

**Exhibit B
DRAFT CONTRACT**

		CONTRACT		HCA Contract Number: [TBD] Resulting from Solicitation Number (If applicable): 16-008	
THIS AGREEMENT made by and between Washington State Health Care Authority, hereinafter referred to as "HCA," and the party whose name appears below, hereinafter referred to as the "Contractor."					
CONTRACTOR NAME			CONTRACTOR doing business as (DBA)		
CONTRACTOR ADDRESS			WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI)		
CONTRACTOR CONTACT		CONTRACTOR TELEPHONE ()		CONTRACTOR E-MAIL ADDRESS	
HCA PROGRAM			HCA DIVISION/SECTION PEB		
HCA CONTACT NAME AND TITLE			HCA CONTACT ADDRESS		
HCA CONTACT TELEPHONE			HCA CONTACT E-MAIL ADDRESS		
IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			CFDA NUMBER(S)		FFATA Form Required <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
CONTRACT START DATE [Start Date]		CONTRACT END DATE [End Date]		TOTAL MAXIMUM CONTRACT AMOUNT \$	
PURPOSE OF CONTRACT:					
ATTACHMENTS/EXHIBITS. When the box below is marked with an X, the following Exhibits/Attachments are attached and are incorporated into this Contract Amendment by reference: <input checked="" type="checkbox"/> Exhibit(s) (specify): <input type="checkbox"/> Attachment(s) (specify): <input checked="" type="checkbox"/> Schedule(s) (specify): Schedule A – Statement of Work <input type="checkbox"/> No Exhibits/Attachment					
The terms and conditions of this Contract are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings, and communications, oral or otherwise, regarding the subject matter of this Contract. The parties signing below warrant that they have read and understand this Contract, and have authority to execute this Contract. This Contract shall be binding on HCA only upon signature by HCA.					
CONTRACTOR SIGNATURE			PRINTED NAME AND TITLE		DATE SIGNED
HCA SIGNATURE			PRINTED NAME AND TITLE		DATE SIGNED

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Exhibit A: TBD

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1 OVERVIEW

1.1 RECITAL OF PARTIES

TBD

1.2 PURPOSE

The purpose of this Contract is [TBD]

1.3 STATEMENT OF WORK (SOW)

The Contractor shall provide the goods and/or services and staff as described in Schedule A, Statement of Work.

2 SPECIAL TERMS AND CONDITIONS

2.1 TERM

Subject to its other provisions, the Term of this Contract shall be from January 1, 2017, or the date of delivery of the last signature to this Contract by a party, whichever is later (Effective Date”) and through December 31, 2021 unless terminated sooner as provided herein.

HCA, at its sole discretion, may extend this Contract for up to ten (10) additional years in whatever time increments HCA deems appropriate. HCA may exercise its option to extend the Contract by providing written notice to the Contractor within ninety (90) days of the end of the current term of this Contract.

2.2 CONTRACTOR OBLIGATIONS

TBD

2.3 HCA OBLIGATIONS

TBD

2.4 COMMUNICATIONS & PUBLICITY

TBD

2.5 COMPENSATION AND PAYMENT

TBD

2.6 SERVICES PERFORMED WITHOUT HCA APPROVAL

Work performed without a contract or amendment, signed by authorized representative of both parties, shall be at the sole risk of the Contractor. HCA shall not pay any costs incurred

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before a contract or any subsequent amendment is fully executed.

2.7 BILLING AND INVOICE

TBD

2.8 CONTRACT MANAGER AND ADMINISTRATION

The individuals listed below, or their successors shall be the main points of contact for services provided under this Contract. HCA's Contract Manager or his/her successor is responsible for monitoring the Contractor's performance and shall be the contact person for all communications regarding contract performance, deliverables, and invoices. The Contract Manager has the authority to accept or reject the services provided and if satisfactory, certify acceptance of each invoice submitted for payment. Notifications regarding changes to this section must be in writing (e-mail) and maintained in the project file, but will not require a formal contract amendment.

The Contract Manager for HCA is:

Name: [First and Last Name]
Title: [Job Title]
Address: [Street Address]
[City], [State] [Zip Code]
Email: [email address]
Phone: [telephone #]

The Contract Manager for Contractor is:

Name: [First and Last Name]
Title: [Job Title]
Address: [Street Address]
[City], [State] [Zip Code]
Email: [email address]
Phone: [telephone #]

2.9 NOTICES

Whenever one party is required to give notice to the other under this Contract, it shall be deemed given if mailed by United States Postal Services, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

2.9.1 In the case of notice to the Contractor, notice will be sent to:

Attention: [Name of Contractor contact]
[Organization Name]
[Street Address]
[City], [State] [Zip Code]

2.9.2 In the case of notice to HCA, send notice to:

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Attention: Contract Administrator
Health Care Authority
Division of Legal and Administrative Services
Contract Services
Post Office Box 42702
Olympia, WA 98504-2702

- 2.9.3 Notices shall be effective on the date delivered, as evidenced by the return receipt or the date returned to the sender for non-delivery other than for insufficient postage.
- 2.9.4 Either party may change its address for notification purposes at any time by mailing a notice in accord with this Section, stating the change and setting for the new address, which shall be effective on the tenth (10th) day following the effective date of such notice unless a later date is specified.

