



**STATE OF WASHINGTON
HEALTH CARE AUTHORITY**

REQUEST FOR PROPOSALS (RFP)

RFP NO. 2982

PROJECT TITLE: School Employees Benefit (SEB) Dependent Verification

PROPOSAL DUE DATE: January 4, 2019 by 2:00 p.m. *Pacific Time*, Olympia, Washington, USA.

E-mailed bids will be accepted. Faxed bids will not.

ESTIMATED TIME PERIOD FOR CONTRACT: September 1, 2019 to December 31, 2019

The Health Care Authority reserves the right to extend the contract for up to six (6) additional months at the sole discretion of the Health Care Authority.

BIDDER ELIGIBILITY: This procurement is open to those Bidders that satisfy the minimum qualifications stated herein and that are available for work in Washington State.

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1. INTRODUCTION

1.1. PURPOSE AND BACKGROUND

The Health Care Authority (HCA) is initiating this Request for Proposals (RFP) to solicit proposals from firms interested in providing personnel to complete Dependent Verification (DV) of eligibility for 2019 Annual Open Enrollment period for the School Employees Benefit Board (SEBB) program, which includes school districts, educational service districts, and charter schools (SEBB Organizations). The DV will be made to ensure dependents are eligible for coverage before they are enrolled in the SEBB Program

HCA is a cabinet-level agency within the Washington State executive branch and governed by chapter 41.05 of the Revised Code of Washington (RCW). HCA is the largest purchaser of health care services in Washington State through its management of the Public Employees Benefits Board (PEBB) Program and Apple Health (Medicaid). This purchasing influence will expand with the implementation of the School Employees Benefits Board (SEBB) Program. The HCA's Employees and Retirees Benefits (ERB) Division will administer benefits for both the SEBB and PEBB Programs.

The PEBB Program administers medical, dental, life, accidental death and dismemberment, long-term disability, and optional insurances to eligible state and higher-education employees and their eligible dependents. Most of these PEBB benefits also extend to eligible employees of non-state public entities and K-12 school districts (under a contractual agreement), retirees, continuation coverage subscribers, and their eligible dependents. The PEBB Program covers approximately 378,000 lives.

Beginning in 2020, HCA will also administer the legislatively mandated SEBB Program. The SEBB Program was created within HCA pursuant to the passage of Engrossed House Bill (EHB) 2242 (Laws of 2017, 3rd sp.s., Ch. 13, Part XIII¹) in July 2017. EHB 2242 directs the SEB Board and HCA to develop and administer a suite of benefits for eligible school employees and their dependents. During the 2018 legislative session, SEBB Program statutes were amended by Engrossed Substitute Senate Bill 6241 (Laws of 2018, Ch. 260)². The SEBB Program will begin offering benefits for eligible school employees and their dependents beginning January 2020.

Starting January 1, 2020, all Washington State school districts, ESDs, and charter schools (collectively referred to as "SEBB organizations") will be required to participate in benefits offered through the SEBB Program; those SEBB organizations accessing PEBB Program benefits prior to January 1, 2020 will transition to SEBB Program benefits starting January 1, 2020. The SEBB Program will manage benefits for employees of school districts, educational service districts (ESDs), charter schools, and their eligible dependents. HCA estimates this program will cover 300,000 to 350,000 lives. SEBB will design and approve insurance benefit plans and establish eligibility criteria for participation in these plans well before that time. Open enrollment, when eligible school employees can sign up for benefits for the 2020 Plan period, will begin October 1, 2019 and run through November 15, 2019.

HCA intends to award one (1) contract to provide the services described in this RFP.

¹ [http://lawfilesexternal.leg.wa.gov/biennium/2017-18/Pdf/Bills/Session%20Laws/House/2242.SL.pdf?cite=2017 3rd sp.s. c 13 § 801](http://lawfilesexternal.leg.wa.gov/biennium/2017-18/Pdf/Bills/Session%20Laws/House/2242.SL.pdf?cite=2017%203rd%20sp.s.%20c%2013%20s%20801).

² <http://lawfilesexternal.leg.wa.gov/biennium/2017-18/Pdf/Bills/Session%20Laws/Senate/6241-S.SL.pdf>

1.2. OBJECTIVES AND SCOPE OF WORK

Currently, SEBB Organizations complete DV in-house or through third party administrators or brokers at the time of employees' hire, or if they have a qualifying event such as a birth or a marriage. As HCA assumes the responsibility of purchasing benefits for SEBB, existing third party administrators or brokers for these services will no longer be expected to perform DV services. During the initial SEBB Open Enrollment (OE) period (October 1, 2019 through November 15, 2019) all SEBB Organizations employees will be enrolling in a new SEBB Plan, which is expected to require DV of approximately 150,000 children, spouse, and state-registered domestic partners during this time. Neither HCA, nor the individual SEBB Organizations currently have the personnel or resources to complete the documentation process necessary for DV during the initial 2019 Open Enrollment by the SEBB start date of January 1, 2020.

The awarded Contractor will provide up to thirty (30) personnel for approximately three (3) months, to assist in the process of DV for the documents submitted during the initial OE period. The review of these DV documents must be complete by the SEBB go-live date of January 1, 2020. Documents submitted November 16, 2019 and after will be the responsibility of the SEBB Organizations.

The awarded Contractor's personnel will be trained by HCA staff to identify valid and invalid DV documents. They would then be given limited access to an existing HCA administrative dashboard, which would display pending DV documents. The awarded Contractor's personnel will assess each document and make a determination on the validity of the document by selecting an option on the dashboard. HCA estimates a potential workload of approximately 150,000 DV documents. This work will be done remotely at the Contractor's place of business or other HCA approved location. HCA will not provide work space or equipment for this work. The initial training provided by HCA may be on site at HCA or can be done remotely depending on the awarded Contractor's location.

The awarded Contractor's personnel will process documents submitted by SEBB benefits-eligible employees for the purposes of validating their dependent's eligibility for enrollment in the SEBB Program. The awarded Contractor's personnel will:

- 1.2.1. Access DV documents through existing HCA programs, such as the HCA online enrollment program (SEBB MyAccount);
- 1.2.2. Validate or invalidate the document as proof of the dependent eligibility; and
- 1.2.3. Adjust the account settings accordingly using existing HCA input methods.

The initial training for the Contractor's personnel will approximately take place in September 2019. The SEBB DV for the initial OE period will begin, October 1, 2019 through January 1, 2020

1.3. MINIMUM QUALIFICATIONS

The following are the minimum qualifications for Bidders:

- 1.3.1. Licensed to do business in the State of Washington or provide a commitment that it will become licensed in Washington within 30 calendar days of being selected as the Apparent Successful Bidder.
- 1.3.2. Experience with processing large volumes of sensitive documentation within a condensed timeframe.
- 1.3.3. The ability to provide up to thirty (30) personnel to be trained to process DV documents for a minimum of three months.
- 1.3.4. The ability to process all DV documents prior to the SEBB Go-Live date of January 1, 2020.

1.4. FUNDING

Any contract awarded as a result of this procurement is contingent upon the availability of funding as approved by the Washington State Legislature.

1.5. PERIOD OF PERFORMANCE

The period of performance of any contract resulting from this RFP is tentatively scheduled to begin on or about September 1, 2019 and to January 1, 2020 Amendments extending the period of performance, if any, will be at the sole discretion of HCA.

HCA reserves the right to extend the contract for six (6) additional months in whatever time periods HCA deems necessary.

1.6. CONTRACTING WITH CURRENT OR FORMER STATE EMPLOYEES

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. Bidders should familiarize themselves with the requirements prior to submitting a proposal that includes current or former state employees.

1.7. DEFINITIONS

Definitions for the purposes of this RFP include:

Annual Open Enrollment – An annual event set aside for a period of time when Subscribers may make changes to their Health Plan enrollment and salary reduction elections for the following Plan Year. During the Annual Open Enrollment, Subscribers may transfer from one Health Plan to another, enroll or remove Dependents from coverage, or enroll or waive enrollment in SEBB Program medical. School Employees eligible to participate in the salary reduction plan may enroll in or change their election under the dependent care assistance program (DCAP), the medical flexible spending arrangement (FSA), or the premium payment plan.

Apparently Successful Bidder (ASB) – The Bidder selected as the entity to perform the anticipated services under this RFP, subject to completion of contract negotiations and execution of a written contract.

Benefits Start Date – The day the ASB will begin providing benefit coverage and services under the Contract. This date is currently scheduled for January 1, 2020.

Bidder – Individual or company interested in the RFP that submits a proposal in order to attain a contract with the Health Care Authority.

Charter School – Per Chapter 241, Laws of 2016 (E2SSB 6194), a “Charter School” is a public school that is established in accordance with this chapter, governed by a charter school board, and operated according to the terms of a charter school contract executed under this chapter.

Dependent – An eligible spouse, Washington State state-registered domestic partner, and/or child, who meets SEBB Program eligibility requirements as described in the SEB Board policy resolutions SEBB 2018-01, SEBB 2018-02, and SEBB 2018-03.

