

**SAMPLE - PON2 Memorandum of Agreement  
(See Final Page for Signature Instructions)**



**Commonwealth of Kentucky  
CONTRACT**

<b>DOC ID NUMBER:</b> PON2 500 000000000	<b>Version:</b> 1	<b>Record Date:</b>
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<b>Document Description:</b> Contractor Legal Name - ARPA -Grants
<b>Cited Authority:</b> FAP111-44-00 Memorandum of Agreement
<b>Reason for Modification:</b>

<b>Issuer Contact:</b>
<b>Name:</b> Contract Specialist
<b>Phone:</b> 000-000-0000
<b>E-mail:</b> email@ky.gov

<b>Vendor Name:</b> CONTRACTOR LEGAL NAME	<b>Vendor No.</b> KY0000000
<b>CONTRACTOR</b>	<b>Vendor Contact</b>
<b>ADDRESS</b> KY Zip Code	<b>Name:</b> AUTHORIZED OFFICIAL NAME
	<b>Phone:</b> 000-000-0000
	<b>Email:</b> Authorized Official Email Address

**Effective From:** 10/01/2023      **Effective To:** 09/30/2024

Line Item	Delivery Date	Quantity	Unit	Description	Unit Price	Contract Amount	Total Price
1		0.00000		Contractor Legal Name - ARPA -Grants	\$0.000000	\$40,000.00	\$40,000.00

**Extended Description:**

Provide one or more crime victim services and/or support activities, as defined by 28 C.F.R. 94.119 and 94.120

<b>Shipping Information:</b>	<b>Billing Information:</b>
	Justice Administration 125 Holmes St State Office Building Annex, 2nd Floor Frankfort KY 40601

<b>TOTAL CONTRACT AMOUNT:</b>	<b>\$40,000.00</b>
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**Memorandum of Agreement Terms and Conditions  
Revised January 2023**

This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, Justice and Public Safety Cabinet, Grants Management Division (“the Commonwealth”) and \_\_\_\_\_ (“the Contractor”) **to establish an agreement \_\_\_\_\_**. The initial MOA is effective from \_\_\_\_\_ through \_\_\_\_\_.

**Definitions:**

For the purposes of this Contract, the definitions listed in this section shall represent the common and exclusive understanding of the parties hereto. The singular and plural form, as well as the small or upper case, of any defined term can be used interchangeably regardless of whether the definition refers to the singular or plural term, or uses the small or upper case, and pronouns shall be deemed to include all genders.

1. “Contract” shall mean a subaward provided by the Commonwealth to a subrecipient for the subrecipient to carry out part of a Federal award received by the Commonwealth, which is acting as a pass-through entity. Per 2 CFR § 200.1, a subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.
2. “Contractor” shall mean a designated agency that has received a subaward subject to oversight by the Commonwealth.
  - a. Contractor shall include but not be limited to any employee, subcontractor, vendor, designee, or any other individual or entity acting on behalf of the Contractor providing services pursuant to this Contract,
3. “Grants Director” shall mean the Director of the Grants Management Division, Justice and Public Safety Cabinet, or a written designee.
4. “Grants Management Division” and “GMD” shall mean the Grants Management Division, Justice and Public Safety Cabinet.
5. “Intelligrants” and “IGX” shall mean the Grants Management Division enterprise information technology system of record for grants management.
6. “State Administering Agency” shall mean the Commonwealth, the recipient of federal funding from the United States Department of Treasury.
7. “Technical Assistance” shall mean the sharing of information and expertise, instruction, skills training, and transmission of working knowledge, including, but not limited to:
  - a. Program technical assistance related to the methods of carrying out the program; and
  - b. Financial technical assistance related to the methods used to manage the federal funds received by the sub-recipient.
8. “ARPA” shall mean the American Rescue Plan Act of 2021, Coronavirus State and Local Recovery Fund and its corresponding implementing regulations.

**Background Information:**

These terms and conditions are for Contracts funded under American Rescue Plan Act (ARPA) federal awards received by the Commonwealth of Kentucky from the

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United States Department of the Treasury (USDOT). ARPA Awards are intended to provide funds to offset reduced availability of Victims of Crime Act (VOCA) funding in Kentucky. The Commonwealth of Kentucky, Justice and Public Safety Cabinet awarding official for this contract is the Justice and Public Safety Cabinet Secretary, who can be contacted at 125 Holmes St, Frankfort KY 40601.

**Scope of Work:**

The purpose of the project shall be to offset reduced VOCA funding availability supporting services to victims of crime. That support is achieved through a variety of methods, including local government and private nonprofit organizations enhancing or expanding their direct services to victims of crime, encouraging states to improve assistance to crime victims and promoting the development of comprehensive services to all victims of crime.