2.10 ORDER OF PRECEDENCE

Each of the items listed below is incorporated by reference into this Contract. In the event of an inconsistency, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable Federal and State of Washington statutes and regulations;
- Special Terms and Conditions;
- General Terms and Conditions;
- Schedule A – Statement of Work;
- Exhibit B – HCA’s RFP Dated [enter date]
- Exhibit C - Contractor’s Response to RFP; and
- Any other provision, term or material incorporated herein by reference or otherwise incorporated.

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3 GENERAL TERMS AND CONDITIONS

3.1 DEFINITIONS

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

- 3.1.1 "Allowable Expense" means an expenditure which meets the test of the appropriate OMB Circular (see Section I. Federal Compliance of Exhibit A). The most significant factors affecting allowability of expenses are: 1) they must be necessary and reasonable, 2) they must be allocable, 3) they must be authorized or not prohibited under state or local laws and regulations, and 4) they must be documented.
- 3.1.2 "Authorized representative" means the person in HCA to whom signature authority has been delegated, in writing, acting within the limits of his/her authority.
- 3.1.3 "Business Associate" is as defined in 45 CFR, Part 160.103 and includes any entity that performs or assists in performing a function or activity involving the use/disclosure of Individually Identifiable Health Information or involving any other function or activity regulated by HIPAA; or provides legal, accounting, actuarial, consulting, data aggregation, management, accreditation, or financial service where the services involve Individually Identifiable Health Information.
- 3.1.4 "Business Days" means Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.
- 3.1.5 "Confidential Information" means information that may be exempt from disclosure to the public or other unauthorized persons under chapter 42.56 RCW or chapter 70.02 RCW or other state or federal statutes. Confidential Information includes, but is not limited to, Personally Identifiable Information (PII) and Protected Health Information (PHI) as those terms are defined in the applicable federal statute or regulation, and any information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and any other identifying numbers, law enforcement records, HCA source code or object code, or HCA or State security information.
- 3.1.6 "Contract" means this Contract document, and all schedules, exhibits, attachments, and amendments.
- 3.1.7 "Contractor" means that firm, provider, organization, individual or other entity performing services under this Contract. It shall include any subcontractor retained by the prime contractor as permitted under the terms of this Contract.
- 3.1.8 "Effective Date" means the first date this Contract is in full force and effect as set forth in Section 2.1 of this Contract.
- 3.1.9 "Equipment" means an article of non-expendable, tangible property having a useful life of more than one year and an acquisition cost of \$5,000 or more.

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- 3.1.10 "Health Care Authority" (HCA) means the Washington State Health Care Authority, any division, section, office, unit or other entity of HCA, or any of the officers or other officials lawfully representing HCA.
- 3.1.11 "Protected Health Information" (PHI) has the same meaning as in the HIPAA Rules except that in this Contract the term includes only information created by any of its contractors, or received from or on behalf of HCA, and relating to Clients.
- 3.1.12 "Statement of Work" or "SOW" means a detailed description that captures and defines the work activities, deliverables, and timeline the Contractor is required to perform under this Contract. SOW is usually incorporated in a contract, indirectly by reference or directly as an attachment.
- 3.1.13 "Subrecipient" means a contractor operating a federal or state assistance program receiving federal funds and having the authority to determine both the services rendered and disposition of program. See OMB Circular A-133 for additional detail.
- 3.1.14 "Successor" means any entity or individual which, through amalgamation, consolidation, or other legal succession becomes invested with rights and assumes burdens of the first contractor/vendor or any person who succeeds to the office, rights, responsibilities or place of another.

3.2 ACCESS TO DATA

In compliance with Chapter 39.26 RCW, the Contractor shall provide access to data generated under this Contract to HCA, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those models. Access will be provided within thirty (30) calendar days of HCA's request unless the parties mutually agree to another deadline.

3.3 ADVANCE PAYMENT PROHIBITED

No advance payment shall be made for services furnished by the Contractor pursuant to this Contract. HCA has no obligation to pay Contractor for activities or services performed by Contractor before the Effective Date of the Contract.