Educational Service District (ESD) – A regional education unit Washington State. There are nine (9) ESDs; each ESD serves multiple school districts. ESD are established under RCW 28A.310.020 to provide cooperative and information services to local school districts; assist superintendents in the performance of their duties, and provide services to the school districts and the Washington State center for childhood deafness and hearing loss and the school for the blind to assure equal education opportunities.

Employees and Retirees Benefits Division or ERB - the division of the Health Care Authority, which manages the operations that provide insurance coverage for Eligible Subscriber employees of Washington State agencies, higher education institutions, certain employer groups, and their families. ERB includes both PEBB and SEBB Programs and any future replacement or successor benefit program(s) administered by HCA for the public employees and/or retirees.

Health Care Authority or HCA –an executive agency of the state of Washington that is issuing this RFP.

Member – Subscribers and their Dependents who are enrolled in a SEBB Program contracted fully insured medical plan with a Carrier that results from this RFP, and for whom applicable premium contributions and any applicable premium surcharges have been made.

Proposal – A formal offer submitted in response to this solicitation.

Request for Proposals (RFP) – Formal procurement document in which a service or need is identified but no specific method to achieve it has been chosen. The purpose of an RFP is to permit the bidder community to suggest various approaches to meet the need at a given price.

School Employee – An employee of a Washington State school district, Educational Service District, or Charter School. This includes both certificated and non-certificated (otherwise known as “classified”) employees.

Subscriber – The School Employee, Continuation Coverage enrollee, or survivor who has been determined eligible by the SEBB Program, school district, ESD, or Charter School and is the individual to whom the SEBB Program and contracted vendors will issue all notices, information, requests, and premium bills on behalf of Members.

1.8. ADA

HCA complies with the Americans with Disabilities Act (ADA). Bidders may contact the RFP Coordinator to receive this RFP in Braille or on tape.

2. GENERAL INFORMATION FOR BIDDERS

2.1. RFP COORDINATOR

The RFP Coordinator is the sole point of contact in HCA for this procurement. All communication between the Bidder and HCA upon release of this RFP must be with the RFP Coordinator, as follows:

Name	Andria Howerton
E-Mail Address	contracts@hca.wa.gov

Any other communication will be considered unofficial and non-binding on HCA. Bidders are to rely on written statements issued by the RFP Coordinator. Communication directed to parties other than the RFP Coordinator may result in disqualification of the Bidder.

2.2. ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Issue Request for Proposals	December 10, 2018
Questions Due	December 17, 2018 – 2:00 p.m. PT
Answers Posted	December 19, 2018
Mandatory Letter of Intent Due	December 20, 2019 - 2:00 p.m. PT
Proposals Due	January 4, 2019 – 2:00 p.m. PT
Evaluate Proposals	January 7, 2019 – January 16, 2019
Announce “Apparent Successful Bidder” and send notification via e-mail to unsuccessful Bidders	January 22, 2019
Debrief request deadline	January 25, 2019
Estimated Contract start date	September 1, 2019

HCA reserves the right in its sole discretion to revise the above schedule.

2.3. MANDATORY LETTER OF INTENT TO PROPOSE

To be eligible to submit a Proposal, a Bidder must submit a Letter of Intent to Propose. The Letter of Intent to Propose must be emailed to the RFP Coordinator, listed in Section 2, and must be received by the RFP Coordinator no later than the date and time stated in the Procurement Schedule, Section 2.2. The subject line of the email must include the following: [Procurement #] – Letter of Intent to Propose – [Your entity's name].

The Letter of Intent to Propose may be attached to the email as a separate document, in Word or PDF, or the information may be contained in the body of the email.

Information in the Letter of Intent to Propose should be placed in the following order:

- 2.3.1. Bidder's Organization Name;
- 2.3.2. Bidder's authorized representative for this RFP (who must be named the authorized representative identified in the Bidder's Proposal);
- 2.3.3. Title of authorized representative;
- 2.3.4. Address, telephone number, and email address;

2.3.5. Statement of intent to propose; and

2.3.6. An explanation on how the Bidder meets ALL of the minimum requirements specified in Section 1.3 of this RFP.

HCA may use the Letters of Intent to Propose as a pre-screening to determine whether Minimum Qualifications are met.

2.4. SUBMISSION OF PROPOSALS

The proposal must be received by the RFP Coordinator no later than the Proposal Due deadline in Section 2.2, *Estimated Schedule of Procurement*.

Proposals must be submitted electronically as an attachment to an e-mail to the RFP Coordinator at the e-mail address listed in Section 2. Attachments to e-mail should be in Microsoft Word format or PDF. Zipped files cannot be received by HCA and cannot be used for submission of proposals. The cover submittal letter and the Certifications and Assurances form must have a scanned signature of the individual within the organization authorized to bind the Bidder to the offer. HCA does not assume responsibility for problems with Bidder's e-mail. If HCA e-mail is not working, appropriate allowances will be made.

Proposals may not be transmitted using facsimile transmission.

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

2.5. PROPRIETARY INFORMATION / PUBLIC DISCLOSURE

Proposals submitted in response to this RFP will become the property of HCA. All proposals received will remain confidential until the Apparently Successful Bidder is announced; thereafter, the proposals will be deemed public records as defined in chapter 42.56 of the Revised Code of Washington (RCW).

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

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

A charge will be made for copying and shipping, as outlined in RCW 42.56. No fee will be charged for inspection of contract files, but 24 hours' notice to the RFP Coordinator is required. All requests for information should be directed to the RFP Coordinator.

The submission of any public records request to HCA pertaining in any way to this RFP will not affect the procurement schedule, as outlined in Section 2.2, unless HCA, in its sole discretion, determines that altering the schedule would be in HCA's best interests.

2.6. REVISIONS TO THE RFP

If HCA determines in its sole discretion that it is necessary to revise any part of this RFP, then HCA will provide addenda via e-mail to all individuals who have made the RFP Coordinator aware of their interest. Addenda will also be published on Washington's Electronic Bid System (WEBS), at <https://fortress.wa.gov/ga/webs/>. For this purpose, the published questions and answers and any other pertinent information will be provided as an addendum to the RFP and will be placed on the website.

HCA also reserves the right to cancel or to reissue the RFP in whole or in part, prior to execution of a contract.

2.7. DIVERSE BUSINESS INCLUSION PLAN

Bidders will be required to submit a Diverse Business Inclusion Plan with their proposal. In accordance with legislative findings and policies set forth in RCW 39.19, the state of Washington encourages participation in all contracts by firms certified by the Office of Minority and Women's Business Enterprises (OMWBE), set forth in RCW 43.60A.200 for firms certified by the Washington State Department of Veterans Affairs, and set forth in RCW 39.26.005 for firms that are Washington Small Businesses. Participation may be either on a direct basis or on a subcontractor basis. However, no preference on the basis of participation is included in the evaluation of Diverse Business Inclusion Plans submitted, and no minimum level of minority- and women-owned business enterprise, Washington Small Business, or Washington State certified Veteran Business participation is required as a condition for receiving an award. Any affirmative action requirements set forth in any federal governmental regulations included or referenced in the contract documents will apply.

2.8. ACCEPTANCE PERIOD

Proposals must provide one hundred twenty (120) calendar days for acceptance by HCA from the due date for receipt of proposals.

2.9. COMPLAINT PROCESS

- 2.9.1. Vendors may submit a complaint to HCA based on any of the following:
 - 2.9.1.1. The RFP unnecessarily restricts competition;
 - 2.9.1.2. The RFP evaluation or scoring process is unfair or unclear; or
 - 2.9.1.3. The RFP requirements are inadequate or insufficient to prepare a response.
- 2.9.2. A complaint must be submitted to HCA prior to five business days before the bid response deadline. The complaint must:
 - 2.9.2.1. Be in writing;
 - 2.9.2.2. Be sent to the RFP Coordinator in a timely manner;
 - 2.9.2.3. Clearly articulate the basis for the complaint; and
 - 2.9.2.4. Include a proposed remedy.

The RFP Coordinator will respond to the complaint in writing. The response to the complaint and any changes to the RFP will be posted on WEBS. The Director of HCA will be notified of all complaints and will be provided a copy of HCA's response. A Bidder or potential Bidder cannot raise during a bid

protest any issue that the Bidder or potential Bidder raised in a complaint. HCA's action or inaction in response to a complaint will be final. There will be no appeal process.

2.10. RESPONSIVENESS

The RFP Coordinator will review all proposals to determine compliance with administrative requirements and instructions specified in this RFP. A Bidder's failure to comply with any part of the RFP may result in rejection of the proposal as non-responsive.

HCA also reserves the right at its sole discretion to waive minor administrative irregularities.

2.11. MOST FAVORABLE TERMS

HCA reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms which the Bidder can propose. HCA reserve the right to contact a Bidder for clarification of its proposal.

HCA also reserves the right to use a Best and Final Offer (BAFO) before awarding any contract to further assist in determining the ASB(s).

The ASB should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. The contract resulting from this RFP will incorporate some, or all, of the Bidder's proposal. The proposal will become a part of the official procurement file on this matter without obligation to HCA.