**The Commonwealth shall:**

1. Provide Intelligrants site administration and user accounts with appropriate access for the Contractor.
2. Have sole discretion to determine whether the Contractor's expenditures referenced in this Contract are reasonable and in keeping with the scope of work set out in the Contract.
3. Have sole discretion to determine the manner in which the Contractor makes the Commonwealth whole, which may include refunding any funds disbursed to it pursuant to this Contract, in the event it is determined the Contractor used the funds for an unallowable cost or unreasonably and not in keeping with the scope of work set out in this Contract.
4. Develop and implement a risk-based monitoring plan to evaluate the Contractor in accordance with the requirements of 28 C.F.R. § 94 and 2 C.F.R. § 200.332.
5. Evaluate each Contractor's risk of noncompliance with Federal statutes and regulations and the terms and conditions of this Contract for purposes of determining the appropriate subrecipient monitoring schedule as described in 2 C.F.R. § 200.332(d), (e).
6. Conduct regular desk monitoring and on-site monitoring of Contractor in accordance with the risk-based monitoring schedule or in response to an emergent issue.
7. Monitor the activities of the Contractor as necessary to ensure that the funds related to this Contract are used for authorized purposes, in compliance with statutes, regulations, and the terms and conditions of this Contract and that contract performance goals are achieved.
8. Maintain a copy of site visit results and other documents related to contractor compliance.
9. Provide Contractor, upon request, technical assistance with contract administration, reporting requirements, and navigation of IGX.
10. Complete all federally required reporting as the recipient of ARPA funds.
11. Reimburse the Contractor in accordance with the pricing section within this Contract.

**The Contractor shall:**

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1. Carry out the project detailed in the Contractor's approved application in IGX, [insert unique IGX application identifier], using funds only for the purposes outlined therein and in this Contract and in accordance with all Contract Terms and Conditions, including all requirements and materials incorporated by reference therein.
2. Provide one or more crime victim services and/or support activities, to include but not limited to the following, as defined by 28 C.F.R. § 94.119 and 94.120:
  - a. Immediate emotional, psychological, and physical health and safety;
  - b. Personal advocacy and emotional support;
  - c. Mental health counseling and care;
  - d. Peer support;
  - e. Facilitation of participation in criminal justice and other public proceedings arising from the crime;
  - f. Legal assistance;
  - g. Forensic medical evidence collection examinations;
  - h. Forensic interviews;
  - i. Transportation;
  - a9. Public awareness;
  - aa. Transitional housing;
  - ab. Relocation;
  - ac. Coordination of activities;
  - ad. Supervision of direct service providers;
  - ae. Multi-system, interagency, multi-disciplinary response to crime victim needs;
  - af. Contracts for professional services;
  - ag. Automated systems and technology;
  - ah. Volunteer trainings; or
  - ai. Restorative justice.
3. Provide all required financial and programmatic documentation, as detailed in Grants Management Division Standard Terms and Condition 19 below, to allow the Commonwealth to complete all required federal reporting.
4. Make the Commonwealth whole, which may include refunding any funds disbursed to it pursuant to this Contract, in the event it is determined the Contractor used the funds for an unallowable cost or unreasonably and not in keeping with the scope of work set out in this Contract.

**Pricing:**

1. The total contract amount is \_\_\_\_\_. Payments shall be made through a reimbursement process only, on a monthly basis unless otherwise specified by the Commonwealth.
  - a. The Commonwealth shall provide payment within thirty (30) days of receipt of a valid invoice.
  - b. Reimbursement shall be based on the Contractor's percentage effort and salary/fringe expenses.
  - c. Reimbursement of allowable travel expenses shall comply with the Kentucky Model Procurement Code, including relevant regulations and Finance and Administration Cabinet Policies.

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- d. The Contractor shall not be reimbursed unless the expense is specifically authorized by the terms and conditions of this Contract or authorized in advance and in writing by the Commonwealth.
- e. Payments shall be made upon receipt of required reports and a determination by the Commonwealth that the Contractor's services are reasonable and in keeping with the purposes set out in this Contract.

### **ARPA Subaward Terms and Conditions**

1. The Contractor at any tier shall comply with applicable portions of the American Rescue Plan Act (ARPA) of 2021, 42 USC Chapter 802 and the ARPA Coronavirus State and Local Fiscal Recovery Funds Final Rule. The terms and conditions of this Contract are material requirements of this Contract. Compliance with any certified assurance submitted by the Contractor that relates to conduct during the period of performance also shall be a material requirement of this Contract. By signing and accepting this Contract on behalf of the Contractor, the authorized Contractor official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized Contractor official, all assurances or certifications submitted by or on behalf of the Contractor that relate to conduct during the period of performance. Failure to comply with any one or more of these contract requirements -- whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the project period -- may result in the Grants Management Division ("GMD") and/or United States Department of the Treasury (DOT) taking appropriate action with respect to the Contractor and the Contract. Among other things, the GMD or DOT may withhold award funds, disallow costs, or suspend or terminate the Contract. DOT may take other legal action as appropriate. Any materially false, fictitious, or fraudulent statement to the federal government or the GMD related to this Contract (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under [18 U.S.C. 1001](#) and/or [1621](#), and/or [34 U.S.C. 10272](#)), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under [31 U.S.C. 3729-3730](#) and [3801-3812](#)). Should any provision of a requirement of this Contract be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give the maximum effect permitted by law. Should it be held, instead, that the provision is invalid or unenforceable; such provision shall be deemed severable from this Contract.
2. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in [2 C.F.R. Part 200](#), as adopted and supplemented by DOJ in [2 C.F.R. Part 2800](#) (together, the "[Part 200 Uniform Requirements](#)") apply to this Contract. Record retention and access: The duration of time which the Contractor at any tier shall retain records pertinent to the Contract shall be 6 ½ years from the date the Contract is officially closed. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the 5 year period, the records shall be retained until completion of the action and resolution of all issues which arise from it or until the end of the regular 5 year period, whichever is later. During such time, the Contractor shall provide access, including performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at [2 C.F.R. 200.333](#).