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

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 telecommunications.

3.5 ASSIGNMENT

- A. The Contractor cannot assign this Contract in whole or in part to a third party without the prior written consent of HCA. HCA's written consent can condition an assignment on proof that the assignee's qualifications and ability to perform is at least equal to those of

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the Contractor. Such assignment shall not operate to relieve Contractor of any of its performance, duties, and obligations hereunder, nor shall such assignment affect any remedies available to HCA that may arise from any breach of any provision in this Contract or warranties made herein including but not limited to, rights of setoff.

- B. HCA may assign this Contract or Statements of Work to any public agency, commission, board, or the like, within the political boundaries of the state of Washington, provided that such assignment shall not operate to relieve HCA of any of its duties and obligations hereunder.

3.6 ATTORNEYS' FEES

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

3.7 CHANGE IN STATUS

- A. The Contractor shall provide HCA with ninety (90) calendar days' written notice prior to any change in the Contractor's legal or financial status due to a merger, acquisition, change of ownership or other change of legal status.
- B. The Contractor shall provide HCA notice within five (5) Business Days of the effective date of any changes to the Contractor's key personnel including, but not limited to, its Chief Executive Officer, Chief Financial Officer, and government relations contact.
- C. If the Contractor is involved in an acquisition of assets or merger after the Effective Date of this Contract, the Contractor does not have an automatic right to a continuation of the Contract after any such acquisition of assets or merger.

3.8 Compliance with Applicable Law

- A. Contractor shall comply with all federal, state, and local licensing, accreditation, and registration requirements/standards, necessary for the performance of this Contract and the payment of any taxes due on payment made under this Contract.
- B. Contractor and its Subcontractors shall comply with all applicable federal, state and local laws and regulations, and all amendments thereto, that are in effect when the Contract is signed or that come into effect during the term of this Contract. If any provision of this Contract conflicts with any applicable state or federal law or regulation, the Contract language is amended to conform to the minimum requirements of the law or regulation. A provision of this Contract that is stricter than such laws or regulations will not be deemed a conflict. The applicable laws include, but are not necessarily limited to, the following:
 - i. Provisions of state law applicable to health plans offered by HCA as described in RCW 41.05.017;
 - ii. The Public Health Services Act of 1944 (PHSA);
 - iii. The Consolidated Omnibus Budget and Reconciliation Act of 1985 (COBRA);
 - iv. The Patient Protection and Affordable Care Act of 2010 (PPACA or ACA);
 - v. The Health Care and Education Reconciliation Act of 2010;
 - vi. The Health Insurance Portability and Accountability Act of 1996 (HIPAA);

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- vii. Federal Medicare and Medicaid statutes (42 U.S.C. § 1395 *et seq.*), including the Medicare Advantage program statutes (42 U.S.C. § 1395w-21 *et seq.*) and the Medicare prescription drug benefit program (42 U.S.C. § 1395w-101 *et seq.*);
- viii. The federal physician self-referral (“*Stark*”) Law (42 U.S.C. § 1395nn);
- ix. The federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b);
- x. The federal False Claims Act (31 U.S.C. §§ 3729-33);
- xi. The Internal Revenue Code of 1986;
- xii. The American Recovery and Reinvestment Act of 2009 (ARRA);
- xiii. The American with Disabilities Act of 1990 (ADA);
- xiv. The Genetic Information Nondiscrimination Act of 2008 (GINA);
- xv. Title VI of the Civil Rights Act of 1964;
- xvi. All federal and state antitrust laws and regulations;
- xvii. All federal and state nondiscrimination laws and regulations;
- xviii. The Uniform Trade Secrets Act, Chapter 19.108 Revised Code of Washington (RCW);
- xix. Washington State Public Records Act, Chapter 42.56 RCW;
- xx. Washington State Ethics in Public Service Act, Chapter 42.52 RCW; and
- xxi. Upon the receipt of any federal funds, any other law or regulatory requirement associated with the receipt of federal funds.

3.9 CONFIDENTIAL INFORMATION PROTECTION

Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of Confidential Information. Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without HCA’s express written consent or as provided by law. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

Contractors that may come into contact with Protected Health Information will be required to complete a Business Associate agreement, as required by federal or state laws, including HIPAA, prior to the commencement of any work.

Immediately upon expiration or termination of this Contract, Contractor shall, at HCA’s option: (i) certify to HCA that Contractor has destroyed all Confidential Information; or (ii) return all Confidential Information to HCA; or (iii) take whatever other steps HCA requires of Contractor to protect HCA’s Confidential Information.

