

CONTRACT DECLARATIONS AND EXECUTION

RFP or Informal Solicitation #	Contract #
RFP #MED-20-004	MED-20-004

Title of Contract
Core Standardized Assessments for Home and Community-Based Services Programs

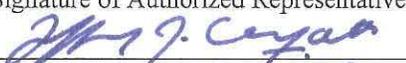
This Contract must be signed by all parties before the Contractor provides any Deliverables. The Agency is not obligated to make payment for any Deliverables provided by or on behalf of the Contractor before the Contract is signed by all parties. This Contract is entered into by the following parties:

Agency of the State (hereafter "Agency")	
Name/Principal Address of Agency: Iowa Department of Human Services 1305 E. Walnut Des Moines, IA 50319-0114	Agency Billing Contact Name / Address: Kera Oestreich Iowa Medicaid Enterprise 611 5th Ave Des Moines, IA 50309 Phone: (515) 256-4892
Agency Contract Manager (hereafter "Contract Manager") /Address ("Notice Address"): Kera Oestreich Iowa Medicaid Enterprise 611 5th Ave Des Moines, IA 50309	Agency Contract Owner (hereafter "Contract Owner") / Address: Michael Randol Iowa Medicaid Enterprise 611 5th Ave Des Moines, IA 50309
E-Mail: koestre@dhs.state.ia.us	E-Mail: mrandol@dhs.state.ia.us
Phone: (515) 256-4892	
Contractor: (hereafter "Contractor")	
Legal Name: Telligen, Inc.	Contractor's Principal Address: 1776 West Lakes Parkway West Des Moines, IA 50266
Tax ID #: 420992483	Organized under the laws of: State of Iowa
Contractor's Contract Manager Name/Address ("Notice Address"): Jessica Smith Contracts and Compliance Telligen, Inc. 1776 West Lakes Parkway West Des Moines, IA 50266	Contractor's Billing Contact Name/Address: RheaAnn Frost Telligen, Inc. 1776 West Lakes Parkway West Des Moines, IA 50266 Phone: (515)440-8904
Phone: (515)453-8077	
E-Mail: jsmith@telligen.com contracts@telligen.com	

Contract Information	
Start Date: 10/01/19	End Date of Base Term of Contract: 06/30/22
Possible Extension(s): The Agency shall have the option to extend this Contract up to 3 additional 1-year extensions.	
Contractor a Business Associate? Yes	Contractor subject to Iowa Code Chapter 8F? No
Contract Include Sharing SSA Data? No	Contractor a Qualified Service Organization? Yes
Contract Warranty Period (hereafter "Warranty Period"): The term of this Contract, including any extensions.	Contract Contingent on Approval of Another Agency: No
Security & Privacy Office Data Confirmation Number: ISPO-19-5	
Contract Payments include Federal Funds? Yes The contractor for federal reporting purposes under this contract is a: Vendor DUNS #: 087131785 The Name of the Pass-Through Entity: Iowa Department of Human Services	
CFDA #: 93.778 Grant Name: Medical Assistance Program	Federal Awarding Agency Name: Department of Health and Human Services/Centers for Medicare and Medicaid Services

Contract Execution

This Contract consists of this Contract Declarations and Execution Section, the attached Certifications (if any), Special Terms, General Terms for Services Contracts, and all Special Contract Attachments. In consideration of the mutual covenants in this Contract and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into this Contract and have caused their duly authorized representatives to execute this Contract.

Contractor, Telligen, Inc.		Agency, Iowa Department of Human Services	
Signature of Authorized Representative: 	Date: 9/10/19	Signature of Authorized Representative: 	Date: 9-19-19
Printed Name: JEFF CHURNATH		Printed Name: Gerd W. Clabaugh, MPA	
Title: CHIEF EXECUTIVE OFFICER		Title: Interim Director	

SECTION 1: SPECIAL TERMS

1.1 Special Terms Definitions.

"AIDS/HIV" is defined as a medical diagnosis of acquired immunodeficiency syndrome based on the Centers for Disease Control's revision of the CDC Surveillance Case Definition for Acquired Immunodeficiency Syndrome". August 14, 1987, Vol. 36, No.1, Issue of "Morbidity and Mortality Weekly Report" OR medical diagnosis of human immunodeficiency virus infection based on a positive HIV-related test.

"Brain Injury" is defined as clinically evident damage to the brain resulting directly or indirectly from trauma, infection, anoxia, vascular lesions or tumor of the brain, not primarily related to degenerative or aging processes, which temporarily or permanently impairs a person's physical, cognitive, or behavioral functions. The person must have a diagnosis from the list of delineated diagnosis published in Iowa Admin. Code r. 441-83.81.

"Case Manager" or **"CM"** means the person designated to provide Medicaid case management services for the Member.

"Children's Mental Health" includes children under the age of 18 who have been diagnosed with a serious emotional disturbance that meet the eligibility requirements listed in Iowa Admin. Code r. 441-83.121

"Continued Stay Review" or **"LOC-CSR"** is a review of a Member's Level of Care annually or when there is a significant change in the Member's needs.