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- In the event a contract-related question arises from documents or other materials prepared or distributed by GMD that may appear to conflict with, or differ in some way from, the provisions of the [Part 200 Uniform Requirements](#), the Contractor shall contact GMD promptly for clarification.
3. A Contractor at any tier that is eligible under the [Part 200 Uniform Requirements](#) and other applicable law to use the “de minimis” indirect cost rate described in [2 C.F.R. 200.414\(f\)](#), and that elects to use the “de minimis” indirect cost rate, should do so in writing, by explicitly stating this election on the Operating Expenses page and the Budget Narrative page of the ARPA Application in Intelligrants 10.0 (IGX). When electing to use the “de minimis” indirect cost rate, the Contractor agrees it is eligible for this rate. In addition, the Contractor shall comply with all associated requirements in [Part 200 Uniform Requirements](#). The “de minimis” rate may be applied only to modified total direct costs (MTDC) as defined by the [Part 200 Uniform Requirements](#).
  4. If the Contractor at any tier currently has other active awards, subawards, or contracts of federal funds, or if the Contractor receives any other award, subaward, or contract of federal funds during the period of performance for this contract, the Contractor promptly shall determine whether funds from any of those other federal awards, subawards, or contracts have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this Contract. If so, the Contractor shall promptly notify GMD in writing of the potential duplication, and, if so requested by GMD, shall seek a grant adjustment, or change in project objectives to eliminate any inappropriate duplication of funding.
  5. The Contractor at any tier shall comply with applicable requirements regarding identification or registration within the federal System for Award Management (SAM). Copy and paste the following URL to get to the SAM site: <http://sam.gov/SAM/>. The Contractor at any tier shall provide a SAM Unique Entity Identifier (UEI) to GMD. Contracts shall not be approved or funds reimbursed to programs that have not provided a SAM UEI to GMD.
  6. The Contractor shall be required to collect and maintain data that measures the performance and effectiveness of work under the Contract. The data shall be provided to GMD in a manner (including within the timeframes) specified by GMD. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.
  7. The Contractor at any tier shall comply with all applicable requirements of [28 C.F.R. Part 38](#), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries. Among other things, [28 C.F.R. Part 38](#) includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to Contractor organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to Contractors that are faith-based or religious organizations. The text of the regulation, now entitled “[Partnerships with Faith-Based and Other Neighborhood Organizations](#),” is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page+browse>), by browsing to [Title 28-Judicial Administration, Chapter 1, Part 38, under E-CFR](#). No part of this requirement shall preclude the inclusion of faith-based organizations in the awarding process.

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8. The Contractor at any tier shall comply with all applicable requirements of [28 C.F.R. Part 42](#), specifically including any applicable requirements in [Subpart E of 28 C.F.R. Part 42](#) that relates to an equal employment opportunity program.
9. The Contractor at any tier shall comply with all applicable requirements of [28 C.F.R. Part 54](#), which relates to nondiscrimination on the basis of sex in certain "education programs."
10. The Contractor at any tier shall comply with, and shall be subject to, all applicable provisions of [41 U.S.C. 4712](#), including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant. The Contractor shall also inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under [41 U.S.C. 4712](#). Should a question arise as to the applicability of the provisions of [41 U.S.C. 4712](#) to this Contract, the Contractor shall contact GMD for guidance.
11. In general, as a matter of federal law, this Contract may not be used, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See [18 U.S.C. 1913](#). There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law. Another federal law generally prohibits this federal contract from being used by the Contractor at any tier to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, contract "subgrant", subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See [31 U.S.C. 1352](#). Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations. Should any questions arise as to whether a particular use of federal funds by a Contractor would or might fall within the scope of these prohibitions; the Contractor shall contact GMD for guidance. The Contractor shall not proceed without the express prior written approval of GMD.
12. The Contractor at any tier shall comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act associated with the federal award from which this subaward is made, which are incorporated by reference here. Should a question arise as to whether a particular use of federal funds would or might fall within the scope of an appropriations-law restriction, the recipient shall contact GMD for guidance, and shall not proceed without the express prior written approval of GMD.
13. The Contractor at any tier shall refer to GMD, and the DOT Office of the Inspector General (OIG), within five (5) days of identifying any credible evidence that a principal, employee, agent, contractor, subcontractor, or other person has, in connection with funds under this contract - 1) submitted a claim that violates the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.
14. The Contractor shall encourage adoption and enforcement of on-the-job seat belt policies and programs for its employees and contractors when