2.12. CONTRACT AND GENERAL TERMS & CONDITIONS

The ASB will be expected to enter into a contract which is substantially the same as the sample contract and its general terms and conditions attached as Exhibit C. HCA will not accept any draft contracts prepared by any Bidder. The Bidder may submit exceptions as allowed in the Certifications and Assurances form, Exhibit B to this RFP. All exceptions must be submitted as an attachment to Exhibit B. HCA will review requested exceptions and accept or reject the same at its sole discretion.

If, after the announcement of the ASB, and after a reasonable period of time, the ASB and HCA cannot reach agreement on acceptable terms for the Contract, the HCA may cancel the selection and Award the Contract to the next most qualified Bidder.

2.13. COSTS TO PROPOSE

HCA will not be liable for any costs incurred by the Bidder in preparation of a proposal submitted in response to this RFP, in conduct of a presentation, or any other activities related in any way to this RFP.

2.14. RECEIPT OF INSUFFICIENT NUMBER OF PROPOSALS

If HCA receives only one responsive proposal as a result of this RFP, HCA reserves the right to either: 1) directly negotiate and contract with the Bidder; or 2) not award any contract at all. HCA may continue to have the bidder complete the entire RFP. HCA is under no obligation to tell the Bidder if it is the only Bidder.

2.15. NO OBLIGATION TO CONTRACT

This RFP does not obligate HCA to enter into any contract for services specified herein.

2.16. REJECTION OF PROPOSALS

HCA reserves the right, at its sole discretion, to reject any and all proposals received without penalty and not to issue any contract as a result of this RFP.

2.17. COMMITMENT OF FUNDS

The Director of HCA or his/her delegate is the only individual who may legally commit HCA to the expenditures of funds for a contract resulting from this RFP. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

2.18. ELECTRONIC PAYMENT

The state of Washington prefers to utilize electronic payment in its transactions. The ASB will be provided a form to complete with the contract to authorize such payment method.

2.19. INSURANCE COVERAGE (ADD OTHER INSURANCE AS REQUIRED)

As a requirement of the resultant contract, the ASB is to furnish HCA with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below.

The ASB must, at its own expense, obtain and keep in force insurance coverage which will be maintained in full force and effect during the term of the contract. The ASB must furnish evidence in the form of a Certificate of Insurance that insurance will be provided, and a copy must be forwarded to HCA within 15 days of the contract effective date.

2.19.1. Liability Insurance

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

Additionally, the ASB is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

- 2.19.1.2. Business Auto Policy: As applicable, the ASB shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance must cover liability arising out of "Any Auto." Business auto coverage must be written on ISO form CA 00 01, 1990 or later edition, or substitute liability form providing equivalent coverage.

- 2.19.1.3. Employers Liability ("Stop Gap") Insurance

- 2.19.1.4. In addition, the ASB shall buy employers liability insurance and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each

accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

2.19.2. Additional Provisions

Above insurance policy must include the following provisions:

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

2.19.3. Workers' Compensation Coverage

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

3. PROPOSAL CONTENTS

Proposals must be written in English and submitted electronically to the RFP Coordinator in the order noted below:

- A. Letter of Submittal, including signed Certifications and Assurances (Exhibit A to this RFP)
- B. Technical Proposal
- C. Management Proposal
- D. Cost Proposal
- E. Diverse Business Inclusion Plan (Exhibit B to this RFP)

Proposals must provide information in the same order as presented in this document with the same headings.

Items marked “mandatory” must be included as part of the proposal for the proposal to be considered responsive; however, these items are not scored. Items marked “scored” are those that are awarded points as part of the evaluation conducted by the evaluation team.

3.1. LETTER OF SUBMITTAL (MANDATORY)

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

- 3.1.1. Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom contract would be written.
- 3.1.2. Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.).
- 3.1.3. Legal status of the Bidder (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
- 3.1.4. Federal Employer Tax Identification number or Social Security number and the Washington Uniform Business Identification (UBI) number issued by the state of Washington Department of Revenue. If the Bidder does not have a UBI number, the Bidder must state that it will become licensed in Washington within 30 calendar days of being selected as the Apparently Successful Bidder.
- 3.1.5. Location of the facility from which the Bidder would operate.
- 3.1.6. Identify any state employees or former state employees employed or on the firm's governing board as of the date of the proposal. Include their position and responsibilities within the Bidder's organization. If following a review of this information, it is determined by HCA that a conflict of interest exists, the Bidder may be disqualified from further consideration for the award of a contract.

- 3.1.7. If the Bidder has had a contract terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the Bidder's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Bidder, or (b) litigated and such litigation determined that the Bidder was in default.
- 3.1.8. Submit full details of the terms for default including the other party's name, address, and phone number. Present the Bidder's position on the matter. HCA will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. If no such termination for default has been experienced by the Bidder in the past five years, so indicate.
- 3.1.9. Any information in the proposal that the Bidder desires to claim as proprietary and exempt from disclosure under the provisions of RCW 42.56 must be clearly designated. The page must be identified and the particular exemption from disclosure upon which the Bidder is making the claim must be listed. Each page claimed to be exempt from disclosure must be clearly identified by the word "Proprietary" printed on the lower right hand corner of the page. In your Letter of Submittal, please list which pages and sections that have been marked "Proprietary" and the particular exemption from disclosure upon which the Bidder is making the claim.

3.2. TECHNICAL PROPOSAL (SCORED, Max 30 weighted points)

The Technical Proposal must contain a comprehensive description of services including the following elements:

- 3.2.1. **Project Approach/Methodology** – Provide a complete description of the Bidder's proposed approach and methodology for the project. This section should convey Bidder's understanding of the proposed project.
- 3.2.2. **Work Plan** – Provide a work plan that includes all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project defined in this RFP. This section of the technical proposal must contain sufficient detail to convey to members of the evaluation team the Bidder's knowledge of the subjects and skills necessary to successfully complete the project. Include any required involvement of HCA staff. The Bidder may also present any creative approaches that might be appropriate and may provide any pertinent supporting documentation.
- 3.2.3. **Project Schedule** – Provide a project schedule indicating when the elements of the work will be completed. Project schedule must ensure that any deliverables requested are met.
- 3.2.4. **Outcomes and Performance Measurement** – Describe the impacts/outcomes the Bidder proposes to achieve as a result of the delivery of these services including how these outcomes would be monitored, measured, and reported to HCA.
- 3.2.5. **Risks** – Describe and identify potential risks that are considered significant to the success of the project. Include how the Bidder would propose to effectively monitor and manage these risks, including reporting of risks to the HCA contract manager.
- 3.2.6. **Deliverables** – Fully describe deliverables to be submitted under the proposed contract. Deliverables must support the requirements set forth in Section 1.2, Objectives and Scope of Work. For example, regular reporting of DV processing progress.

3.3. MANAGEMENT PROPOSAL (SCORED, Max 55 weighted points)

3.3.1. Project Management

- 3.3.1.1. (Max 15 weighted points) Project Team Structure/Internal Controls – Provide a description of the proposed project team structure and internal controls to be used during the course of the project, including any subcontractors. Provide an organizational chart of your firm indicating lines of authority for personnel involved in performance of this potential contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management. Include who within the firm will have prime responsibility and final authority for the work.
- 3.3.1.2. (Max 10 weighted points) Staff Qualifications/Experience – Identify the qualifications relevant to this RFP of the staff, including subcontractors, who will be assigned to the potential contract, indicating the responsibilities and qualifications of such personnel, and include the amount of time each will be assigned to the project. Include in your description the baseline of credentials that will be used to hire, which include information on the individual's particular skills related to this project, education, experience, significant accomplishments and any other pertinent information. The Bidder must commit that staff identified in its proposal meet the criteria and will actually perform the assigned work. Any staff substitution must be communicated to HCA with prior written notice.

3.3.2. Experience of the Bidder

- 3.3.2.1. (Max 16 weighted points) Indicate the experience the Bidder and any subcontractors have in the following areas associated with:
 - 3.3.2.1.1. Experience handling an agile workforce on unfamiliar programs and subject matter.
 - 3.3.2.1.2. Experience managing teams: Setting clear expectations, providing adequate resources, holding employees accountable, and evaluating work performance.
 - 3.3.2.1.3. Experience providing cross-organizational communication.
 - 3.3.2.1.4. Experience adjusting rapidly to issues or changing conditions.
- 3.3.2.2. (Max 7 weighted points) Indicate other relevant experience that indicates the qualifications of the Bidder, and any subcontractors, for the performance of the potential contract.
- 3.3.2.3. (Max 7 weighted points) Include a list of contracts the Bidder has had during the last five years that relate to the Bidder's ability to perform the services needed under this RFP. List contract reference numbers, contract period of performance, contact persons, telephone numbers, and fax numbers/e-mail addresses.

3.3.3. References (MANDATORY, NOT SCORED)

List names, addresses, telephone numbers, and fax numbers/e-mail addresses of three business references for the Bidder and three business references for the lead staff person for whom work has been accomplished and briefly describe the type of service provided. Do not include current HCA staff as references. By submitting a proposal in response to this RFP, the vendor and team members grant permission to HCA to contact these references and others, who from HCA's perspective, may have pertinent information. HCA may or may not, at HCA's discretion, contact references. HCA may evaluate references at HCA's discretion.