"Core Standardized Assessment" or **"CSA"** means instruments that are used across service populations in a uniform manner throughout the state for: (a) determining eligibility for non-institutionally-based long-term services and supports, (b) determining a beneficiary's needs for training, support services, medical care, transportation, and other services, and (c) developing an individual service plan to address such needs. The designated CSAs applicable to this RFP include:

Waiver/Service Type	Age	DHS Designated Assessment Tool
AIDS/HIV	0 - 3	Case Management (CM) Comprehensive Assessment
	4 - 20	interRAI - Pediatric Home Care (PEDS-HC)
	21 +	interRAI - Home Care (HC)
AIDS/HIV with Habilitation	16 - 18	inter-RAI Child and Youth Mental Health (ChYMH)
AIDS/HIV with Habilitation	19 +	interRAI - Community Mental Health (CMH)
Brain Injury (BI)	0 - 3	CM Comprehensive Assessment and MPAI-4 beginning October 1, 2019
	4 - 20	interRAI - Pediatric Home Care (PEDS-HC) and MPAI-4 beginning October 1, 2019
	21 +	interRAI - Home Care (HC) and MPAI-4 beginning October 1, 2019
BI with Habilitation	16 - 18	inter-RAI Child and Youth Mental Health (ChYMH) and MPAI-4 beginning October 1, 2019
BI with Habilitation	19 +	interRAI - Community Mental Health (CMH) and MPAI-4 beginning October 1, 2019
Children's Mental Health	0 - 3	CM Comprehensive Assessment
	4 - 20	interRAI - Child and Youth Mental Health (ChYMH)

	12 - 18	interRAI - Adolescent Supplement (in addition to ChYMH)
Elderly	65 +	interRAI - Home Care (HC)
Elderly with Habilitation	65 +	interRAI - Community Mental Health (CMH)
Health and Disability (HD)	0 - 3	CM Comprehensive Assessment
	4 - 20	interRAI - Pediatric Home Care (PEDS-HC)
	21 - 64	interRAI - Home Care (HC)
HD with Habilitation	16 - 18	inter-RAI Child and Youth Mental Health (ChYMH)
HD with Habilitation	19 +	interRAI - Community Mental Health (CMH)
Intellectual Disability (ID)	0 - 4	CM Comprehensive Assessment
	5 - 15	Supports Intensity Scale - Child (SIS-C)
	16+	Supports Intensity Scale - Adult (SIS-A)
ID with Habilitation	16 +	Supports Intensity Scale - Adult (SIS-A)
Physical Disability (PD)	18 - 20	interRAI - Pediatric Home Care (PEDS-HC)
	21 +	interRAI - Home Care (HC)
PD with Habilitation	18	inter-RAI Child and Youth Mental Health (ChYMH)
PD with Habilitation	19 +	interRAI - Community Mental Health (CMH)
Habilitation Services	16 - 18	interRAI - Child and Youth Mental Health (ChYMH)
	19 +	interRAI - Community Mental Health (CMH)

“Elderly” is defined as people 65 years of age and older who are in need of intermediate or skilled level of care as determined by completion of Form 470-4392 and certified by medical professionals as listed in Iowa Admin. Code r. 441-83.22(1)(d).

“Emergency Needs Assessment” or **“ENA”** is a review that takes place immediately following an incident in which a Member’s health or safety or the health or safety of individuals in the Member’s near environment appeared to be at risk, to determine if a change in the Member’s service plan is warranted.

Emergency needs criteria are as follows:

1. The usual caregiver has died or is incapable of providing care, and no other caregivers are available to provide needed supports;
2. The applicant has lost primary residence or will be losing housing within 30 days and has no other housing options available;
3. The applicant is living in a homeless shelter and no alternative housing options are available;
4. There is founded abuse or neglect by a caregiver or others living within the home of the applicant, and the applicant must move from the home; or
5. The applicant cannot meet basic health and safety needs without immediate supports.

“Habilitation” includes Medicaid Members who have at least one of the following risk factors and meet eligibility requirements listed in Iowa Admin. Code r. 441-78.27(2)d:

1. The Member has undergone or is currently undergoing psychiatric treatment more intensive than outpatient care (e.g., emergency services, alternative home care, partial hospitalization, or inpatient hospitalization) more than once in the Member’s life; or
2. The Member has a history of psychiatric illness resulting in at least one episode of continuous, professional supportive care other than hospitalization.

“Health and Disability” (formerly known as the Ill and Handicapped Waiver) includes people under the age of 65 and blind or disabled as determined by the receipt of Social Security Disability benefits or by a disability determination made through the Agency. Disability determinations are made according to Supplemental Security

Income guidelines under Title XVI of the Social Security Act and according to additional provisions dictated by Iowa Admin. Code r. 441-83.2.

“Home and Community-based Services (HCBS) Programs are for people with disabilities and older Iowans who need services to allow them to stay in their home and community instead of going to an institution. LTSS are delivered through seven 1915(c) waiver programs and five non-waiver programs. More information can be found at this link: <http://dhs.iowa.gov/ime/members/medicaid-a-to-z/hcbs>.

HCBS Waiver Programs. Under HCBS waiver programs, Iowa can waive certain Medicaid program requirements, allowing the State to provide care for people who might not otherwise be eligible under Medicaid. Through the following 1915(c) waivers, Iowa targets services to people who need LTSS:

- AIDS/HIV
- Brain Injury
- Children’s Mental Health
- Elderly
- Health and Disability
- Intellectual Disability
- Physical Disability

HCBS Non-waiver Programs applicable to this RFP include:

- Habilitation Services – State Plan 1915(i) program
- Money Follows the Person (MFP) program

“ICF/ID” means intermediate care facility for persons with intellectual disability. This is an institution that is primarily for the diagnosis, treatment, or rehabilitation of persons with an intellectual disability or persons with related conditions and that provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination and integration of health or related services to help each person function at the greatest ability. This population can also include those Members participating in the Money Follows the Person (MFP) program.

“Individualized Services Information System” or ***“ISIS”*** is the Agency Home and Community Based Services (HCBS) workflow and slot management system. It assists workers in the facility, HCBS waiver, and targeted case management programs in both processing and tracking applications and authorizations through approval or denial. The ISIS application is currently used by Income Maintenance Workers (IMWs), case managers, Quality Improvement Organization (QIO) contractor staff, CSA contractor staff, child health specialty clinics, transition specialists, financial management service authorization staff, IME Member Services and Provider Services customer service representatives, and Agency policy staff. It provides authorized users workflows and access to information about a Member. ISIS also retains data on provider types and the services they are enrolled to provide.