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operating agency-owned, leased, or personally owned vehicles, pursuant to [Executive Order 13513](#), "Federal Leadership on Reducing Text Messaging While Driving," [74 Fed. Reg. 51225 \(October 1, 2009\)](#), the Contractor at any tier is encouraged to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by the Contract, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

15. The Contractor at any tier assures that in the event that a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the ground of race, religion, national origin, sex, or disability against the Contractor, the Contractor shall forward a copy of the findings to GMD within five (5) days of notification.
16. The Contractor at any tier authorizes the GMD, US Department of the Treasury, and the Kentucky Auditor of Public Accounts (APA), and its representatives, access to and the right to examine all records, books, paper, or electronic documents related to this Contract.
17. The Contractor at any tier who expends \$750,000 or more in Federal funds (from all federal sources) in the Contractor's fiscal year (12-month turnaround reporting period) shall arrange for a single organization-wide audit conducted in accordance with the provisions of [2 C.F.R. Part 200, Subpart F, Section 200.501](#). Each single audit should be submitted, electronically, to GMD as soon as it becomes available, as well as included in the organization's ARPA application.
18. The Contractor at any tier understands that all contracts funded from DOT awards are subject to generally applicable federal environmental laws and regulations. The Contractor at any tier shall comply with all Federal, State, and local environmental laws and regulations applicable to the development and implementation of the activities to be funded under this Contract.
19. The Contractor shall maintain confidentiality of client-counselor information as required by State law.
  - a. *Confidentiality.* Contractors at any tier, to the extent permitted by law, shall reasonably protect the confidentiality and privacy of persons receiving services under this Contract and shall not disclose, reveal, or release, except pursuant to paragraphs (2) and (3) of this condition
    - i. Any personally identifying information or individual information collected in connection with ARPA-funded services requested, utilized, or denied, regardless of whether such information has been encoded, encrypted, hashed, or otherwise protected; or
    - ii. Individual client information, without the informed, written, reasonably time-limited consent of the person about whom information is sought, except that consent for release may not be given by the abuser of a minor, incapacitated person, or the abuser of the other parent of the minor. If a minor or a person with a legally appointed guardian is permitted by law to receive services without a parent's (or the guardian's) consent, the minor or person with a guardian may consent to release of information without additional consent from the parent or guardian.
  - b. *Release.* If release of information described in paragraph (1)(b) of this condition is compelled by statutory or court mandate, the recipient of ARPA contract funds shall make reasonable attempts to provide notice to victims affected by the disclosure of the information and take



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- reasonable steps necessary to protect the privacy and safety of the persons affected by the release of the information.
- c. *Information sharing.* Contractors shall share— (a) Non-personally identifying data in the aggregate regarding services to their clients and non-personally identifying demographic information in order to comply with reporting, evaluation, or data collection requirements; (b) Court-generated information and law-enforcement-generated information contained in secure governmental registries for protection order enforcement purposes; and (c) Law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.
  - d. *Personally identifying information.* In no circumstances shall—(a) A crime victim be required to provide a consent to release personally identifying information as a condition of eligibility for ARPA-funded services; (b) Any personally identifying information be shared in order to comply with reporting, evaluation, or data-collection requirements of any program;
  - e. Mandatory reporting. Nothing in this section prohibits compliance with legally mandated reporting of abuse or neglect.

### **Grants Management Division Standard Terms and Conditions**

1. The Contractor shall provide services, at no charge, through the ARPA-funded project. Any deviation from this provision requires prior approval from GMD.
2. The Contractor shall assist victims in seeking available crime victims' compensation benefits.
3. The Contractor shall not discriminate against victims because the victim disagrees with the way their criminal case is being prosecuted.
4. The Contractor assures that, in accordance with Title VI of the Civil Rights Act of 1964, [42 U.S.C. § 2000d](#), as a recipient of federal financial assistance, Contractor shall take reasonable steps to provide meaningful access to their programs and activities for persons with Limited English Proficiency (LEP).
5. The Contractor shall comply with all applicable federal, state, and local laws. Contractor shall also comply with all applicable Commonwealth of Kentucky, Justice and Public Safety Cabinet, Office of Management and Administrative Services, Grants Management Division policies and procedures unless a specific, written exemption has been granted by the Grants Management Division to the Contractor.
6. Pursuant to [34 USC § 60105](#), the Death in Custody Act (DCRA), any Contractor state and local law enforcement or correctional agency shall identify all reportable in-custody deaths that occurred in their jurisdictions by notifying the Kentucky Justice & Public Safety Cabinet's Criminal Justice Statistical Analysis Center at [just.dicrareporting@ky.gov](mailto:just.dicrareporting@ky.gov).
7. The Contractor shall receive and engage in any training and technical assistance activities required in writing by GMD.
8. The Contractor understands and agrees that GMD and/or the DOT may withhold award funds, or may impose other related requirements, if (as determined by GMD or the DOT) the Contractor does not satisfactorily and within sixty (60) days address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOT awards or contracts made by GMD.