3.3.4. OMWBE Certification (OPTIONAL AND NOT SCORED)

Include proof of certification issued by the Washington State Office of Minority and Women's Business Enterprises (OMWBE) if certified minority-owned firm and/or women-owned firm(s) will be participating on this project. For information:
<http://www.omwbe.wa.gov>.

3.4. COST PROPOSAL (SCORED, Max 15 weighted points)

The evaluation process is designed to award this procurement not necessarily to the Bidder of least cost, but rather to the Bidder whose proposal best meets the requirements of this RFP. However, Bidders are encouraged to submit proposals which are consistent with state government efforts to conserve state resources.

Identify all costs in U.S. dollars including expenses to be charged for performing the services necessary to accomplish the objectives of the contract. The Bidder is to submit a fully detailed budget, including a final grand total, including staff costs and any expenses necessary to accomplish the tasks and to produce the deliverables under the contract. Bidders are required to collect and pay Washington state sales and use taxes, as applicable.

Costs for subcontractors are to be broken out separately. Please note if any subcontractors are certified by the Office of Minority and Women's Business Enterprises.

4. EVALUATION AND CONTRACT AWARD

4.1. EVALUATION PROCEDURE

Responsive Proposals will be evaluated strictly in accordance with the requirements stated in this RFP and any addenda issued. The evaluation of proposals will be accomplished by an evaluation team(s), to be designated by HCA, which will determine the ranking of the proposals. Evaluations will only be based upon information provided in the Bidder's Proposal.

All proposals received by the stated deadline, Section 2.2, *Estimated Schedule of Procurement Activities*, will be reviewed by the RFP Coordinator to ensure that the Proposals contain all of the required information requested in the RFP. Only responsive Proposals that meet the requirements will be evaluated by the evaluation team. Any Bidder who does not meet the stated qualifications or any Proposal that does not contain all of the required information will be rejected as non-responsive.

The RFP Coordinator may, at his or her sole discretion, contact the Bidder for clarification of any portion of the Bidder's Proposal. Bidders should take every precaution to ensure that all answers are clear, complete, and directly address the specific requirement.

Responsive Proposals will be reviewed and scored by an evaluation team using a weighted scoring system, Section 4.2, *Evaluation Weighting and Scoring*. Proposals will be evaluated strictly in accordance with the requirements set forth in this RFP and any addenda issued.

HCA, at its sole discretion, may elect to select the top-scoring firms as finalists for an oral presentation.

4.2. EVALUATION WEIGHTING AND SCORING

- 4.2.1. The maximum number of evaluation points available is X. The Mandatory Requirements are evaluated on a pass/fail basis. The following weighted points will be assigned to the Proposal for evaluation purposes.

Specific Criteria for RFP Evaluation:

Evaluation Criteria	Maximum Weighted Points Possible
RFP Compliance	N/A
Technical Proposal	30
Management Proposal	55
Cost Proposal	15
Total	100

HCA reserves the right to award the contract to the Bidder whose proposal is deemed to be in the best interest of HCA and the state of Washington.

- 4.2.2. Responses that pass all Mandatory requirements will be further evaluated and scored. Evaluators will evaluate and assign a score to each Scored requirement based on how well the Bidder's response matches the requirement.

Evaluators will assign scores on a scale of zero (0) to ten (10) where the end and midpoints are defined as follows:

Score	Description	Discussion
0	No value	The Response does not address any component of the requirement or no information was provided.
1	Poor	The Response only minimally addresses the requirement and is missing components or components were missing.
3	Below Average	The Response only minimally addresses the requirement and the Bidders ability to comply with the requirement or simply has restated the requirement.
5	Average	The Response shows an acceptable understanding or experience with the requirement. Sufficient detail to be considered "as meeting minimum requirements."
7	Good	The Response is thorough and complete and demonstrates firm understanding of concepts and requirements.
10	Excellent	The Response has provided an innovative, detailed, and thorough response to the requirement, and clearly demonstrates a high level of experience with or understanding of the requirement.

A score of zero (0) on any Scored requirement may cause the entire response to be eliminated from further consideration.

4.3. EVALUATION SCORING - COST

The Bidder proposing the lowest cost per Category will receive a score of 15 points. The other Bidder's will each receive a score for each cost Proposal per category based on the following formula:

Per Category: $(\text{Lowest Bidder Total Cost} \div \text{Bidder's Total Cost}) \times 15$

4.4. SUBSTANTIALLY EQUIVALENT SCORES

Substantially equivalent scores are scores separated by two percent or less in total points. If multiple Proposals receive a Substantially Equivalent Score, HCA may leave the matter as scored, or select as the ASB the one Proposal that is deemed by HCA, in its sole discretion, to be in HCA's best interest relative to the overall purpose and objective as stated in Sections 1.1 and 1.2 of this RFP.

If applicable, HCA's best interest will be determined by HCA managers and executive officers, who have sole discretion over this determination. The basis for such determination will be communicated in writing to all Bidders with equivalent scores.

4.5. NOTIFICATION TO BIDDERS

HCA will notify the ASB of their selection in writing upon completion of the evaluation process. Bidders whose proposals were not selected for further negotiation or award will be notified separately by e-mail.

4.6. DEBRIEFING OF UNSUCCESSFUL BIDDERS

Any Bidder who has submitted a Proposal and been notified it was not selected for contract award may request a debriefing. The request for a debriefing conference must be received by the RFP Coordinator no later than 5:00 p.m., local time, in Olympia, Washington, within three business days after the Unsuccessful Bidder Notification is e-mailed to the Bidder. The debriefing will be held within three business days of the request, or as schedules allow.

Discussion at the debriefing conference will be limited to the following:

- 4.6.1. Evaluation and scoring of the Bidder's Proposal;
- 4.6.2. Critique of the Proposal based on the evaluation; and
- 4.6.3. Review of the Bidder's final score in comparison with other final scores without identifying the other Bidders.

Topics a Bidder could have raised as part of the complaint process (Section 2.9) cannot be discussed as part of the debriefing conference, even if the Bidder did not submit a complaint.

Comparisons between proposals, or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a maximum of thirty (30) minutes.

4.7. PROTEST PROCEDURE

A bid protest may be made only by Bidders who submitted a response to this RFP and who have participated in a debriefing conference. Upon completing the debriefing conference, the Bidder is allowed five business days to file a protest with the RFP Coordinator. Protests must be received by the RFP Coordinator no later than 4:30 p.m., local time, in Olympia, Washington on the fifth business day following the debriefing. Protests may be submitted by e-mail or by mail.

Bidders protesting this RFP must follow the procedures described below. Protests that do not follow these procedures will not be considered. This protest procedure constitutes the sole administrative remedy available to Bidders under this RFP.

All protests must be in writing, addressed to the RFP Coordinator, and signed by the protesting party or an authorized agent. The protest must state (1) the RFP number, (2) the grounds for the protest with specific facts, (3) complete statements of the action(s) being protested, and (4) the relief or corrective action being requested.

- 4.7.1. Only protests alleging an issue of fact concerning the following subjects will be considered:
 - 4.7.1.1. A matter of bias, discrimination, or conflict of interest on the part of an evaluator;
 - 4.7.1.2. Errors in computing the score; or
 - 4.7.1.3. Non-compliance with procedures described in the RFP or HCA requirements.

Protests based on anything other than those items listed above will not be considered. Protests will be rejected as without merit to the extent they address issues such as: 1) an evaluator's professional judgment on the quality of a Proposal; or 2) HCA's assessment of its own needs or requirements.

Upon receipt of a protest, HCA will undertake a protest review. The HCA Director, or an HCA employee delegated by the HCA Director who was not involved in the RFP, will consider the record and all available facts. If the HCA Director delegates the protest review to an HCA employee, the Director nonetheless reserves the right to make the final agency decision on the protest. The HCA Director or his or her designee will have the right to seek additional information from sources he or she deems appropriate in order to fully consider the protest.

If HCA determines in its sole discretion that a protest from one Bidder may affect the interests of another Bidder, then HCA may invite such Bidder to submit its views and any relevant information on the protest to the RFP Coordinator. In such a situation, the protest materials submitted by each Bidder will be made available to all other Bidders upon request.

4.7.2. The final determination of the protest will:

- 4.7.2.1. Find the protest lacking in merit and uphold HCA's action; or
- 4.7.2.2. Find only technical or harmless errors in HCA's acquisition process and determine HCA to be in substantial compliance and reject the protest; or
- 4.7.2.3. Find merit in the protest and provide options to the HCA Director, which may include:
 - 4.7.2.3.1. Correct the errors and re-evaluate all Proposals; or
 - 4.7.2.3.2. Issue a new solicitation document and begin a new process; or
 - 4.7.2.3.3. Make other findings and determine other courses of action as appropriate.

If the protest is not successful, HCA will enter into a contract with the ASB(s), assuming the parties reach agreement on the contract's terms.