HCA reserves the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Contractor through this Contract. Violation of this section by Contractor or its Subcontractors may result in termination of this Contract and demand for return of all Confidential Information, monetary damages, or penalties.

The obligations set forth in this Section shall survive completion, cancellation, expiration, or termination of this Contract.

3.10 CONFIDENTIALITY BREACH – REQUIRED NOTIFICATION

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Upon a breach or suspected breach of confidentiality, the Contractor shall immediately notify the HCA Privacy Officer. For the purposes of this Contract, “immediately “shall mean within one calendar day.

The Contractor will take steps necessary to mitigate any known harmful effects of such unauthorized access including, but not limited to, sanctioning employees, notifying subjects, and taking steps necessary to stop further unauthorized access. The Contractor agrees to indemnify and hold harmless HCA for any damages related to unauthorized use or disclosure of Confidential Information by the Contractor, its officers, directors, employees, Subcontractors or agents.

Any breach of this clause may result in termination of the Contract and the demand for return of all Confidential Information.

Contractor acknowledges the HCA is subject to chapter 42.56 RCW and that this Contract and any Work Orders shall be a public record as defined in chapter 42.56 RCW. Any specific information that is claimed by Contractor to be Proprietary Information must be clearly identified as such by Contractor. To the extent consistent with chapter 42.56 RCW, HCA shall maintain the confidentiality of all such information marked Proprietary Information in their possession. If a public disclosure request is made to view Contractor’s Proprietary Information, HCA will notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, HCA will release the requested information on the date specified

3.11 CONFLICT OF INTEREST

- A. For purposes of this Contract, Contractor agrees that the Ethics in Public Service Act, Chapter 42.52 RCW applies to Contractor’s employees as if they were employees of the state of Washington. If HCA reasonably determines that a violation of the Ethics in Public Service Act, Chapter 42.52 RCW, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts has occurred then HCA will provide written notice of the violation to the Contractor. Contractor will have fifteen (15) Business Days to rectify the violation, which may include precluding the violator from further performance of work under this Contract or participating in Contractor’s future procurements with HCA and the state of Washington. If Contractor fails to rectify the violation then HCA may terminate this Contract for cause by written notice to Contractor.
- B. In the event this Contract is so terminated by HCA, HCA shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Contract by the Contractor. The rights and remedies of HCA provided for in this Section are not exclusive and are in addition to any other rights and remedies provided by law.

3.12 CONFORMANCE

If any provision of this Contract violates any statute or rule of law of the State of Washington, it is considered modified to conform to that statute or rule of law.

3.13 CONSTRUCTION

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- A. The parties agree that neither of them shall be deemed the drafter of this Contract and that, in construing this Contract, no provision hereof shall be construed in favor of one party on the ground that such provision was drafted by the other.
- B. In this Contract, where applicable, references to the singular shall include the plural and references to the plural shall include the singular.
- C. Regardless of capitalization, "including" means, unless the context requires otherwise, "including but not limited to."
- D. If any deadline for performance of an obligation in this Contract does not fall on a Business Day, the deadline for performance will be the next Business Day.

3.14 COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for the purpose of securing business. HCA shall have the right, in the event of breach of this clause by the Contractor, to annul this Contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

3.15 DEBARMENT

The Contractor, by signing this Contract, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded in any Washington State or Federal department or agency from participating in transactions (debarred). The Contractor agrees to include the above requirement in any and all subcontracts into which it enters, and also agrees that it will not employ debarred individuals. The Contractor shall immediately notify HCA if, during the term of this Contract, Contractor becomes debarred. HCA may immediately terminate this Contract by providing Contractor written notice in accordance with Section 2.9, if Contractor becomes debarred during the term hereof.

3.16 DISPUTES

The parties shall use their best, good faith efforts to cooperatively resolve disputes and problems that arise in connection with this Contract. Both parties will continue, without delay, to carry out their respective responsibilities under this Contract while attempting to resolve the dispute under this section. When a genuine dispute arises between HCA and the Contractor regarding the terms of this Contract or the responsibilities imposed herein that cannot be resolved at the project management level, either party may submit a request for a dispute resolution to the HCA Contract Administrator who shall oversee the following Dispute Resolution Process: HCA shall appoint a representative to a dispute panel; the Contractor shall appoint a representative to the dispute panel; HCA's and Contractor's representatives shall mutually agree on a third person to chair the dispute panel. The dispute panel shall thereafter decide the dispute with the majority prevailing.

