and deliver in the manner, at the times, and to the extent directed by the Department any property which, if the contract had been completed, would have been required to be furnished to the Department;
- f. Complete performance of such part of the work as shall not have been terminated by the Department in compliance with all contractual requirements; and
- g. Take such action as may be necessary, or as the Department may require, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Department has or may acquire an interest.

AAG Approved 9/12/2007; revised 2010

**Statement of Work
FFY 2010 State Homeland Security Program**

INTRODUCTION: The Washington State Military Department Emergency Management Division's (EMD) Homeland Security Section is responsible for programs designed to prepare and improve the State's ability to prepare for, prevent, protect against, respond to and recover from terrorist attacks and other major disasters. Through the U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), the FFY 2010 State Homeland Security Program is providing funds to enhance the capability of state and local units of government to make measurable progress towards the achievement of the National Preparedness Guidelines by addressing the unique exercise, training, planning, organization, equipment, and administration needs of citizen preparedness and of emergency responders. Washington State is subdivided into nine (9) Homeland Security Regions. Within each of the nine regions a Regional Homeland Security Coordinating Office (RHSCO) has been identified. Grant County Emergency Management is the Region 7 RHSCO.

Grant County Emergency Management (herein known as the Contractor) agrees to the following:

GENERAL PROGRAM REQUIREMENTS:

- Work closely with the established Regional Homeland Security Council to develop a strategy and subsequent budget for the use of these funds. The implementation of the projects or activities associated with these funds will be coordinated with the counties, cities, and the tribal governments located within the established region.
- Activities under this contract must have a clear correlation to the goals, objectives, and priorities identified in the Washington State Strategic Plan and corresponding Investment Justifications submitted in the FFY 2010 grant application.
- Plan and implement equipment purchases, exercises, training, planning and management, and administration activities in accordance with the FFY 2010 Homeland Security Grant Program Guidance, which can be found at <http://www.fema.gov/government/grant/hsgp/index.shtm>, as well as all subsequent policy changes.
- Ensure that all subcontractors and subgrantees are in compliance with the FFY 2010 Homeland Security Grant Program Guidance through monitoring of expenditures and periodic reviews of activities.
- The FFY 2010 HSGP grant stipulates the following caps and thresholds:
 - The Contractor will not be reimbursed for Management and Administrative costs that exceed **\$40,954** of the total contract award.
 - The Contractor will not be reimbursed for personnel costs related to planning, training, exercise and/or equipment activities that exceed **\$405,304**.
 - The Contractor must spend a minimum of **\$228,606** of the contract award on law enforcement terrorism prevention-activities.

THE CONTRACTOR AGREES TO:

1. Develop and enhance Critical Infrastructure Protection capabilities to enable public and private entities to identify, assess, prioritize, and protect critical infrastructure and key resources within Region Seven, and develop a database of Critical Infrastructure/Key Resources to be shared by emergency managers and local responders.
2. Maintain and enhance regional collaboration and strategic planning between regional and state partners, maintain and enhance ICE/NIJ training in rural areas, increase planning and training for Incident Management and Overhead Teams within the region, and expand decontamination capabilities through training and exercising.
3. Purchase approved Interoperable Communications equipment to enhance communications capabilities, public information and warning capabilities, and enhance planning capabilities.

4. Each A-19 will be accompanied by a spreadsheet detailing the expenditures. Related financial documents and invoices must be kept on file by the Contractor and be made available upon request to the Department, and local, state, or federal auditors. Requests for reimbursement of equipment purchases will include a copy of the vendor's invoice and packing slip.
5. If necessary, hire a Subcontractor to assist in accomplishing the contract tasks.

THE MILITARY DEPARTMENT AGREES TO:

1. Provide technical assistance, expertise, and state coordination with FEMA where necessary.
2. Reimburse the Contractor within 45 days of receipt and approval of requests for reimbursement which includes all documentation of expenditures as required.

MILESTONES
FFY 2010 State Homeland Security Program

MILESTONE	TASK
August 1, 2010	Start of contract performance period.
October 2010	Contract Execution.
January 15, 2011	Submission of Bi-annual Progress Report.
July 15, 2011	Submission of Bi-annual Progress Report.
September 30, 2011	Submit NIMS compliance report via NIMSCAST.
January 15, 2012	Submission of Bi-annual Progress Report.
July 15, 2012	Submission of Bi-annual Progress Report.
September 30, 2012	Submit NIMS compliance report via NIMSCAST.
December 31, 2012	End of contract performance period.
No later than February 15, 2013	Submit all final reports, requests for reimbursement and/or deliverables.

BUDGET SHEET

FFY 2010 State Homeland Security Program

PLANNING

Sub-Category	
Salaries & Benefits	\$ 120,730
Consultants/Sub-Contracting	\$ -
Goods & Services	\$ -
Travel & Per Diem	\$ -
Pass Thru	\$ 200,985
Other-Indirect	\$ -
Total	\$ 321,715

Funding Source: 703SU

TRAINING

Sub-Category	
Salaries & Benefits	\$ -
Overtime	\$ -
Consultants/Sub-Contracting	\$ -
Goods & Services	\$ -
Travel & Per Diem	\$ -
Pass Thru	\$ 10,500
Other-Indirect	\$ -
Total	\$ 10,500

Funding Source: 703ST

EXERCISE

Sub-Category	
Salaries & Benefits	\$ -
Overtime	\$ -
Consultants/Sub-Contracting	\$ -
Goods & Services	\$ -
Travel & Per Diem	\$ -
Pass Thru	\$ -
Other-Indirect	\$ -
Total	\$ -

Funding Source: 703SQ

MANAGEMENT &
ADMINISTRATION

Sub-Category	
Salaries & Benefits	\$ 37,954
Consultants/Sub-Contracting	\$ -
Goods & Services	\$ 2,500
Travel & Per Diem	\$ 500
Pass Thru	\$ -
Other-Indirect	\$ -
Total	\$ 40,954

Funding Source: 703SA

EQUIPMENT

Sub-Category	
Equipment	\$ 445,913
Pass Thru	\$ -
Other-Indirect	\$ -
Total	\$ 445,913

Funding Source: 703SS

Total Budget	\$ 819,082
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1. Cumulative changes to budget categories in excess of 10% of the contract award will not be reimbursed without prior written authorization from the Department.
2. Federal funds may **not replace (supplant)** funds that have been appropriated for the same purpose.
3. The Contractor will not be reimbursed for Management and Administrative costs that exceed **\$40,954**.
4. The Contractor will not be reimbursed for personnel costs related to planning, training, exercise and equipment activities that exceed **\$405,304**.
5. A minimum of **\$228,606** of the contract award must be spent on law enforcement terrorism prevention activities.