5. RFP EXHIBITS

Exhibit A	Certifications and Assurances
Exhibit B	Diverse Business Inclusion Plan
Exhibit C	Service Contract Format including General Terms and Conditions (GT&Cs)

EXHIBIT A
CERTIFICATIONS AND ASSURANCES

I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract:

1. I/we declare that all answers and statements made in the proposal are true and correct.
2. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
3. The attached proposal is a firm offer for a period of 120 days following receipt, and it may be accepted by HCA without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 120-day period.
4. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. If there are exceptions to these assurances, I/we have described them in full detail on a separate page attached to this document.
5. I/we understand that HCA will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of HCA, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by him/her prior to opening, directly or indirectly, to any other Bidder or to any competitor.
7. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
8. No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
9. I/we grant HCA the right to contact references and other, who may have pertinent information regarding the ability of the Bidder and the lead staff person to perform the services contemplated by this RFP.
10. If any staff member(s) who will perform work on this contract has retired from the State of Washington under the provisions of the 2008 Early Retirement Factors legislation, his/her name(s) is noted on a separately attached page.

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

On behalf of the Bidder submitting this proposal, my name below attests to the accuracy of the above statement. *If electronic, also include:* We are submitting a scanned signature of this form with our proposal.

Signature of Bidder

Title

Date

Exhibit B

DIVERSE BUSINESS INCLUSION PLAN

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

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

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

Minority	___%
Women	___%
Veteran	___%
Small Business	___%

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

Name: _____

Phone: _____

E-Mail: _____

Exhibit C – Draft Sample Contract

	PROFESSIONAL SERVICES CONTRACT for Dependent Verification	HCA Contract Number: K Resulting from Solicitation Number (If applicable):
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THIS CONTRACT is made by and between Washington State Health Care Authority, (HCA) and _____, (Contractor).

CONTRACTOR NAME		CONTRACTOR DOING BUSINESS AS (DBA)		
CONTRACTOR ADDRESS Street		City	State	Zip Code
CONTRACTOR CONTACT	CONTRACTOR TELEPHONE	CONTRACTOR E-MAIL ADDRESS		
Is Contractor a Subrecipient under this Contract? <input type="checkbox"/> YES <input type="checkbox"/> NO		CFDA NUMBER(S):	FFATA Form Required <input type="checkbox"/> YES <input type="checkbox"/> NO	

HCA PROGRAM	HCA DIVISION/SECTION
HCA CONTACT NAME AND TITLE	HCA CONTACT ADDRESS Health Care Authority 626 8th Avenue SE PO Box _____ Olympia, WA 98504-_____
HCA CONTACT TELEPHONE (360) 725-	HCA CONTACT E-MAIL ADDRESS

CONTRACT START DATE	CONTRACT END DATE	TOTAL MAXIMUM CONTRACT AMOUNT
PURPOSE OF CONTRACT:		

The parties signing below warrant that they have read and understand this Contract, and have authority to execute this Contract. This Contract will 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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Schedules

Schedule A: Statement of Work (SOW)

Exhibits

Exhibit A: HCA RFP 2982 for Dependent Verification Services

Exhibit B: [Bidder Name] Response to HCA RFP 2982

Note: Exhibits A and B are not attached but are available upon request from the HCA Contracts Administrator.

Recitals

The state of Washington, acting by and through the Health Care Authority (HCA), issued a Request for Proposals/Qualifications and Quotation (RFP) dated December 10, 2018, (Exhibit A) for the purpose of purchasing Dependent Verification Services in accordance with its authority under chapters 39.26 and 41.05 RCW.

[Contractor Name] submitted a timely Response to HCA's RFP #2982 (Exhibit B).

HCA evaluated all properly submitted Responses to the above-referenced RFP and has identified [Contractor Name] as the Apparently Successful Bidder.

HCA has determined that entering into a Contract with [Contractor Name] will meet HCA's needs and will be in the State's best interest.

NOW THEREFORE, HCA awards to [Contractor Name] this Contract, the terms and conditions of which will govern Contractor's providing to HCA the Dependent Verification Services.

IN CONSIDERATION of the mutual promises as set forth in this Contract, the parties agree as follows:

1. STATEMENT OF WORK (SOW)

The Contractor will provide the services and staff as described in Schedule A: *Statement of Work*.

2. DEFINITIONS

"Authorized Representative" means a person to whom signature authority has been delegated in writing acting within the limits of his/her authority.

"Breach" means the unauthorized acquisition, access, use, or disclosure of Confidential Information that compromises the security, confidentiality, or integrity of the Confidential Information.

"Business Days and Hours" means Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

"CFR" means the Code of Federal Regulations. All references in this Contract to CFR chapters or sections include any successor, amended, or replacement regulation. The CFR may be accessed at <http://www.ecfr.gov/cgi-bin/ECFR?page=browse>.

"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 or regulations. Confidential Information includes, but is not limited to, any information identifiable to an individual that relates to a natural person's health, (see also Protected Health Information); 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.

“Contract” means this Contract document and all schedules, exhibits, attachments, incorporated documents and amendments.

“Contractor” means [Contractor Name], its employees and agents. Contractor includes any firm, provider, organization, individual or other entity performing services under this Contract. It also includes any Subcontractor retained by Contractor as permitted under the terms of this Contract.

“Data” means information produced, furnished, acquired, or used by Contractor in meeting requirements under this Contract.

“Effective Date” means the first date this Contract is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this Contract.

“HCA Contract Manager” means the individual identified on the cover page of this Contract who will provide oversight of the Contractor’s activities conducted under this Contract.

“Health Care Authority” or **“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.

“Overpayment” means any payment or benefit to the Contractor in excess of that to which the Contractor is entitled by law, rule, or this Contract, including amounts in dispute.

“Proprietary Information” means information owned by Contractor to which Contractor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws.

“Protected Health Information” or **“PHI”** means individually identifiable information that relates to the provision of health care to an individual; the past, present, or future physical or mental health or condition of an individual; or past, present, or future payment for provision of health care to an individual, as defined in 45 CFR 160.103. Individually identifiable information is information that identifies the individual or about which there is a reasonable basis to believe it can be used to identify the individual, and includes demographic information. PHI is information transmitted, maintained, or stored in any form or medium. 45 CFR 164.501. PHI does not include education records covered by the Family Educational Rights and Privacy Act, as amended, 20 USC 1232g(a)(4)(b)(iv).

“Response” means Contractor’s Response to HCA’s RFP #2982 for Dependent Verification Services and is Exhibit B hereto.

“RCW” means the Revised Code of Washington. All references in this Contract to RCW chapters or sections include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at: <http://apps.leg.wa.gov/rcw/>.

“RFP” means the Request for Proposals used as the solicitation document to establish this Contract, including all its amendments and modifications and is Exhibit A hereto.

“Statement of Work” or “SOW” means a detailed description of the work activities the Contractor is required to perform under the terms and conditions of this Contract, including the deliverables and timeline, and is Schedule A hereto.

“Subcontractor” means a person or entity that is not in the employment of the Contractor, who is performing all or part of the business activities under this Contract under a separate contract with Contractor. The term “Subcontractor” means subcontractor(s) of any tier.

“USC” means the United States Code. All references in this Contract to USC chapters or sections shall include any successor, amended, or replacement statute. The USC may be accessed at <http://uscode.house.gov/>

“WAC” means the Washington Administrative Code. All references to WAC chapters or sections will include any successor, amended, or replacement regulation. Pertinent WACs may be accessed at: <http://app.leg.wa.gov/wac/>.

3. SPECIAL TERMS AND CONDITIONS

3.1 PERFORMANCE EXPECTATIONS

Expected performance under this Contract includes, but is not limited to, the following:

- 3.1.1 Knowledge of applicable state and federal laws and regulations pertaining to subject of contract;
- 3.1.2 Use of professional judgment;
- 3.1.3 Collaboration with HCA staff in Contractor’s conduct of the services;
- 3.1.4 Conformance with HCA directions regarding the delivery of the services;
- 3.1.5 Timely, accurate and informed communications;
- 3.1.6 Regular completion and updating of project plans, reports, documentation and communications;
- 3.1.7 Regular, punctual attendance at all meetings; and
- 3.1.8 Provision of high quality services.

Prior to payment of invoices, HCA will review and evaluate the performance of Contractor in accordance with Contract and these performance expectations and may withhold payment if expectations are not met or Contractor’s performance is unsatisfactory.

3.2 TERM

- 3.2.1 The initial term of the Contract will commence on September 1, 2019, or date of last signature, whichever is later, and continue through December 31, 2019, unless terminated sooner as provided herein.

- 3.2.2 This Contract may be extended through June 30, 2019 in whatever time increments HCA deems appropriate. No change in terms and conditions will be permitted during these extensions unless specifically agreed to in writing.
- 3.2.3 Work performed without a contract or amendment signed by the authorized representatives of both parties will be at the sole risk of the Contractor. HCA will not pay any costs incurred before a contract or any subsequent amendment(s) is fully executed.

3.3 COMPENSATION

- 3.3.1 The Maximum Compensation payable to Contractor for the performance of all things necessary for or incidental to the performance of work as set forth in Schedule A: *Statement of Work* is \$, and includes any allowable expenses.
- 3.3.2 Contractor's compensation for services rendered will be based on the following rates or in accordance with the following terms.
- 3.3.3 Day-to-day expenses related to performance under the Contract, including but not limited to travel, lodging, meals, and incidentals, will not be reimbursed to Contractor. If Contractor is required by HCA to travel, any such travel must be authorized in writing by the HCA [Position Title] and reimbursement will be at rates not to exceed the then-current rules, regulations, and guidelines for State employees published by the Washington State Office of Financial Management in the Washington State Administrative and Accounting Manual (<http://www.ofm.wa.gov/policy/10.htm>); reimbursement will not exceed expenses actually incurred.