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9. The Contractor and all its subcontractors shall ensure each award is accounted for separately to prevent comingling of funds, which is prohibited. Funds specifically budgeted and/or received for one project may not be used to support another. The Contractor shall maintain an adequate accounting system that allows the agency to maintain documentation to support all receipts and expenditures of awarded funds. Furthermore, all financial statements and accounting transactions shall be prepared in accordance with Generally Accepted Accounting Principles.
  10. Contractors that are state agencies shall utilize their GMD approved eMARS funding codes to ensure proper drawdown and reimbursement of funds. State agencies are encouraged to verify their eMARS funding codes with GMD staff prior to submission of their first Financial Report.
  11. The Contractor at any tier agrees that the maximum compensation rate for a consultant under this Contract shall be \$81.25/hr or \$650/day.
  12. The Contractor shall be required to obtain a surety bond if the approved federal share is greater than \$100,000 or if determined to be a high-risk agency. In general, a Contractor may be designated as high-risk if any of the following apply to the Contractor:
    - a. Has a history of unsatisfactory performance;
    - b. Is not financially stable;
    - c. Has a management system that does not meet the standards set forth in [2 C.F.R. Part 200](#) (Subpart D-Post Federal Award Requirements (Standards for Financial and Program Management));
    - d. Has not conformed to the terms and conditions of previous awards; or
    - e. Is otherwise not responsible.
  13. The Contractor shall comply with the procurement procedures and regulations set forth by the Commonwealth of Kentucky, Finance and Administration Cabinet, <https://finance.ky.gov/services/eprocurement/Pages/LawsPrefRegsPolicies.aspx>.
- Note: The Contractor shall follow the most restrictive policy, whether it is the U.S. Department of Justice (if applicable), Commonwealth of Kentucky, or the Contractor's.
14. The Contractor agrees to commence project activities within sixty (60) days of the approved project start date for the Contract, unless otherwise specified in the grant application. If the project is not operational within that time period, written notification shall be submitted to GMD including detailed steps taken to initiate the project, reason(s) for delay, and expected starting time. GMD may cancel the project and/or redistribute funds if the project is not implemented within a reasonable timeframe and/or justification is not provided. Any new positions requested in the grant shall be filled within sixty (60) days of the approved project start date for the Contract, unless otherwise discussed with GMD; failure to do so may result in a decrease in award.
  15. The Contractor shall not make changes to the overall scope of the project without express written prior approval from GMD. However, minor changes to the project and budget adjustments may be requested using the GAM process. Approval of a GAM shall be obtained prior to any obligation of grant funds not approved in the most current version of the budget. GAMs shall be submitted no later than 60 days before the end of the period of performance unless otherwise approved by GMD staff, and retroactive revisions shall not be approved. GMD shall be notified in writing of all employee changes pertaining to this grant within thirty (30) days of occurrence. A GAM shall be required for changes in the Agency Executive Director, Financial Officer, or

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Project Director. Contractor should note that its Financial Officer shall not be the same person that functions as the Agency Executive Director or Project Director.

16. The Contractor agrees that time and activity records reflecting all funding sources shall be maintained for all personnel (including volunteers if applicable) assigned to this award. Support shall reasonably reflect the total activity for which the employee is compensated by the organization and cover both federally funded and all other activities. Where grant recipients work on multiple grant programs or cost activities, documentation shall support a reasonable allocation or distribution of costs among specific activities or cost objectives. Timesheet records shall be signed by the individual and his/her immediate supervisor, and records retention requirements shall be followed. Timesheets shall include activity, dates of activity, assigned codes, number of hours worked, name, and signature. Electronic signature shall be allowable.
17. Unless otherwise approved, the Contractor agrees that equipment purchases funded with this award shall be completed within the first four (4) months of the project. This allows acquisition time and provides eight (8) months in which to use the equipment.
18. The Contractor agrees that any materials resulting from grant-funded project activities, including any websites funded in whole or in part by this Contract, shall contain an acknowledgement of support through the use of the following or comparable footnote: "This project [is being] [was] supported, in whole or in part, by subaward number [enter subaward number] awarded to [name of subrecipient] through the Commonwealth of Kentucky, Justice and Public Safety Cabinet by the U.S. Department of the Treasury. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Commonwealth of Kentucky, Justice and Public Safety Cabinet or the U.S. Department of the Treasury."
19. The Contractor agrees to submit financial and program reports at least quarterly, as required.
  - a. The Contractor shall collect and maintain data that measures the performance and effectiveness of work under this award. The data shall be provided to GMD in the manner (including timeframes) specified by GMD in the program solicitation or other applicable written guidance.
  - b. The agency's Financial Director or designee shall approve financial reports. Failure to submit financial reports according to the time set forth may result in delays or withholding of funds. Financial reports shall be submitted on a quarterly basis.
  - c. Contractors shall submit to GMD financial reports which include itemized expenses requested for reimbursement. Invoices and other documentation of award and any required supporting documentation shall be submitted with each quarterly financial report, as required. Copies of contracts associated with any expenditures within the contractual services category of the approved budget shall be submitted to GMD within ten days of execution.
  - d. If it is determined the Contractor is non-compliant with [2 CFR § 200, 31 CFR § 35](#), or the GMD Policies and Procedures Manual at any time throughout the duration of the award, a more stringent review of the Contractor may be undertaken to determine the extent of non-compliance. If at the conclusion of the review, GMD staff continue to have concerns, additional corrective action steps may be taken which