A party's request for a dispute resolution must:

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- 3.16.1 Be in writing,
- 3.16.2 State the disputed issues,
- 3.16.3 State the relative positions of the parties,
- 3.16.4 State the remedies sought,
- 3.16.5 State the Contractor's name, address, and his/her department Contract number,
- 3.16.6 Be mailed to HCA Contracts Office, PO Box 42702, Olympia, WA 98504-2702 within thirty (30) calendar days after the party could reasonably be expected to have knowledge of the issue which he/she now disputes.

This dispute resolution process constitutes the sole administrative remedy available under this Contract. The parties agree that this resolution process shall precede any action in a judicial and quasi-judicial tribunal.

3.17 FORCE MAJEURE

Neither HCA nor Contractor will be liable for any failure of or delay in the performance of this Contract for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to: fires, floods, earthquakes, landslides, riots, strikes or labor disputes, major epidemics, acts of God, war, terrorist acts, embargoes, or any other similar force majeure event. Nonperformance under this Contract related to force majeure events will not be a ground for termination by default. Contractor is required to take all commercially reasonable actions to prevent the impact of a foreseeable force majeure event. Immediately upon the occurrence of any such event, Contractor shall commence to use its best efforts to provide, directly or indirectly, alternative and, to the extent practicable, comparable performance. Nothing in this Section shall be construed to prevent HCA from terminating this Contract for reasons other than for default during the period of the events set forth above, or for default, if such default occurred prior to such event.

3.18 GOVERNING LAW

This Contract shall be governed, in all respects, by the law and statutes of the state of Washington, without reference to conflict of law principles. The jurisdiction for any action hereunder shall be exclusively in the Superior Court for the state of Washington and the venue of any action hereunder shall be in the Superior Court for Thurston County, Washington.

Nothing in this Contract shall be construed as a waiver by HCA of the State's immunity under the 11th Amendment to the United States Constitution.

3.19 INDEMNIFICATION

Contractor shall defend, indemnify, and hold HCA harmless from and against all claims, including reasonable attorneys' fees resulting from such claims, for any or all injuries to persons or damage to property arising from intentional, willful or negligent acts or omissions of Contractor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents, in the performance of this Contract. Contractor's obligation to defend, indemnify, and hold HCA harmless shall not be eliminated or reduced by any alleged concurrent HCA negligence.

3.20 INDEPENDENT CAPACITY OF THE CONTRACTOR

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The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and his or her employees or agents performing under this Contract are not employees or agents of HCA. The Contractor will not hold himself/herself out as or claim to be an officer or employee of HCA or of the State of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Contractor.

3.21 INDUSTRIAL INSURANCE COVERAGE

Prior to performing work under this Contract, the Contractor shall provide or purchase industrial insurance coverage for the Contractor's employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51 RCW during the course of this Contract. Should the Contractor fail to secure industrial insurance coverage or fail to pay premiums, as may be required under Title 51 RCW, HCA may deduct the amount of premiums and any penalties owing from the amount payable to the Contractor under the Contract and transmit the same to the Department of Labor and Industries, Division of Insurance Services. This provision does not waive any right under RCW 51.12.050 to collect from the Contractor amounts paid by HCA.

3.22 INSURANCE

The Contractor shall provide insurance coverage as set out in this section and RFP [FILL IN BLANK]. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the Contractor or subcontractor, or agents of either, while performing under the terms of this Contract.

The Contractor shall provide insurance coverage that shall be maintained in full force and effect during the term of this Contract, as follows:

- 3.22.1 Commercial General Liability Insurance Policy - Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, the Contractor is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.
- 3.22.2 Business Automobile Liability. In the event that services delivered pursuant to this Contract involve the use of vehicles, either owned, hired, or non-owned by the Contractor, automobile liability insurance shall be required covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability. The minimum limit for automobile liability is:
 - \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.
- 3.22.3 The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name HCA and The State of Washington, its agents and employees as additional insured's under the insurance

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policy/ies. All policies shall be primary to any other valid and collectable insurance. Contractor shall instruct the insurers to give HCA 30 calendar days advance notice of any insurance cancellation.

Upon request, Contractor shall submit to HCA, a certificate of insurance that outlines the coverage and limits defined in the *Insurance* section. If a certificate of insurance is requested, Contractor shall submit renewal certificates as appropriate during the term of the contract.

3.23 LIMITATION OF AUTHORITY

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

3.24 NO THIRD-PARTY BENEFICIARIES

The HCA and the Contractor are the only parties to this contract. Nothing in this Contract gives or is intended to give any benefit of this contract to third parties or third persons.

3.25 NONDISCRIMINATION

During the performance of this Contract, the Contractor shall comply with all federal and state nondiscrimination laws, regulations and policies.