To receive reimbursement, Contractor must provide a detailed breakdown of authorized expenses and receipts for any expenses of \$50 or more.

3.4 INVOICE AND PAYMENT

- 3.4.1 Contractor must submit accurate invoices to the following address for all amounts to be paid by HCA via e-mail to: Acctspay@hca.wa.gov. Include the HCA Contract number in the subject line of the email.
- 3.4.2 Invoices must describe and document to HCA's satisfaction a description of the work performed, the progress of the project, and fees. If expenses are invoiced, invoices must provide a detailed breakdown of each type. Any single expense in the amount of \$50.00 or more must be accompanied by a receipt in order to receive reimbursement. All invoices will be reviewed and must be approved by the Contract Manager or his/her designee prior to payment.
- 3.4.3 Contractor must submit properly itemized invoices to include the following information, as applicable:
 - 3.4.3.1 HCA Contract number K ;
 - 3.4.3.2 Contractor name, address, phone number;

- 3.4.3.3 Description of Services;
- 3.4.3.4 Date(s) of delivery;
- 3.4.3.5 Net invoice price for each item;
- 3.4.3.6 Applicable taxes;
- 3.4.3.7 Total invoice price; and
- 3.4.3.8 Payment terms and any available prompt payment discount.
- 3.4.4 HCA will return incorrect or incomplete invoices to the Contractor for correction and reissue. The Contract Number must appear on all invoices, bills of lading, packages, and correspondence relating to this Contract.
- 3.4.5 In order to receive payment for services or products provided to a state agency, Contractor must register with the Statewide Payee Desk at <http://des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. Payment will be considered timely if made by HCA within thirty (30) calendar days of receipt of properly completed invoices. Payment will be directly deposited in the bank account or sent to the address Contractor designated in its registration.
- 3.4.6 Upon expiration of the Contract, any claims for payment for costs due and payable under this Contract that are incurred prior to the expiration date must be submitted by the Contractor to HCA within sixty (60) calendar days after the Contract expiration date. HCA is under no obligation to pay any claims that are submitted sixty-one (61) or more calendar days after the Contract expiration date ("Belated Claims"). HCA will pay Belated Claims at its sole discretion, and any such potential payment is contingent upon the availability of funds.

3.5 CONTRACTOR and HCA CONTRACT MANAGERS

- 3.5.1 Contractor's Contract Manager will have prime responsibility and final authority for the services provided under this Contract and be the principal point of contact for the HCA Contract Manager for all business matters, performance matters, and administrative activities.
- 3.5.2 HCA's Contract Manager is responsible for monitoring the Contractor's performance and will be the contact person for all communications regarding contract performance and deliverables. The HCA Contract Manager has the authority to accept or reject the services provided and must approve Contractor's invoices prior to payment.
- 3.5.3 The contact information provided below may be changed by written notice of the change (email acceptable) to the other party.

CONTRACTOR Contract Manager Information		Health Care Authority Contract Manager Information	
Name:		Name:	

Title:		Title:	
Address:		Address:	
Phone:		Phone:	
Email:		Email:	

3.6 KEY STAFF

- 3.6.1 Except in the case of a legally required leave of absence, sickness, death, termination of employment or unpaid leave of absence, Key Staff must not be changed during the term of the Statement of Work (SOW) from the people who were described in the Response for the first SOW or those Key Staff initially assigned to subsequent SOWs, without the prior written approval of HCA until completion of their assigned tasks.
- 3.6.2 During the term of the Statement of Work (SOW), HCA reserves the right to approve or disapprove Contractor's Key Staff assigned to this Contract, to approve or disapprove any proposed changes in Contractor's Key Staff, or to require the removal or reassignment of any Contractor staff found unacceptable by HCA, subject to HCA's compliance with applicable laws and regulations. Contractor must provide a resume to HCA of any replacement Key Staff and all staff proposed by Contractor as replacements for other staff must have comparable or greater skills for performing the activities as performed by the staff being replaced.

3.7 LEGAL NOTICES

Any notice or demand or other communication required or permitted to be given under this Contract or applicable law is effective only if it is in writing and signed by the applicable party, properly addressed, and delivered in person, via email, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid certified mail, return receipt requested, to the parties at the addresses provided in this section.

- 3.7.1 In the case of notice to the Contractor:

[Contractor Contact Information]

- 3.7.2 In the case of notice to HCA:

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

- 3.7.3 Notices are effective upon receipt or four (4) Business Days after mailing, whichever is earlier.
- 3.7.4 The notice address and information provided above may be changed by written notice of the change given as provided above.

3.8 INCORPORATION OF DOCUMENTS AND ORDER OF PRECEDENCE

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

- 3.8.1 Applicable Federal and State of Washington statutes and regulations;
- 3.8.2 Recitals
- 3.8.3 Special Terms and Conditions;
- 3.8.4 General Terms and Conditions;
- 3.8.5 Schedule A(s): Statement(s) of Work;
- 3.8.6 Exhibit A: *HCA RFP #2982 for Dependent Verification Services*, dated December 10, 2018;
- 3.8.7 Exhibit B: *Contractor's Response* dated ; and
- 3.8.8 Any other provision, term or material incorporated herein by reference or otherwise incorporated.

3.9 INSURANCE

Contractor must provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of Contractor or Subcontractor, or agents of either, while performing under the terms of this Contract. Contractor must provide insurance coverage that is maintained in full force and effect during the term of this Contract, as follows:

- 3.9.1 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 million per occurrence/\$2 million general aggregate. Additionally, Contractor is responsible for ensuring that any Subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.
- 3.9.2 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 is 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.
- 3.9.3 Professional Liability Errors and Omissions – Provide a policy with coverage of not less than \$1 million per claim/\$2 million general aggregate.
- 3.9.4 The insurance required must be issued by an insurance company/ies authorized to do business within the state of Washington, and must name HCA and the state of

Washington, its agents and employees as additional insured's under any Commercial General and/or Business Automobile Liability policy/ies. All policies must be primary to any other valid and collectable insurance. In the event of cancellation, non-renewal, revocation or other termination of any insurance coverage required by this Contract, Contractor must provide written notice of such to HCA within one (1) Business Day of Contractor's receipt of such notice. Failure to buy and maintain the required insurance may, at HCA's sole option, result in this Contract's termination.

Upon request, Contractor must 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 must submit renewal certificates as appropriate during the term of the contract.

4. GENERAL TERMS AND CONDITIONS

4.1 ACCESS TO DATA

In compliance with RCW 39.26.180 (2) and federal rules, the Contractor must provide access to any data generated under this Contract to HCA, the Joint Legislative Audit and Review Committee, the State Auditor, and any other state or federal officials so authorized by law, rule, regulation, or agreement 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.

4.2 ADVANCE PAYMENT PROHIBITED

No advance payment will be made for services furnished by the Contractor pursuant to this Contract.

4.3 AMENDMENTS

This Contract may be amended by mutual agreement of the parties. Such amendments will not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

4.4 ASSIGNMENT

- 4.4.1 Contractor may not assign or transfer all or any portion of this Contract or any of its rights hereunder, or delegate any of its duties hereunder, except delegations as set forth in Section 4.35, *Subcontracting*, without the prior written consent of HCA. Any permitted assignment will not operate to relieve Contractor of any of its duties and obligations hereunder, nor will such assignment affect any remedies available to HCA that may arise from any breach of the provisions of this Contract or warranties made herein, including but not limited to, rights of setoff. Any attempted assignment, transfer or delegation in contravention of this Subsection 4.4.1 of the Contract will be null and void.

4.4.2 HCA may assign this Contract to any public agency, commission, board, or the like, within the political boundaries of the state of Washington, with written notice of thirty (30) calendar days to Contractor.

4.4.3 This Contract will inure to the benefit of and be binding on the parties hereto and their permitted successors and assigns.

4.5 ATTORNEYS' FEES

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

4.6 CHANGE IN STATUS

In the event of any substantive change in its legal status, organizational structure, or fiscal reporting responsibility, Contractor will notify HCA of the change. Contractor must provide notice as soon as practicable, but no later than thirty (30) calendar days after such a change takes effect.

4.7 CONFIDENTIAL INFORMATION PROTECTION

4.7.1 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 (See Attachment 1: *Confidential Information Security Requirements*).

4.7.2 Contractors that come into contact with Protected Health Information may be required to enter into a Business Associate Agreement with HCA in compliance with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as modified by the American Recovery and Reinvestment Act of 2009 ("ARRA"), Sec. 13400 – 13424, H.R. 1 (2009) (HITECH Act) (HIPAA).

4.7.3 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.