“Intellectual Disability” or ***“ID”*** means a diagnosis of intellectual disability (intellectual developmental disorder), global developmental delay, or unspecified intellectual disability (intellectual developmental disorder) which shall be made only when the onset of the person’s condition was during the developmental period and shall be based on an assessment of the person’s intellectual functioning and level of adaptive skills.

“interRAI” means a suite of assessment instruments developed by an international research consortium. More information can be found here: <http://www.interrai.org/instruments/>.

“Inter-rater Reliability” means the relative consistency of the judgments that are made of the same stimulus by two or more raters, or interviewers in the case of Core Standardized Assessments. Here, interviewers would observe the same behavior independently (to avoid bias), and recorded data would be compared. If the data is similar then it is reliable.

“Iowa Medicaid Portal Access System” or ***“IMPA”*** provides access to wide range of business functions from viewing and downloading remittance advices to uploading documents for provider reenrollment and critical incident reporting. Managed Care Organizations and IME Member Services use IMPA to view eligibility, enrollment, and

LTSS information that is specific to a Member. The source of this data originates from OnBase, Iowa Automated Benefits Calculation (IABC), DW/DS, ISIS, and Worker Information System Exchange (WISE/ECF).

“Level of Care” or “LOC” is the medically necessary care needed for a Member, based on criteria established in Iowa Administrative Code.

“Long Term Services and Supports” or “LTSS” are services and supports used by individuals of all ages with functional limitations and chronic illnesses who need assistance to perform routine daily activities such as bathing, dressing, preparing meals, and administering medications.

“Mayo Portland Adaptability Inventory” or “MPAI-4” is used in post-acute assessments to increase understanding of outcomes and evaluate rehabilitation programs providing services to people with brain injuries. The tool is in its fourth revision.

“Member” For purposes of this RFP, means either an individual enrolled in Iowa’s Medicaid program, or an individual for whom an application for Medicaid has been received and a waiver slot has been made available.

“Money Follows the Person” or “MFP” For the purposes of this RFP, Money Follows the Person or MFP means Iowa’s Partnership for Community Integration Demonstration, funded by an award to the Agency in January 2007 by the Centers for Medicare and Medicaid Services to assist adults and children with intellectual disabilities (ID) and related conditions who are residents of ICF/IDs in transitioning to more integrated settings in the community. Once the transition is complete, these Members are typically enrolled in either the ID or BI waiver.

“Physical Disability” means a severe, chronic condition that is attributable to a physical impairment that results in substantial limitation of physical functioning in three or more of the following areas of major life activities: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency.

“Reliability” means consistency—that is, results obtained by the persons trained to administer the instrument would be consistent with the results obtained by the developers of the assessment tool, respecting its original intent in measuring the support needs of an individual. Once Reliability is established, any trained interviewer who administers the tool will obtain comparable results (plus or minus an acceptable error rate). This is especially true in situations where multiple people are needed to assess large numbers of individuals. In these instances, establishing the inter-rater Reliability of each interviewer becomes essential to the overall interview process. The more people trained to administer the assessment tools, the more clear the strategies are for assessing the inter-rater Reliability of those individuals. Only in this way can the integrity of the data obtained from assessments be assured, and by doing so, resources and services to HCBS Members are allocated in a fair and accurate manner.

“Resource Allocation” means the development of methods for systematically assessing the support needs of individuals and allocating resources more efficiently and appropriately based on the support needs. This entails establishing an assessment-informed process for setting individual or level-based budget allocations.

“Respondent” is an individual who has known the Member for a minimum of 3 months and is able to provide information regarding the supports needed for the Member being assessed at the assessment interview. Respondents may include the Member’s case manager, the facility Qualified Intellectual Disabilities Professional or other facility staff from the interdisciplinary team, the Member’s representative, guardian or family member and specific providers who are very familiar with the Member and their abilities.

“Supports Intensity Scale” or “SIS” is an assessment instrument developed by the American Association on Intellectual and Developmental Disabilities (AAIDD). More information can be found here: <http://aaid.org/sis>.

“Service Organization Control 2” or “SOC 2” is an audit of a service provider that is relevant to compliance or operations. SOC 2 Reports specifically address one or more of the following five key system principles: security, availability, processing integrity, confidentiality, or privacy.

1.2 Contract Purpose.

The parties have entered into this Contract for the purpose of retaining the Contractor to conduct Core Standardized Assessments (CSAs) for Iowa Medicaid, as required by Iowa law and administrative rules.

1.3 Scope of Work.

1.3.1 Deliverables.

The Contractor shall provide the following:

1.3.1.1 General Obligations

A. Staffing.

1. The Contractor shall designate individuals as “key personnel,” subject to Agency continued approval. The Agency reserves the right to interview any and all candidates for named key positions prior to approving the personnel. Special requirements for key personnel are as follows:
 - a. Account Manager. Responsible for the overall service delivery of the team, complying with contractual requirements and meeting the Agency’s expectations. The Account Manager shall be responsible for Contract compliance and general project oversight. The Account Manager must adopt an exemplary behavior; also he or she must collaborate, and cultivate and promote the spirit of trust and professionalism with the Agency, other IME Units, and stakeholders. The Account Manager shall represent the Contractor and be the primary liaison with the Agency. Minimum qualifications include:
 - i. Four years of experience in account management or major supervisory role for a government or private sector as a healthcare payer, including a minimum of three years of experience in a state of equivalent scope to Iowa.
 - ii. Previous management experience with Medicaid, specifically LTSS, and knowledge of HIPAA rules and requirements.
 - iii. Bachelor’s Degree is desired.
 - b. Transition Manager. Responsible for facilitating all planning and operational readiness activities necessary to ensure a successful transition. This position will no longer be required once the Contractor has successfully transitioned to operations. The Transition Manager may also serve as the Account or Operations Manager. Minimum qualifications include:
 - i. Four years of experience in account management or major supervisory role for government or in the private sector as a healthcare payer or provider.
 - ii. Bachelor’s Degree is desired.
 - c. Operations Manager. Responsible for day to day project management and supervision. Minimum qualifications include:
 - i. Four years of experience managing a major component of a healthcare operation in an environment similar in scope and volume to the Iowa Medicaid Program. The experience shall include LTSS, behavioral health, and quality management.
 - ii. Bachelor’s Degree is desired.
2. Named key personnel shall:
 - a. Be committed to the project full time. Account Manager position may be a shared position (less than full time) between projects so long as the Contractor is meeting performance measures. Operations Manager shall be located within central Iowa;
 - b. Be available during Business Hours to respond to questions and concerns related to the Contract, except for routine absences. Account Manager and Operations Manager positions are required to communicate absences with the Agency contract manager and provide suitable coverage during extended absences;
 - c. Provide policy advice and support to the Agency and participate in meetings with the Agency as subject matter expert;
 - d. Prepare and present status updates periodically to the Agency and other stakeholders, as requested by the Agency;

- e. Participate in program planning and evaluation activities to ensure the Agency is making informed decisions;
 - f. Develop and maintain reports to ensure the Agency staff have the appropriate information at the time needed to effectively and efficiently operate the program;
 - g. Comply with all timelines in the Agency-approved project work plans; and
 - h. Develop and maintain a plan for job rotation and knowledge transfer to ensure that all functions can be adequately performed during the absence of key personnel for vacation and other reasons. Any planned absences of key personnel shall be immediately communicated to the Agency. The Contractor shall ensure staff are trained and able to perform the functions of sensitive positions when the primary staff member is absent.
3. The Agency reserves the right of prior and continued approval for any key personnel or replacement of the key personnel:
- a. The Contractor must commit named key personnel to the project on or before the conclusion of the transition period of the Contract and for at least six months (except for the Transition Manager), and must not replace key personnel during this period except in cases of termination, death, or the key person's resignation.
 - b. The Contractor shall provide the Agency with a minimum of 15 days' notice prior to any proposed transfer or replacement of named key personnel. At the time of providing notice, the Contractor shall also provide the Agency with the resumes and references of the proposed replacement of named key personnel;
 - c. Replacement personnel must be in place performing their new functions before the departure of the personnel they are replacing;
 - d. Replacement personnel shall have knowledge transfer, experience, and ability comparable to the person originally in the position;
 - e. The Agency may waive requirements (a) through (d) above upon presentation of good cause by the Contractor. In those instances when good cause is granted, the Contractor commits to replacing key personnel within thirty days (30) of the departure of a key person and to providing temporary personnel in the interim that are capable of maintaining operational performance at acceptable levels; and
 - f. The Agency reserves the right to withhold five percent of the monthly payment due Contractor if Contractor fails to comply with this subsection 3. In the event that the Contractor fails to fill a key personnel position and the position remains vacant for a period of 30 days or more, the Agency reserves the right to permanently retain the withhold.
4. The Contractor shall provide the following non-managerial positions:
- a. Sufficient schedulers to monitor the Agency's ISIS workflow system and schedule assessments within established timeframes. These schedulers will be assigned Agency laptops in order to access necessary Agency mainframe systems.
 - b. Sufficient assessors located statewide to perform assessments within the required timeframes. Assessors are required to possess either a four-year degree or four years of professional experience in the field of intellectual, developmental, and/or physical disabilities.
 - c. Quality assurance staff with experience developing and implementing quality plans.

B. Conflict-Free Assessment Process

1. The Contractor shall be responsible for maintaining controls that assure the Contractor at all times provides a conflict-free assessment process. In this regard, Contractor shall:
 - a. Ensure that any clinical or non-financial eligibility determination is separated from direct service provision.
 - b. Ensure that in circumstances when one entity is responsible for conducting assessments, providing case management and service delivery, appropriate safeguards and firewalls exist to mitigate risk of potential conflict.

C. Quality Assurance/Quality Improvement

1. The Contractor shall implement quality improvement procedures that are based on proactive improvements rather than retroactive responses. The Contractor must understand the nature of and

participate in quality improvement procedures that may occur in response to critical situations and shall assist in the planning and implementation of quality improvement procedures based on proactive improvement. Duties include but are not limited to:

- a. Monitor the quality and accuracy of the Contractor's own work;
 - b. Perform continuous workflow analysis to improve performance of Contractor functions and submit quarterly reports of the quality assurance activities, findings and corrective actions (if any) to the Agency electronically; and
 - c. Provide the Agency with a description of any changes to the workflow for approval prior to implementation.
2. The Contractor shall implement an ongoing Member and stakeholder input and feedback process for collecting information on the efficiency, fairness, and quality of the assessment procedure.