In the event of the Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy this Contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with HCA. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

3.26 OVERPAYMENT AND ASSERTION OF LIEN

In the event that overpayments or erroneous payments have been made to the Contractor under this Contract, HCA shall provide written notice to Contractor and Contractor shall refund the full amount to HCA within thirty (30) calendar days of the notice. HCA may secure repayment, plus interest, if any, through the filing of a lien against the Contractor's real property, or by requiring the posting of a bond, assignment or deposit, or some other form of security acceptable to HCA.

3.27 PUBLIC RECORDS ACT

Contractor acknowledges HCA is subject to chapter 42.56 RCW and that this Contract, including all items incorporated by reference and all work products, are public records as defined in chapter 42.56 RCW. Any specific information that is claimed by Contractor to be Proprietary or Confidential must be clearly identified as such by Contractor in an Exhibit to this Contract. To the extent consistent with chapter 42.56 RCW, HCA shall maintain the

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confidentiality of all such information marked proprietary information in their possession. If a public disclosure request is made to view the information identified the Exhibit to this Contract. HCA will notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure; if Contractor fails to obtain the court order enjoining disclosure, HCA will release the requested information on the date specified in HCA's notice to Contractor.

3.28 RECORDS, DOCUMENTS, AND REPORTS

HCA shall own all right, title and interest in its data (including but not limited to administrative data, claims and encounter data, and eligibility data), whether confidential or otherwise, and regardless of whether that data is provided to Contractor directly by HCA or another entity acting on behalf of HCA.

The Contractor shall maintain books, records, documents, magnetic media, receipts, invoices and other evidence relating to this Contract and the performance of the services rendered, along with accounting procedures and practices, all of which 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 this Contract, shall be subject at all reasonable times to inspection, review, or audit by HCA, the Office of the State Auditor, and state and federal officials so authorized by law, rule, regulation, or agreement. The Contractor shall retain such records for a period of six (6) years after the date of final payment.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

3.29 REGISTRATION WITH DEPARTMENT OF REVENUE

The Contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

3.30 REMEDIES NON-EXCLUSIVE

The remedies provided in this Contract shall not be exclusive, but are in addition to all other remedies available under law.

3.31 RIGHT OF INSPECTION

- A. The Contractor shall provide access to its facilities to HCA, or any of HCA's officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.
- B. The Contractor and its Subcontractors shall cooperate with all audits and investigations performed by duly authorized representatives of the state of Washington, including HCA and the State Auditor's Office, to monitor and evaluate performance under this Contract. The Contractor and its Subcontractors shall provide access to their facilities and the

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records documenting the performance of this Contract, for purpose of audits, investigations, and for the identification and recovery of overpayments within thirty (30) calendar days, and access to its facilities and the records pertinent to this Contract to monitor and evaluate performance under this Contract, including, but not limited to, claims payment and the quality, cost, use, health and safety and timeliness of services, provider Network Adequacy, including panel capacity or willingness to accept new patients, and assessment of the Contractor's capacity to bear the potential financial losses.

- C. Contractor acknowledges that HCA will conduct a security review limited to computing environment used as a result of this Contract. This review will be conducted by Consolidated Technology Services (CTS), and will be informed by the requirements of the Office of the Chief Information Officer (OCIO) Security Standard, 141.10, found at <https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets>. The review will analyze detailed specifications for the proposed change(s), such as network and dataflow diagrams, security controls used to protect confidential data, and web service information. If Contractor has a SSAE 16 SOC 2 Type II report, or any other report on controls related to security, availability, processing integrity, confidentiality, or privacy, Contractor must provide it to HCA. Contractor agrees to assist HCA with this effort by providing requested information in a timely manner. Contractor acknowledges that HCA must comply with all OCIO policies and standards.

3.32 RIGHTS IN DATA/COPYRIGHT

Unless otherwise provided, all materials produced exclusively under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by HCA. HCA shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, Contractor hereby irrevocably assigns all right, title, and interest in Materials, including all intellectual property rights, to HCA effective from the moment of creation of such Materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions that derive exclusively from the Contractor's work under this Contract. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, Contractor hereby grants to HCA a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to HCA.

The Contractor shall exert all reasonable effort to advise HCA, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. HCA shall receive prompt written notice of each notice or claim

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of copyright infringement received by the Contractor with respect to any data delivered under this Contract. HCA shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

3.33 SAFEGUARDING OF INFORMATION

- A. The use or disclosure by any party, of any information concerning HCA, for any purpose not directly connected with the administration of HCA's or the Contractor's responsibilities with respect to services provided under this Contract, is prohibited except by written consent of HCA.
- B. This Contract contains information HCA believes to be proprietary and/or confidential. Release or disclosure of any of the terms and conditions of this Contract, including Exhibits, is prohibited except by written consent of HCA.