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

4.8 CONFIDENTIAL INFORMATION BREACH – REQUIRED NOTIFICATION

- 4.8.1 Contractor must notify the HCA Privacy Officer (HCAPrivacyOfficer@hca.wa.gov) within five Business Days of discovery of any Breach or suspected Breach of Confidential Information.
- 4.8.2 Contractor will take steps necessary to mitigate any known harmful effects of such unauthorized access including, but not limited to, sanctioning employees and taking steps necessary to stop further unauthorized access. Contractor agrees to indemnify and hold HCA harmless for any damages related to unauthorized use or disclosure of Confidential Information by Contractor, its officers, directors, employees, Subcontractors or agents.
- 4.8.3 If notification of the Breach or possible Breach must (in the judgment of HCA) be made under the HIPAA Breach Notification Rule, or RCW 42.56.590 or RCW 19.255.010, or other law or rule, then:
 - 4.8.3.1 HCA may choose to make any required notifications to the individuals, to the U.S. Department of Health and Human Services Secretary (DHHS) Secretary, and to the media, or direct Contractor to make them or any of them.
 - 4.8.3.2 In any case, Contractor will pay the reasonable costs of notification to individuals, media, and governmental agencies and of other actions HCA reasonably considers appropriate to protect HCA clients (such as paying for regular credit watches in some cases).
 - 4.8.3.3 Contractor will compensate HCA clients for harms caused to them by any Breach or possible Breach.
- 4.8.4 Any breach of this clause may result in termination of the Contract and the demand for return or disposition of all Confidential Information.
- 4.8.5 Contractor's obligations regarding Breach notification survive the termination of this Contract and continue for as long as Contractor maintains the Confidential Information and for any breach or possible breach at any time.

4.9 CONTRACTOR'S PROPRIETARY INFORMATION

Contractor acknowledges that HCA is subject to chapter 42.56 RCW, the Public Records Act, and that this Contract will 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 will maintain the confidentiality of Contractor's information in its possession that is marked Proprietary. 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.

4.10 COVENANT AGAINST CONTINGENT FEES

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 will 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.

4.11 DEBARMENT

By signing this Contract, Contractor certifies that it 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). 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. Contractor must immediately notify HCA if, during the term of this Contract, Contractor becomes debarred. HCA may immediately terminate this Contract by providing Contractor written notice, if Contractor becomes debarred during the term hereof.

4.12 DISPUTES

The parties will 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 any dispute. When a genuine dispute arises between HCA and the Contractor regarding the terms of this Contract or the responsibilities imposed herein and it cannot be resolved between the parties' Contract Managers, either party may initiate the following dispute resolution process.

4.12.1 The initiating party will reduce its description of the dispute to writing and deliver it to the responding party (email acceptable). The responding party will respond in writing within five (5) Business Days (email acceptable). If the initiating party is not satisfied with the response of the responding party, then the initiating party may request that the HCA Director review the dispute. Any such request from the initiating party must be submitted in writing to the HCA Director within five (5) Business Days after receiving the response of the responding party. The HCA Director will have sole discretion in determining the procedural manner in which he or she will review the dispute. The HCA Director will inform the parties in writing within five (5) Business Days of the procedural manner in which he or she will review the dispute, including a timeframe in which he or she will issue a written decision.

4.12.2 A party's request for a dispute resolution must:

4.12.2.1 Be in writing;

4.12.2.2 Include a written description of the dispute;

4.12.2.3 State the relative positions of the parties and the remedy sought;

4.12.2.4 State the Contract Number and the names and contact information for the parties;

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

4.13 ENTIRE AGREEMENT

HCA and Contractor agree that the Contract is the complete and exclusive statement of the agreement between the parties relating to the subject matter of the Contract and supersedes all letters of intent or prior contracts, oral or written, between the parties relating to the subject matter of the Contract, except as provided in Section 4.411 *Warranties*.

4.14 FORCE MAJEURE

A party will not 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 acts of God, war, strikes or labor disputes, embargoes, government orders or any other force majeure event.

4.15 FUNDING WITHDRAWN, REDUCED OR LIMITED

If HCA determines in its sole discretion that the funds it relied upon to establish this Contract have been 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, then HCA, at its sole discretion, may:

4.15.1 Terminate this Contract pursuant to Section 4.38.3, *Termination for Non-Allocation of Funds*;

4.15.2 Renegotiate the Contract under the revised funding conditions; or

4.15.3 Suspend Contractor's performance under the Contract upon five (5) Business Days' advance written notice to Contractor. HCA will use this option only 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.

4.15.3.1 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.

4.15.3.2 When HCA determines in its sole discretion 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.

4.15.3.3 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 will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the retroactive date of termination.

4.16 GOVERNING LAW

This Contract is governed in all respects by the laws of the state of Washington, without reference to conflict of law principles. The jurisdiction for any action hereunder is exclusively in the Superior Court for the state of Washington, and the venue of any action hereunder is in the Superior Court for Thurston County, Washington. Nothing in this Contract will be construed as a waiver by HCA of the State's immunity under the 11th Amendment to the United States Constitution.

4.17 HCA NETWORK SECURITY

Contractor agrees not to attach any Contractor-supplied computers, peripherals or software to the HCA Network without prior written authorization from HCA's Chief Information Officer. Unauthorized access to HCA networks and systems is a violation of HCA Policy 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.

Contractor will have access to the HCA visitor Wi-Fi Internet connection while on site.

4.18 INDEMNIFICATION

Contractor must defend, indemnify, and save 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, or Breach of its confidentiality and notification obligations under Section 4.7 *Confidential Information Protection* and Section, arising from intentional 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.

4.19 INDEPENDENT CAPACITY OF THE CONTRACTOR

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

4.20 INDUSTRIAL INSURANCE COVERAGE

Prior to performing work under this Contract, Contractor must 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 must maintain full compliance with Title 51 RCW during the course of this Contract.

4.21 LEGAL AND REGULATORY COMPLIANCE

- 4.21.1 During the term of this Contract, Contractor must comply with all local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this Contract and all other applicable federal, state and local laws, rules, and regulations.
- 4.21.2 While on the HCA premises, Contractor must comply with HCA operations and process standards and policies (e.g., ethics, Internet / email usage, data, network and building security, harassment, as applicable). HCA will make an electronic copy of all such policies available to Contractor.
- 4.21.3 Failure to comply with any provisions of this section may result in Contract termination.

4.22 LIMITATION OF AUTHORITY

Only the HCA Authorized Representative has 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 HCA Authorized Representative.

4.23 NO THIRD-PARTY BENEFICIARIES

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

4.24 NONDISCRIMINATION

During the performance of this Contract, the Contractor must comply with all federal and state nondiscrimination laws, regulations and policies, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. §12101 et seq.; the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §12101 et seq., 28 CFR Part 35; and Title 49.60 RCW, Washington Law Against Discrimination. In the event of 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 under the Termination for Default sections, and Contractor may be declared ineligible for further contracts with HCA.

4.25 OVERPAYMENTS TO CONTRACTOR

In the event that overpayments or erroneous payments have been made to the Contractor under this Contract, HCA will provide written notice to Contractor and Contractor shall refund the full amount to HCA within thirty (30) calendar days of the notice. If Contractor fails to make timely refund, HCA may charge Contractor one percent (1%) per month on the amount due, until paid in full. If the Contractor disagrees with HCA's actions under this section, then it may invoke the dispute resolution provisions of Section 4.12 *Disputes*.

4.26 PAY Equity

- 4.26.1 Contractor represents and warrants that, as required by Washington state law (Laws of 2017, Chap. 1, § 147), during the term of this Contract, it agrees to equality among its workers by ensuring similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if (i) the individuals work for Contractor, (ii) the performance of the job requires comparable skill, effort, and responsibility, and (iii) the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed.
- 4.26.2 Contractor may allow differentials in compensation for its workers based in good faith on any of the following: (i) a seniority system; (ii) a merit system; (iii) a system that measures earnings by quantity or quality of production; (iv) bona fide job-related factor(s); or (v) a bona fide regional difference in compensation levels.
- 4.26.3 Bona fide job-related factor(s)” may include, but not be limited to, education, training, or experience, that is: (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) accounts for the entire differential.
- 4.26.4 A “bona fide regional difference in compensation level” must be (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) account for the entire differential.
- 4.26.5 Notwithstanding any provision to the contrary, upon breach of warranty and Contractor’s failure to provide satisfactory evidence of compliance within thirty (30) Days of HCA’s request for such evidence, HCA may suspend or terminate this Contract.

4.27 PUBLICITY

- 4.27.1 The award of this Contract to Contractor is not in any way an endorsement of Contractor or Contractor’s Services by HCA and must not be so construed by Contractor in any advertising or other publicity materials.
- 4.27.2 Contractor agrees to submit to HCA, all advertising, sales promotion, and other publicity materials relating to this Contract or any Service furnished by Contractor in which HCA’s name is mentioned, language is used, or Internet links are provided from which the connection of HCA’s name with Contractor’s Services may, in HCA’s judgment, be inferred or implied. Contractor further agrees not to publish or use such advertising, marketing, sales promotion materials, publicity or the like through print, voice, the Web, and other communication media in existence or hereinafter developed without the express written consent of HCA prior to such use.

4.28 RECORDS AND DOCUMENTS REVIEW

- 4.28.1 The Contractor must maintain books, records, documents, magnetic media, receipts, invoices or 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, are 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 [See 42 USC 1396a(a)(27)(B); 42 USC 1396a(a)(37)(B); 42 USC 1396a(a)(42)(A); 42 CFR 431, Subpart Q; and 42 CFR 447.202].