D. Performance Reporting and Corrective Actions

1. The Contractor shall submit monthly performance reports using an Agency-approved format, similar to the sample in Attachment 3.3, detailing all deliverables and performance measures that have been met or unmet during the month. This report shall be submitted with the monthly invoice.
2. The Contractor shall prepare and submit to the Agency an annual electronic report. The report shall include at least the following information:
 - a. Detailed summary of all services provided during the year;
 - b. Annualized timeliness of all assessments; and
 - c. Recommendations for improving the efficiency and quality of services being delivered.
3. The Contractor shall provide written notification to the Agency within two business days of discovery of any problems, concerns, or issues of non-compliance.
4. The Contractor shall maintain records of such reports and other related communications issued in writing during the course of Contract performance.
5. The Contract Owner has final authority to approve problem-resolution activities.
6. The Agency's acceptance of a problem report shall not relieve the Contractor of any obligation under this Contract or waive any other remedy. The Agency's inability to identify the extent of a problem or the extent of damages incurred because of a problem shall not act as a waiver of performance or damages under this Contract.
7. To the extent that Deficiencies are identified in the Contractor's performance and notwithstanding other remedies available under this Contract, the Agency may require the Contractor to develop and comply with a corrective action plan to resolve the Deficiencies, subject to Agency approval.

E. Requests for Information

1. The Contractor shall respond to Agency requests for information and other requests for assistance within the timeframe that the Agency specifies. The Contractor shall provide information in response to:
 - a. Freedom of Information Act (FOIA) requests;
 - b. Requests for Information (RFIs) from Iowa Legislators;
 - c. Open Records Act requests, as required in Iowa Code Chapter 22;
 - d. State or federal audits; and
 - e. Miscellaneous requests.
2. The Contractor shall comply with information protocols and response timeframes determined by the Agency Public Information Officer.

F. Appeals and Hearings

1. The Contractor shall provide subject matter expertise and necessary assistance in any stage of the appeal process concerning Contractor's assessment results, including but not limited to:
 - a. Research issues as necessary;
 - b. Provide administrative support in preparing for and participating in appeals;
 - c. Provide written statements; and
 - d. Provide expert testimony where appropriate to defend Agency decisions.

G. System and Software Requirements

1. The Contractor shall maintain systems and software, as necessary, to support Core Standardized Assessment functions, including the ability to interface with data sources as determined by the Agency.
 - a. The Contractor shall submit all SIS assessments through SIS Online. Also, submit completed assessments to the Agency, Case Managers, and MCOs via IMPA, as appropriate.
 - b. The Contractor shall utilize ISIS, IMPA, and other Agency systems as directed by the Agency, which includes but is not limited to data entry, case and response tracking, obtaining assessment results, and reporting assessment results.
 - c. The Contractor shall be responsible for all licensing, software, and hardware necessary to implement Contractor solutions. This includes but is not limited to procuring licensing agreements with both American Association on Intellectual and Developmental Disabilities (AAIDD) and interRAI.
 - d. The Contractor shall meet the Agency and the Office of the Chief Information Officer's security standards for data collection, storage, and secured electronic transmissions, as described in Section 2.9.6. This includes, but is not limited to:
 - i. Minimum 256-bit encryption for both authentication and data transmission;
 - ii. Transmitting data over secure networks (e.g., secure Wi-Fi or VPN);
 - iii. Use of encrypted laptops or tablets; and
 - iv. Remote disabling of mobile devices.
 - e. The Contractor shall ensure security safeguards are in place to assure the integrity of system hardware, software, records, and files, including but not limited to:
 - i. Orienting new employees to security and HIPAA policies and procedures;
 - ii. Conducting periodic review sessions on security procedures;
 - iii. Developing lists of personnel to be contacted in the event of a potential or suspected security breach;
 - iv. Maintaining entry logs for limited access areas;
 - v. Maintaining an inventory of Agency assets, not including any financial assets;
 - vi. Limiting physical access to systems hardware, software, and libraries; and
 - vii. Maintaining confidential and critical materials in limited access, secured areas.
 - f. If the Contractor or subcontractor systems or applications will host Agency data, the Contractor shall provide the following to the Agency:
 - i. Completed Vendor Security Questionnaire using the template provided in Attachment 3.4 prior to system implementation and annually thereafter; and
 - ii. Documentation of SOC 2 compliance or the following documentation prior to system implementation and annually thereafter:
 - a) Attestation of passed information security risk assessment;
 - b) Attestation of passed network penetration scan; and
 - c) If the Contractor utilizes a web application in performance of services under this Contract, attestation of passed web application security scan.

1.3.1.2 Transition Phase

- A. **Work Plans.** The Contractor shall develop, maintain, and comply at all times with the following work plans, subject to Agency approval:
 1. Transition plan detailing all activities and timelines prior to the start of administering assessments.
 2. Staffing plan including timeframes for onboarding, designation, and availability of key project staff.
 3. Quality assurance plan to ensure the SIS/interRAI are administered and scored in a specific manner consistent with AAIDD and interRAI standards.
 4. Reporting plan detailing requirements for submitting reports to the Agency. This plan shall be developed in consultation with the Agency. Reporting plan requirements include but are not limited to:
 - a. Use of standard naming conventions;

- b. Templates for standardized reports that may be necessary to implement the project. The Contractor shall revise report content as needed and upon Agency request;
 - c. Use of the Agency-designated sharepoint site to upload reports, with links sent to relevant Agency staff via email;
 - d. Detail of whom the reports should be delivered to for review and approval, as necessary;
 - e. Any posting requirements for external stakeholders;
 - f. Frequency and due dates for reports;
 - g. An Agency report monitoring tool similar to the sample in Attachment 3.2; and
 - h. A monthly performance reporting tool similar to the sample in Attachment 3.3.
5. Training plan detailing, at minimum:
- a. Training of Contractor staff in all systems, software, and applications required to perform the Contractor's functions under the Contract;
 - b. Training of Contractor assessors, including training necessary to secure AAIDD recognition;
 - c. Training of Contractor staff on HIPAA and information security policies and procedures at minimum:
 - i. Orienting new employees to policies and procedures;
 - ii. Conducting periodic review sessions on policies and procedures; and
 - iii. Quarterly reporting to the Agency on staff training completion.
 - d. Continuous standard operating procedures training process for Contractor staff. At minimum, the Contractor shall train staff when:
 - i. New staff or replacement staff are hired;
 - ii. New policies or procedures are implemented; and
 - iii. Changes are made to any existing policies or procedures prior to the change's implementation if possible, and if not, concurrent with the change's implementation.