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- may include but are not limited to, technical assistance, a corrective action plan, or a formal audit.
- e. The Contractor shall collect and maintain information on race, sex, national origin, age, and disability of victims receiving assistance, where such information is voluntarily furnished by the victim. Contractors shall submit performance reports to GMD within the identified timeframe below. The schedule for filing quarterly reports shall be as follows:
    - i. Quarter 1 runs from November 1- January 31st with reporting due February 15th;
    - ii. Quarter 2 runs from February 1- April 30th with reporting due May 15th;
    - iii. Quarter 3 runs from May 1- July 31st with reporting due August 15th; and
    - iv. Quarter 4 runs from August 1- October 31st with reporting due November 15<sup>th</sup>.
20. The Contractor shall adhere to the Contractor's own written hiring policies, as well as any statutory or regulatory requirements, when hiring for grant-funded positions.
  21. The Contractor shall maintain a conflict of interest policy consistent with [2 C.F.R. § 200.318\(c\)](#) and applicable to each activity funded under this award. The Contractor shall disclose in writing to GMD and DOT any potential conflict of interest affecting the awarded funds in accordance with [2 C.F.R. § 200.112](#). Failure to do so may result in withholding of reimbursement, termination of the award, or other appropriate action.
  22. Determination of suitability required, in advance, for certain individuals who may interact with participating minors. This condition applies to this contract if it is indicated in the contract that a purpose of some or all of the activities to be carried out under the contract is to benefit a set of individuals under 18 years of age. The Contractor, as well as any subcontractors or consultants providing services to minors shall make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status. The details of this requirement, including the full and complete OJP condition of award and JPSC award condition enhancements, are posted on the JPSC website at <https://justice.ky.gov/Departments-Agencies/GMD/Pages/suitability.aspx> and are incorporated by reference here.
  23. The Contractor shall comply with any additional requirements that may be imposed by GMD during the period of performance for this award, if the Contractor is designated as "high-risk" either as a result of the GMD risk assessment process, or for purposes of the DOT high-risk grantee list.

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**Grants Management Division Special Terms and Conditions for Technical Assistance Contracts**

**The Contractor shall:**

1. Provide on-site and off-site financial and programmatic technical assistance to member programs to strengthen the provision of victim services, to enhance organizational capacity to manage federal funds, and to ensure compliance with ARPA grant requirements.
  - a. Technical assistance shall include, but not be limited to, performance measurement and outcomes, training, program evaluation, quality assurance, and meaningful access to victim services for all victims of crime.
  - b. Technical assistance shall be provided by various contractor designees
2. Maintain technical assistance logs for contractor designees which document work tasks and the aspect(s) of the project to which they correspond. Logs shall be signed by the contractor designee as well as his/her immediate supervisor for the project.
3. Attend regularly scheduled and ad hoc meetings with the Grants Director.
4. Provide written technical assistance reports to the Grants Director on a quarterly basis and attend a quarterly meeting with GMD and other Technical Assistance Contractors.
5. Provide, within 30 days of the contract end date, a written narrative report on projects and work completed pursuant to this MOA.

**Justice and Public Safety Cabinet Terms and Conditions**

1. Contractor shall comply at all times with all applicable federal, state, and local laws, regulations, executive orders, and attorney general opinions.
2. Contractor shall comply with all applicable Commonwealth of Kentucky Executive Department policies and procedures, and Commonwealth Office of Technology policies and procedures.
3. The Contractor shall report any and all acts and omissions constituting a violation of applicable federal, state, or local laws, policies and procedures, or this Contract, to the Commonwealth in writing within one business day of the discovery of the violation.
4. To the extent permitted by law, the Contractor agrees to indemnify and hold harmless the Commonwealth against any and all claims, losses, demands, obligations, and litigation, including attorneys' fees, that result from or by: (1) services rendered by the Contractor in connection with performance of this Contract; (2) any and all bad-faith, erroneous, negligent, reckless, and unlawful acts and omissions of the Contractor, its officers, or employees in the performance of this Contract; (3) the Contractor's creation of a hazardous condition or exacerbation of a pre-existing hazardous condition; (4) the Contractor's publication, translation, reproduction, delivery, performance, use, or disposition, of any data processed under the Contract in a manner not authorized by the Contract, or by federal or Commonwealth regulations or statutes; (5) the Contractor's employment practices during the term of this Contract; and (6) any failure of the Contractor, its officers, or employees to observe federal, state, and local laws, including but not limited to labor laws and minimum wage laws.