4.28.2 The Contractor must retain such records for a period of six (6) years after the date of final payment under this Contract.

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

4.29 REMEDIES NON-EXCLUSIVE

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

4.30 RIGHT OF INSPECTION

The Contractor must provide right of access to its facilities to HCA, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

4.31 RIGHTS IN DATA/OWNERSHIP

4.31.1 HCA and Contractor agree that all data and work products (collectively "Work Product") produced pursuant to this Contract will be considered a *work for hire* under the U.S. Copyright Act, 17 U.S.C. §101 *et seq*, and will be owned by HCA. Contractor is hereby commissioned to create the Work Product. Work Product includes, but is not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product.

4.31.2 If for any reason the Work Product would not be considered a *work for hire* under applicable law, Contractor assigns and transfers to HCA, the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

4.31.3 Contractor will execute all documents and perform such other proper acts as HCA may deem necessary to secure for HCA the rights pursuant to this section.

4.31.4 Contractor will not use or in any manner disseminate any Work Product to any third party, or represent in any way Contractor ownership of any Work Product, without the prior written permission of HCA. Contractor shall take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors will not copy or

disclose, transmit or perform any Work Product or any portion thereof, in any form, to any third party.

- 4.31.5 Material that is delivered under this Contract, but that does not originate therefrom ("Preexisting Material"), must be transferred to HCA with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, display, and dispose of such Preexisting Material, and to authorize others to do so. Contractor agrees to obtain, at its own expense, express written consent of the copyright holder for the inclusion of Preexisting Material. HCA will have the right to modify or remove any restrictive markings placed upon the Preexisting Material by Contractor.
- 4.31.6 Contractor must identify all Preexisting Material when it is delivered under this Contract and must advise HCA of any and all known or potential infringements of publicity, privacy or of intellectual property affecting any Preexisting Material at the time of delivery of such Preexisting Material. Contractor must provide HCA with prompt written notice of each notice or claim of copyright infringement or infringement of other intellectual property right worldwide received by Contractor with respect to any Preexisting Material delivered under this Contract.

4.32 RIGHTS OF STATE AND FEDERAL GOVERNMENTS

In accordance with 45 C.F.R. 95.617, all appropriate state and federal agencies, including but not limited to the Centers for Medicare and Medicaid Services (CMS), will have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, translate, or otherwise use, and to authorize others to use for Federal Government purposes: (i) software, modifications, and documentation designed, developed or installed with Federal Financial Participation (FFP) under 45 CFR Part 95, subpart F; (ii) the Custom Software and modifications of the Custom Software, and associated Documentation designed, developed, or installed with FFP under this Contract; (iii) the copyright in any work developed under this Contract; and (iv) any rights of copyright to which Contractor purchases ownership under this Contract.

4.33 SEVERABILITY

If any provision of this Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity will 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.

4.34 SITE SECURITY

While on HCA premises, Contractor, its agents, employees, or Subcontractors must 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.

4.35 SUBCONTRACTING

- 4.35.1 Neither Contractor, nor any Subcontractors, may enter into subcontracts for any of the work contemplated under this Contract without prior written approval of HCA. HCA has sole discretion to determine whether or not to approve any such subcontract. In no event will the existence of the subcontract operate to release or reduce the liability of Contractor to HCA for any breach in the performance of Contractor's duties.
- 4.35.2 Contractor is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this Contract are included in any subcontracts.
- 4.35.3 If at any time during the progress of the work HCA determines in its sole judgment that any Subcontractor is incompetent or undesirable, HCA will notify Contractor, and Contractor must take immediate steps to terminate the Subcontractor's involvement in the work.
- 4.35.4 The rejection or approval by the HCA of any Subcontractor or the termination of a Subcontractor will not relieve Contractor of any of its responsibilities under the Contract, nor be the basis for additional charges to HCA.
- 4.35.5 HCA has no contractual obligations to any Subcontractor or vendor under contract to the Contractor. Contractor is fully responsible for all contractual obligations, financial or otherwise, to its Subcontractors.

4.36 SURVIVAL

The terms and conditions contained in this Contract that, by their sense and context, are intended to survive the completion, cancellation, termination, or expiration of the Contract will survive. In addition, the terms of the sections titled *Confidential Information Protection, Confidential Information Breach – Required Notification, Contractor's Proprietary Information, Disputes, Overpayments to Contractor, Publicity, Records and Documents Review, Rights in Data/Ownership, and Rights of State and Federal Governments* will survive the termination of this Contract. The right of HCA to recover any overpayments will also survive the termination of this Contract.

4.37 TAXES

HCA will pay sales or use taxes, if any, imposed on the services acquired hereunder. Contractor must pay all other taxes including, but not limited to, Washington Business and Occupation Tax, other taxes based on Contractor's income or gross receipts, or personal property taxes levied or assessed on Contractor's personal property. HCA, as an agency of Washington State government, is exempt from property tax.

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

4.38 TERMINATION

4.38.1 TERMINATION FOR DEFAULT

In the event HCA determines that Contractor has failed to comply with the terms and conditions of this Contract, HCA has the right to suspend or terminate this Contract. HCA will notify Contractor in writing of the need to take corrective action. If corrective action is not taken within five (5) Business Days, or other time period agreed to in writing by both parties, the Contract may be terminated. HCA reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by Contractor or a decision by HCA to terminate the Contract.

In the event of termination for default, Contractor will 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 Contractor: (i) was not in default, or (ii) its failure to perform was outside of its control, fault or negligence, the termination will be deemed a "Termination for Convenience."

4.38.2 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) calendar days' written notice. If this Contract is so terminated, HCA will 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 will accrue to HCA in the event the termination option in this section is exercised.

4.38.3 TERMINATION FOR NONALLOCATION OF FUNDS

If funds are not allocated to continue this Contract in any future period, HCA may immediately terminate this Contract by providing written notice to the Contractor. The termination will be effective on the date specified in the termination notice. HCA will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. HCA agrees to notify Contractor of such nonallocation at the earliest possible time. No penalty will accrue to HCA in the event the termination option in this section is exercised.

4.38.4 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 immediately terminate this Contract by providing written notice to the Contractor. The termination will be effective on the date specified in the termination notice. HCA will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. HCA agrees to notify Contractor of such withdrawal of authority at the earliest possible time. No penalty will accrue to HCA in the event the termination option in this section is exercised.

4.38.5 TERMINATION FOR CONFLICT OF INTEREST

HCA may terminate this Contract by written notice to the Contractor if HCA determines, after due notice and examination, that there is 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. In the event this Contract is so terminated, HCA will be entitled to pursue the same remedies against the Contractor as it could pursue in the event Contractor breaches the contract.

4.39 TERMINATION PROCEDURES

- 4.39.1 Upon termination of this Contract, HCA, in addition to any other rights provided in this Contract, may require Contractor to deliver to HCA any property specifically produced or acquired for the performance of such part of this Contract as has been terminated.
- 4.39.2 HCA will pay Contractor the agreed-upon price, if separately stated, for completed work and services 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 that are accepted by HCA; and (iv) the protection and preservation of property, unless the termination is for default, in which case HCA will determine the extent of the liability. Failure to agree with such determination will be a dispute within the meaning of Section 4.12 *Disputes*. 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.
- 4.39.3 After receipt of notice of termination, and except as otherwise directed by HCA, Contractor must:
- 4.39.3.1 Stop work under the Contract on the date of, and to the extent specified in, the notice;
 - 4.39.3.2 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;
 - 4.39.3.3 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;
 - 4.39.3.4 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 will be final for all the purposes of this clause;
 - 4.39.3.5 Transfer title to and deliver as directed by HCA any property required to be furnished to HCA;

4.39.3.6 Complete performance of any part of the work that was not terminated by HCA; and

4.39.3.7 Take such action as may be necessary, or as HCA may direct, for the protection and preservation of the records related to this Contract that are in the possession of the Contractor and in which HCA has or may acquire an interest.

4.40 WAIVER

Waiver of any breach of any term or condition of this Contract will not be deemed a waiver of any prior or subsequent breach or default. No term or condition of this Contract will be held to be waived, modified, or deleted except by a written instrument signed by the parties. Only the HCA Authorized Representative has the authority to waive any term or condition of this Contract on behalf of HCA.

4.41 WARRANTIES

- 4.41.1 Contractor represents and warrants that it will perform all services pursuant to this Contract in a professional manner and with high quality and will immediately re-perform any services that are not in compliance with this representation and warranty at no cost to HCA.
- 4.41.2 Contractor represents and warrants that it shall comply with all applicable local, State, and federal licensing, accreditation and registration requirements and standards necessary in the performance of the Services.
- 4.41.3 Any written commitment by Contractor within the scope of this Contract will be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and will render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes:
 - (i) Prices, discounts, and options committed to remain in force over a specified period of time; and
 - (ii) any warranty or representation made by Contractor to HCA or contained in any Contractor publications, or descriptions of services in written or other communication medium, used to influence HCA to enter into this Contract.

Approved as to Form:

This contract format was approved
by the Office of the Attorney
General.
Approval on file.

Schedule A
Statement of Work