Each plan shall generally adhere to the approximate timing and requirements set forth in Sections 1.3.1.3 and 1.3.2, to include, at minimum:

- i. Definition of each project activity;
- ii. Sequence of activities;
- iii. Identification of who is responsible for each project activity;
- iv. Defined deliverables and outcomes;
- v. Timeframe in which each activity will be completed;
- vi. A plan update schedule, which shall include updates no less frequently than quarterly; and
- vii. Identification of Agency responsibilities and expectations.

B. Standard operating procedures (SOPs).

1. The Contractor shall maintain SOPs in the Agency-prescribed format using standard naming conventions in the documentation. SOPs shall document the processes and procedures used by the Contractor in the performance of its obligations under this Contract and shall include notification and issue escalation procedures and timelines.
2. The Contractor shall update SOPs with any changes to the methods and procedures used by the Contractor in the performance of its duties under this Contract. The Contractor shall document all changes within 10 business days of the change. The Contractor shall use version control to identify the most current documentation and any previous versions, including their effective dates. The Contractor shall provide all documentation in electronic form and store all documentation within the Agency-designated repository.
3. The Contractor shall review SOPs with the Agency no less than annually.

C. Operational Readiness

1. The Contractor shall prepare for the onset of operations. This includes but is not limited to the following:
 - a. Review the turnover plan from the current contractor;
 - b. Review the Agency's comprehensive operational readiness checklist of its start-up activities;
 - c. Provide the Agency assurance that all checklist activities have been satisfactorily completed and signed-off by the Agency;

- d. Develop and implement a corrective action plan for all outstanding activities for review and approval by the Agency;
 - e. Conduct training for its staff;
 - f. Gather and document all Agency technical and operational requirements pertaining to work performed under this Contract;
 - g. Produce and update all operations documentation and obtain Agency approval of each iteration;
 - h. Establish Agency-approved interfaces, as necessary; and
 - i. Obtain written approval from the Agency to start operations.
2. The Contractor shall work proactively with the Agency and the outgoing contractor to take over operations.
 - a. The Contractor shall offer opportunities to existing CSA assessors to continue in similar positions where appropriate.
 - b. The Contractor shall ensure that assessments due are not delayed or placed at risk by the takeover of operations.

1.3.1.3 Assessments for the ID Waiver, ICF/ID, and MFP Populations

Contractor duties include, but are not necessarily limited to the following:

A. Scheduling. Once the referral is received through ISIS milestone, the Contractor shall:

1. Contact the Case Manager identified within ISIS to schedule the assessment, if assigned.
2. Coordinate with the Case Manager or Member (or guardian/representative) to:
 - a. Identify key Respondents for the SIS assessment
 - b. Identify any Member needs or concerns to be addressed prior to the assessment, such as coordination with translation services.
3. For face-to-face assessments, contact the Member (or guardian/representative) and identified Respondents and identify a location, date and time for the face-to-face assessment. Inquire about the need for accommodations for Member and attendees. Mobility considerations may affect choice of sites other than the Member's home.
4. Confirm the appointment date, time and location in writing to those scheduled to attend. The confirmation materials shall also include a fact sheet explaining the purpose of the assessment and prepare the Respondents/attendants by answering frequently asked questions.
5. If the Contractor is unable to contact the Member using current contact information, the Contractor shall:
 - a. Email the Case Manager and Income Maintenance Worker to gather alternate contact information. If the scheduler does not receive any additional information in seven days, attempt to contact the Member again by phone and by sending them a letter.
 - b. If there is no return call or communication received from the Member and no additional information from the Income Maintenance Worker or Case Manager after 10 business days from the day the letter is sent, log into ISIS and ask the Income Maintenance Worker to close the case due to being unable to reach the Member after multiple attempts.

B. Face-to-face Interviews.

1. The Contractor shall conduct full SIS assessments, including any Agency-approved supplemental questions, for Members:
 - a. Who are newly entering DHS services and are not yet Medicaid eligible but for whom funding has been identified under the Intellectual Disabilities (ID) waiver;
 - b. Who are FFS Members and currently enrolled in the ID waiver or an ICF/ID, entering an ICF/ID, or entering the MFP program; and
 - c. Who are FFS Members and have received an Emergency Needs Assessment within the past 30 days, if deemed necessary based on professional opinion of the assessor.
2. The Contractor shall review the attestation form with all valid Respondents and the Member before starting the assessment, and obtain signatures from valid Respondents at the end of the assessment.

3. The Contractor shall enter responses real time or transfer later into AAIDD's SISOnline application. Decisions for how best to capture data should consider local conditions, such as available bandwidth in rural areas.
4. The Contractor shall upload the completed assessment on Iowa Medicaid Portal Access (IMPA) to allow access to the document by the CM and LOC reviewer.
5. The Contractor shall log completion date of assessment in ISIS.
6. The Contractor shall conduct full SIS assessments every three years on all FFS Members who have had a prior SIS assessment.
7. For those Members under the age of 5, the Contractor shall utilize the Comprehensive Assessment instead of the SIS.

C. Off-Year Assessments.

1. The Contractor shall conduct off-year assessments (OYAs) utilizing the Agency-approved form in the interim years between the full SIS assessments. These assessments may be conducted telephonically, or in-person if deemed necessary based on professional opinion of the assessor.
2. The Contractor shall upload the completed assessment on IMPA to allow access to the document by the CM and LOC reviewer.
3. The Contractor shall log completion date of assessment in ISIS.
4. For those Members under the age of 5, the Contractor shall utilize the Comprehensive Assessment instead of the SIS.