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5. Both parties, including any subcontractors or agents of each, agree to comply with all applicable state and federal confidentiality laws, including the Family Educational Rights and Privacy Act and the Health Insurance Portability and Accountability Act, and to protect the security, confidentiality, and integrity of education and health information. The Contractor acknowledges and agrees that the Commonwealth shall be entitled, without waiving any other rights or remedies, to injunctive or equitable relief to enforce the requirements of this provision of this Contract.
6. Vendors and other state agencies that receive Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, [KRS 61.931](#), et seq. ("the Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set for in the Act.
  - 6.1. "Personal Information" is defined in accordance with [KRS 61.931\(6\)](#) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:
    - 6.1.1. An account, credit card number, or debit card number that, in combination with any required security code, access code, or password, would permit access to an account;
    - 6.1.2. A Social Security number;
    - 6.1.3. A taxpayer identification number that incorporates a Social Security number;
    - 6.1.4. A driver's license number, state identification card number, or other individual identification number issued by an agency;
    - 6.1.5. A passport number or other identification number issued by the United States government; or
    - 6.1.6. Individually Identifiable Information as defined in [45 C.F.R. sec. 160.013](#) (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended [20 U.S.C. sec. 1232g](#).
  - 6.2. As provided in [KRS 61.931\(5\)](#), a "non-affiliated third party" means "any person or entity that has an agreement or contract with the Commonwealth and receives (accesses, collects, or maintains) personal information from the Commonwealth pursuant to the contract or Contract."
  - 6.3. The Contractor agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.
  - 6.4. The Contractor shall notify as soon as possible, but not to exceed seventy-two (72) hours, the Commonwealth, the Commissioner of the Kentucky State Police, the Auditor of Public Accounts, and the Commonwealth Office of Technology, of a determination of, or knowledge of, a breach, unless the exception set forth in [KRS 61.932\(2\)](#) applies and the Contractor abides by the requirements set for in that exception. Notification shall be in writing on a form developed by the Commonwealth Office of Technology
  - 6.5. The Contractor agrees to undertake a prompt and reasonable investigation of any breach as required by [KRS 61.933](#).
  - 6.6. Upon conclusion of an investigation of a security breach of Personal Information as required by [KRS 61.933](#), the Contractor agrees to pay the costs of the notification, investigation, and mitigation of the security breach.
  - 6.7. In accordance with [KRS 61.932\(2\)\(a\)](#), the Contractor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent

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as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology.

7. The Contractor shall not distribute, divulge, publish, or release any data or information obtained from or owned by the Commonwealth without the prior written approval of the Commonwealth unless compelled to do so by law or by a judicially signed order from a court of competent jurisdiction. The Contractor acknowledges that it receives the Commonwealth's data or information solely for the purposes of this Contract, and that its receipt of the Commonwealth's data or information in no way creates any ownership interest in the Commonwealth's data or information, unless explicitly provided otherwise within the terms and conditions of this Contract.
8. The Contractor shall ensure that any and all access to Commonwealth data by Contractor personnel is limited to only those Contractor personnel with a necessary and essential purpose to fulfill the terms and conditions within this Contract.
9. The Contractor shall not utilize Commonwealth data for the Contractor's benefit except as contemplated within and pursuant to the terms and conditions of this Contract. The Contractor shall not sell or resell any and all Commonwealth data.
10. The Contractor shall ensure that any and all data transmitted and received on behalf of and as directed by the Commonwealth is transmitted and received only via secure methods and protocols.
11. Upon the expiration of the term of this Contract, unless it is renewed prior to its expiration, the Contractor shall either: (1) return any and all data provided by the Commonwealth, destroy any and all copies of the data in whatever form they occur, complete the attached Data Destruction Certification, and submit the certificate to the Commonwealth no less than 7 calendar days after expiration of this Contract; (2) destroy the data, including any and all copies of the data in whatever form they occur, without returning the data to the Commonwealth, complete the attached Data Destruction Certification, and submit the certificate to the Commonwealth no less than 7 calendar days after expiration of this Contract; or (3) retain the data subject to the terms of this Contract regarding data ownership, privacy, and breach. The Commonwealth retains discretion to choose the option Contractor shall perform. In the event that the Commonwealth has not communicated to the Contractor which option should be followed, the Contractor shall perform the actions listed in option (1).
12. The parties agree that they receive all information communicated between them before the execution of this Contract in strict confidence and that the receiving party, its agents, or employees shall not, without prior written consent of the other party, disclose any such information, subject to Commonwealth of Kentucky and federal disclosure laws.
13. The Contractor shall not represent that a working copy, draft, or the finalized version of this Contract is identical to a previous iteration of this Contract if the Contractor has made edits since the last iteration. The Contractor shall clearly present all edits, either through editing functions in word processing software, or as a list provided contemporaneously with the most recently edited iteration.
14. During the term of this Contract, Contractor shall be authorized in its sole discretion to discipline, terminate, or take any other personnel action against Contractor personnel. Upon communication by Commonwealth of an issue with Contractor personnel, Contractor shall have the sole authority to take action to effect a solution.