3.34 SEVERABILITY

If any provision of this Contract, or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of this Contract that can be given effect without the invalid provision, and to this end the provisions or application of this Contract are declared severable.

3.35 SITE SECURITY

While on HCA premises, Contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations. Failure to comply with these regulations may be grounds for revoking or suspending security access to these facilities. HCA reserves the right and authority to immediately revoke security access to Contractor staff for any real or threatened breach of this provision. Upon reassignment or termination of any Contractor staff, Contractor agrees to promptly notify HCA of the staff reassignment or termination.

3.36 SUBCONTRACTING

- A. Neither the Contractor, nor any Subcontractors, shall enter into subcontracts for any of the work contemplated under this Contract without prior written approval of HCA. In no event shall the existence of the subcontract operate to release or reduce the liability of the Contractor to HCA for any breach in the performance of the Contractor's duties.
- B. The Contractor is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this Contract are included in any subcontracts. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons confidential information without the express written consent of HCA or as provided by law.
- C. If, at any time during the progress of the work, the HCA determines in its sole judgment that any Subcontractor is incompetent or undesirable, the HCA shall notify the Contractor, and the Contractor shall take immediate steps to terminate the subcontractor's involvement in the work.

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- D. The rejection or approval by the HCA of any subcontractor or the termination of a subcontractor shall not relieve the Contractor of any of its responsibilities under the Contract, nor be the basis for additional charges to the HCA.
- E. The HCA has no contractual obligations to any subcontractor or vendor under contract to the Contractor. The Contractor is fully responsible for all contractual obligations, financial or otherwise, to their subcontractors.

3.37 SUBRECIPIENT

3.37.1 General

If the Contractor is a sub-recipient of federal awards as defined by Office of Management and Budget (OMB) Circular A-133 and this Contract, the Contractor shall:

- 3.37.1.1 Maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity;
- 3.37.1.2 Maintain internal controls that provide reasonable assurance that the Contractor is managing federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs;
- 3.37.1.3 Prepare appropriate financial statements, including a schedule of expenditures of federal awards;
- 3.37.1.4 Incorporate OMB Circular A-133 audit requirements into all agreements between the Contractor and its Subcontractors who are sub-recipients;
- 3.37.1.5 Comply with any future amendments to OMB Circular A-133 and any successor or replacement Circular or regulation;
- 3.37.1.6 Comply with the applicable requirements of OMB Circular A-87 and any future amendments to OMB Circular A-87, and any successor or replacement Circular or regulation; and
- 3.37.1.7 Comply with the Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39. (Go to <http://ojp.gov/about/offices/ocr.htm> for additional information and access to the aforementioned Federal laws and regulations.)

3.37.2 Single Audit Act Compliance

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If the Contractor is a sub-recipient and expends \$750,000 or more in federal awards from any and/or all sources in any fiscal year, the Contractor shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Contractor shall:

- 3.37.2.1 Submit to the Authority contact person the data collection form and reporting package specified in OMB Circular A-133, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor;
- 3.37.2.2 Follow-up and develop corrective action for all audit findings; in accordance with OMB Circular A-133, prepare a "Summary Schedule of Prior Audit Findings."

3.37.3 Overpayments

If it is determined by the Authority, or during the course of a required audit, that the Contractor has been paid unallowable costs under this or any Program Agreement, the Authority may require the Contractor to reimburse the Authority in accordance with OMB Circular A-87.

3.38 SURVIVABILITY

The terms and conditions contained in this Contract that shall survive the expiration or termination of this Contract include but are not limited to the following Sections of this Contract:

TBD

3.39 SYSTEM SECURITY

Contractor agrees not to attach any Contractor-supplied computers, peripherals or software to the HCA Network without prior written authorization from HCA's Information Systems Manager. Contractor-supplied computer equipment, including both hardware and software, must be reviewed by the HCA Information Services prior to being connected to any HCA network connection and that it must have up to date anti-virus software and personal firewall software installed and activated on it.

Unauthorized access to HCA networks and systems is a violation of HCA Policy 06-03 and constitutes computer trespass in the first degree pursuant to RCW 9A.52.110. Violation of any of these laws or policies could result in termination of the contract and other penalties.

3.40 TAXES

Contractor is solely responsible for all payroll taxes, unemployment contributions, and any other taxes, insurance or other expenses related to the receipt of payments received from HCA under this Contract.