D. Emergency Needs Assessments.

1. The Contractor shall conduct Emergency Needs Assessments (ENAs) utilizing the Agency-approved form when:
 - a. The CM identifies an urgent health and safety need for a Member which the Member has experienced a significant change in his/her condition; and
 - b. The Agency identifies a need for prioritization for a waiver slot waiting list.
2. The Contractor shall consult with the CM to complete all of the questions on the ENA form. The assessor will make the determination as to whether a full face-to-face assessment is needed.
3. The Contractor shall upload the completed assessment on IMPA to allow access to the document by the CM and LOC reviewer.

1.3.1.4. Assessments for the Habilitation and AIDS/HIV, Brain Injury, Children's Mental Health, Elderly, Health and Disability, and Physical Disability Waiver Populations

A. Scheduling. Once the referral is received through ISIS milestone, the Contractor shall:

1. Contact the Case Manager identified within ISIS to schedule the assessment, if assigned.
2. Send an introduction letter to Member who will be assessed.
3. Coordinate with the Case Manager or Member (or guardian/representative) to identify any Member needs or concerns to be addressed prior to the assessment, such as coordination with translation services.
4. Contact the Member (or guardian/representative) and identified informants and identify a location, date and time for the face-to-face assessment. Inquire about the need for accommodations for Member and attendees. Mobility considerations may affect choice of sites other than the Member's home.
5. Confirm the appointment date, time and location in writing to those scheduled to attend. The confirmation materials shall also include a fact sheet explaining the purpose of the assessment and prepare the Respondents/attendants by answering frequently asked questions.
6. If the Contractor is unable to contact the Member using current contact information, the Contractor shall:
 - a. Email the Case Manager and Income Maintenance Worker to gather alternate contact information. If the scheduler does not receive any additional information in seven days, attempt to contact the Member again by phone and by sending them a letter.
 - b. If there is no return call or communication received from the Member and no additional information from the Income Maintenance Worker or Case Manager after 10 business days

from the day the letter is sent, log into ISIS and ask the Income Maintenance Worker to close the case due to being unable to reach the Member after multiple attempts.

B. Face-to-face Interviews.

1. The Contractor shall conduct interRAI assessments, including any Agency-approved supplemental questions, for Members:
 - a. Who are newly entering DHS services and are not yet Medicaid eligible but for whom funding has been identified under Habilitation or one of the six waiver programs;
 - b. Who are FFS Members and currently enrolled in Habilitation or one of the six HCBS waiver programs identified; and
 - c. Who are FFS Members and have received an Emergency Needs Assessment within the past 30 days, if deemed necessary based on professional opinion of the assessor.
2. The Contractor review the attestation form with all valid informants and the Member before starting the assessment, and obtain signatures from valid informants at the end of the assessment.
3. The Contractor shall enter responses real time or transfer later into either a web-based system or database, if available. Decisions for how best to capture data should consider local conditions, such as available bandwidth in rural areas.
4. The Contractor shall upload the completed assessment on IMPA to allow access to the document by the CM and LOC reviewer.
5. The Contractor shall log completion date of assessment in ISIS.
6. The Contractor shall conduct interRAI assessments annually for all FFS Members who have had a prior interRAI assessment.
7. For those Members under the age of 4, the Contractor shall utilize the Comprehensive Assessment instead of the interRAI.
8. For the Brain Injury waiver, the Contractor shall utilize the MPAI-4 in addition to the interRAI and Comprehensive Assessment beginning October 1, 2019.

C. Emergency Needs Assessments.

1. The Contractor shall conduct Emergency Needs Assessments (ENAs) utilizing the Agency-approved form when:
 - a. The CM identifies an urgent health and safety need for a Member which the Member has experienced a significant change in his/her condition; and
 - b. The Agency identifies a need for prioritization for a waiver slot waiting list.
2. The Contractor shall consult with the CM to complete all of the questions on the ENA form. The assessor will make the determination as to whether a full face-to-face assessment is needed.
3. The Contractor shall upload the completed assessment on IMPA to allow access to the document by the CM and LOC reviewer.

1.3.1.5. Continuing Education and Training.

The Contractor shall comply at all times with the following requirements, to include but not limited to:

A. All assessors:

1. Participate in ongoing quality assurance training;
2. Conduct a minimum average of two (2) assessments per month, with a lapse of no more than 3 months between assessments; and
3. Participate in continuing education on the assessment tools (refresher training, quality assurance activities, national conference, etc.).

B. SIS assessors. In addition to the above requirements, SIS assessors shall:

1. Participate in and pass an annual Interviewer Reliability and Qualifications Review (IRQR) conducted by an AAIDD SIS-A trainer.
2. If a SIS assessor is not able to pass the annual IRQR within the specified time (365 days), AAIDD no longer provides recognition as a SIS interviewer. S/he therefore must not administer SIS interviews. S/he has a grace period of no more than 90 days to pass the IRQR administered by a recognized AAIDD SIS trainer to regain recognition. After the grace period, the requirement is for a full Interviewer Training and IRQR to secure recognition by AAIDD.