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15. In no event shall any person or entity be deemed to be a third-party beneficiary of this Contract.
16. The Contractor acknowledges that the Commonwealth may execute Contracts with other vendors for additional or related goods and services that address, interact with, or otherwise regard this Contract. The Contractor shall fully cooperate with such other vendors and vendor personnel, agents, and designees. The Contractor shall not commit any act; allow any omission; or permit its personnel, agents, or designees to commit any act or allow any omission that will interfere with the performance of work by any other vendor or any other vendor's personnel, agents, or designees.
17. Each party shall provide a contact to resolve any and all issues related to this Contract and promptly update the contact information as necessary.
18. All notices under this Contract shall be given in writing. Electronic mail constitutes a writing.
19. No change, waiver, or discharge of any liability or obligation under this Contract on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.
20. No party shall assign its respective rights or obligations under this Contract without prior written consent of the other party. Any purported assignment or delegation in violation of this Contract is void.
21. The Contractor agrees that any and all violations of this Contract may result in the immediate termination of this Contract. Unless federal law applies, this Contract shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.
22. The parties agree that any claim, action, or lawsuit arising under this Contract shall be brought in Franklin County in the Commonwealth of Kentucky.
23. This Contract is the final and exclusive agreement between the parties. All prior negotiations and agreements are superseded by this Contract.
24. Nothing in this Contract shall be deemed to waive, or otherwise limit, the rights, privileges, immunities, including sovereign immunity granted under [Kentucky Constitution §§ 230 & 231](#) and the [United States Constitution Eleventh Amendment](#), and matters of defense now available or hereafter made available to the Commonwealth and/or its officers and employees.

#### Agreement

I have read and understand all Application Terms and Conditions and assure that the project(s) proposed in this application meet all the requirements of the USDOT and Cabinet, that all the information presented is correct, that there has been appropriate coordination with affected agencies, and that the Contractor shall comply with the provisions of the American Rescue Plan Act (ARPA) and all other federal laws. By appropriate language incorporated in each subaward (if any), the undersigned assures that the applicable conditions above apply to all recipients of funds from the Cabinet.

#### Endnotes



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**Memorandum of Agreement Standard Terms and Conditions  
Revised January 2023**

**1.00 Effective Date**

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

**2.00 EEO Requirements**

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The contractor shall comply with all terms and conditions of the Act.

**3.00 Cancellation Clause**

Both parties shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.

**4.00 Funding Out Provision**

The state agency may terminate this agreement if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The state agency shall provide the Contractor thirty (30) calendar day's written notice of termination of the agreement due to lack of available funding.

**5.00 Reduction in Contract Worker Hours**

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional

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service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

**6.00 Access to Records**

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

**7.00 Violation of tax and employment laws**

KRS 45A.485 requires the Contractor and all subcontractors performing work under the contract to reveal to the Commonwealth any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively. Disclosure of any violations is required prior to the award of any state contract and throughout the duration the contract.

Failure to disclose violations, shall be grounds for the Commonwealth's disqualification of a contractor or subcontractor from eligibility for future state contracts for a period of two (2) years.

To comply with KRS 45A.485, the Contractor and all subcontractors performing work

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under this contract shall report any such final determination(s) of any violation(s) within the previous five (5) years to the Commonwealth by providing a list of the following information regarding any violation(s): (1) specific KRS violated, (2) date of any final determination of a violation, and (3) state agency which issued the final determination.

A list of any disclosures made prior to award of a contract shall be attached to the contract.

The Contractor affirms that it has not violated any of the provisions of the above statutes within the previous five (5) year period, aside from violations explicitly disclosed and attached to this contract. Contractor further affirms that it will (1) communicate the above KRS 45A.485 disclosure requirements to any subcontractors and (2) disclose any subcontractor violations it becomes aware of to the Commonwealth.

### 8.00 Discrimination

This section applies only to agreements disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this agreement, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will, state that all qualified applicants will receive consideration

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for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency,

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the contractor may request the United States to enter into such litigation to protect the interests of the United States.

SAMPLE

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**Approvals**

This contract is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this contract and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single contract.

**1st Party: COMMONWEALTH ONLY**

_____ Signature	_____ Title
_____ Printed Name	_____ Date

**2nd Party: CONTRACTOR COMPLETES THIS SECTION**

**INK Signature of Agency Representative or Designee (as listed in IGX)**

**Title of Agency Representative or Designee**

_____ Signature	_____ Title
<b><u>Printed Name of Agency Representative or Designee</u></b>	<b><u>Date of MOA Signature</u></b>
_____ Printed Name	_____ Date

**Other Party: LEAVE BLANK**

_____ Signature	_____ Title
_____ Printed Name	_____ Date

**Approved as to form and legality: COMMONWEALTH ONLY**

_____ Attorney Signature	_____ Date
_____ Printed Name	