3.41 TERMINATION

3.41.1 TERMINATION FOR CAUSE

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In the event the Contractor violates any material term or condition of this Contract or any Work Order, or fails to fulfill in a timely and proper manner its material obligations under this Contract or any Work Order, as applicable, then complies with the conditions of this Contract in a timely manner, HCA has the right to suspend or terminate this Contract. HCA shall notify the Contractor, in writing, of the need to take corrective action. If corrective action is not taken within three (3) Business Days, or other time period agreed to in writing, the Contract may be terminated. HCA 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 and pending corrective action by the Contractor or a decision by HCA to terminate the Contract.

In the event of termination, the Contractor shall be liable for 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 the competitive bidding, mailing, advertising, and staff time. If it is determined that the Contractor: (i) was not in default, or (ii) failure to perform was outside of his or her control, fault or negligence, the termination shall be deemed a "Termination for Convenience" and the provisions of Subsection 3.42.3 will apply.

3.41.2 TERMINATION DUE TO CHANGE IN FUNDING, SUSPENSION OR CONTRACT RENEGOTIATION

If the funds HCA relied upon to establish this Contract are withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding, after the effective date of this contract but prior to the normal completion of this Contract:

3.41.2.1 At HCA's discretion, the Contract may be renegotiated under the revised funding conditions.

3.41.2.2 At HCA's discretion, HCA may give notice to Contractor to suspend performance when HCA determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this contract.

3.41.2.2.1 During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.

3.41.2.2.2 When HCA determines that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to HCA informing HCA whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.

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3.41.2.2.3 If the Contractor's proposed resumption date is not acceptable to HCA and an acceptable date cannot be negotiated, HCA may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. HCA shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the retroactive date of termination.

3.41.2.3 HCA may immediately terminate this Contract by providing written notice to the Contractor. The termination shall be effective on the date specified in the termination notice. HCA shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty shall accrue to HCA in the event the termination option in this section is exercised.

3.41.3 TERMINATION FOR CONVENIENCE

When, at HCA's sole discretion, it is in the best interest of the State, HCA may terminate this Contract in whole or in part by providing ten (10) Business Days notice. If this Contract is so terminated, HCA shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination.

3.41.4 TERMINATION PROCEDURES

Upon termination of this Contract, HCA, in addition to any other rights provided in this Contract or available under law, may require the Contractor to deliver to HCA any property specifically produced or acquired for the performance of such part of this Contract as has been terminated.

HCA shall pay to the Contractor the agreed upon price, if separately stated, for completed work and service accepted by HCA and the amount agreed upon by the Contractor and HCA for (i) completed work and services for which no separate price is stated; (ii) partially completed work and services; (iii) other property or services which are accepted by HCA; and (iv) the protection and preservation of property, unless the termination is for default, in which case the HCA shall determine the extent of the liability. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Contract. HCA may withhold from any amounts due the Contractor such sum as HCA determines to be necessary to protect HCA against potential loss or liability.

Upon receipt of notice of termination, and except as otherwise directed by the HCA, the Contractor shall:

3.41.4.1 Stop work under the Contract on the date, and to the extent specified in the notice;

3.41.4.2 Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract that is not terminated;

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- 3.41.4.3 Assign to HCA, in the manner, at the times, and to the extent directed by HCA, all the rights, title, and interest of the Contractor under the orders and subcontracts so terminated; in which case HCA has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- 3.41.4.4 Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of HCA to the extent HCA may require, which approval or ratification shall be final for all the purposes of this clause;
- 3.41.4.5 Transfer title to HCA and deliver in the manner, at the times, and to the extent directed by HCA any property which, if the Contract has been completed, would have been required to be furnished to HCA;
- 3.41.4.6 Complete performance of such part of the work as shall not have been terminated by HCA; and
- 3.41.4.7 Take such action as may be necessary, or as HCA may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which HCA has or may acquire an interest.

3.41.5 TERMINATION FOR WITHDRAWAL OF AUTHORITY

In the event that the authority of HCA to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, HCA may terminate this Contract in whole or in part, under Section 3.41.3 of this Contract. No penalty will accrue to HCA in the event this section is exercised. This Section shall not be construed so as to permit HCA to terminate this Contract in order to acquire similar Services from a third party.

3.42 WAIVER

Waiver of any breach or default shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Contract. A waiver must be in writing, signed by an authorized agent for the party, attached to the original Contract, and identify the right(s) the party is waiving. Only the HCA Contract Administrator has the authority to waive any term or condition of this Contract on behalf of HCA.

** Please note this is a high level assessment of the Statement of Work. This is subject to be changed and modified with the winning Applicant's Application.*

Schedule A
Statement of Work

A. Overview

The Contractor must provide services and deliverables, and otherwise do all things necessary for or incidental to the performance of work as set forth under this Statement of Work (SOW).

[TBD]

B. Deliverables:

i. [TBD]