1.3.1.6. MCO Quality Oversight

The Contractor shall provide oversight of the MCO assessment process by performing the following at minimum:

- A. Oversight of MCO compliance with continuing education and training requirements, and conflict-free assessment process guidelines:
 1. The Contractor shall track and report to the Agency at an agreed-upon interval the status of all MCO assessors to ensure they meet basic continuing education and training requirements, as listed in Section 1.3.1.5; and
 2. The Contractor shall track and report to the Agency at an agreed-upon interval MCO compliance with conflict-free assessment guidelines.
- B. MCO CSA Ride Alongs. To ensure MCO assessments meet Reliability standards, the Contractor shall:
 1. Methodically select a sample of SIS and interRAI assessments from each MCO to participate in each month, ensuring all MCO assessors have been observed within each 12 month period;
 2. Observe the assessment and score independently;
 3. Record scores and observations on Agency-approved forms; and
 4. Report findings and Inter-rater Reliability scores to the Agency on a monthly basis.

1.3.1.7 Turnover Phase

Within this final phase of the Contract, the Contractor turns over operations to a new contractor or the Agency near the end of the Contract term. This phase is activated when either: the Agency enters into a contract with a new entity (such as a newly awarded contractor) and begins the process of transferring responsibility for operations to that entity; or the Agency informs the Contractor that the Contract will be ending.

Once the turnover phase begins, the Contractor shall:

- A. Fully cooperate and collaborate with the Agency and new entity.
- B. Develop and comply with a turnover plan detailing the activities and timelines necessary to transfer responsibility for operations to the new entity within 30 days of Agency request, and subject to Agency approval. The turnover plan shall include at minimum:
 1. Proposed approach to the turnover;
 2. Definition of each project activity;
 3. Sequence of activities;
 4. Identification of who is responsible for each project activity;
 5. Defined deliverables and outcomes;
 6. Timeframe in which each activity will be completed; and
 7. Identification of Agency responsibilities and expectations.
- C. Provide the required turnover services. This will include meeting with the incoming vendor(s) and devising work schedules that are agreeable for both the Agency and the incoming vendor(s).
- D. Provide knowledge transfer to the new entity in CSA operations. Such knowledge transfer shall be completed at least one month prior to the end of the Contract.

1.3.2 Performance Measures.

- A. General Requirements.
 1. The Contractor shall respond to email or telephone inquiries from Members, authorized representatives, providers, or facilities within two business days of receipt.
 2. The Contractor shall participate in 100% of assigned appeal hearings.
- B. Transition.
 1. The Contractor shall submit work plans to the Agency for approval no later than fourteen (14) calendar days after the Contract execution. The Contractor must receive final approval of the work plan from the Agency within fourteen (14) calendar days of submission.
 2. The Contractor shall submit SOPs to the Agency for approval within 20 calendar days after the execution of this Contract. The Contractor shall receive final approval no later than 10 business

- days after first submission. The Contractor shall document all SOP changes within 30 calendar days of the change.
3. The Contractor shall meet all timeframes established in the Agency-approved work plans.
- C. Assessments. The Contractor shall conduct and submit to the Agency and case workers CSA results within the following timeframes:
1. Face-to-face Assessments:
 - a. Within thirty (30) calendar days from Agency referral for persons newly entering services.
 - b. Within fourteen (14) calendar days prior to the third twelve-month anniversary of ISIS service entry indicating completion of the LOC-CSR for FFS Members who have had a SIS assessment previously.
 - c. Within fourteen (14) calendar days prior to the twelve-month anniversary of ISIS service entry indicating completion of the LOC-CSR for FFS Members who have had an interRAI assessment previously.
 - d. Within thirty (30) calendar days after an Emergency Needs Assessment, when a full assessment is deemed necessary based on professional opinion of the assessor.
 2. Off-Year Assessments: Within fourteen (14) calendar days prior to the twelve-month anniversary of ISIS service entry indicating completion of the LOC-CSR.
 3. Emergency Needs Assessments: Within two (2) business days from notice of an emergency situation when an Emergency Needs Assessment is required to update the plan of care dealing with the emergency.
 4. Assessments will be uploaded to IMPA within five business days from the date the assessment was completed.
- D. Inter-rater Reliability.
1. The Contractor shall achieve at minimum 85% of total Inter-rater Reliability checks on the SIS interview scores.
 2. The Contractor shall achieve at minimum 80% of total Inter-rater Reliability checks on the interRAI interview scores.
- E. The Contractor shall meet the Reliability and quality standards as dictated by the specific CSA.
- F. The Contractor shall submit the monthly electronic report no later than the fifteenth calendar day of the following month, for the previous month's activities.
- G. The Contractor shall submit the electronic annual report no later than July 31 of each calendar year.
- H. The Contractor shall attend all Agency scheduled meetings related to the contract.

1.3.3 Monitoring and Review

1.3.3.1 Agency Monitoring Clause. The Contract Manager or designee will:

- Verify Invoices and supporting documentation itemizing work performed prior to payment;
- Determine compliance with general contract terms, conditions, and requirements; and
- Assess compliance with Deliverables, performance measures, or other associated requirements based on the following:
 - o The Agency's representative will perform at minimum monthly desk monitoring of deliverables, reports, and results to determine the success of the Contractor.
 - o The Agency's representative will review completed Scope of Work items, provide feedback on progress and determine if other measures are required to ensure achievement of items approved and documented.

1.3.3.2 Agency Review Clause. The Contract Manager or designee will use the results of monitoring activities and other relevant data to assess the Contractor's overall performance and compliance with the Contract. At a minimum, the Agency will conduct a review annually; however, reviews may occur more frequently at the Agency's discretion. As part of the review(s), the Agency may require the Contractor to provide additional data, may perform on-site reviews, and may consider information from other sources.

The Agency may require one or more meetings to discuss the outcome of a review. Meetings may be held in person. During the review meetings, the parties will discuss the Deliverables that have been provided or are in process under this Contract, achievement of the performance measures, and any concerns identified through the Agency's contract monitoring activities.

1.3.4 Contract Payment Clause.

1.3.4.1 Pricing. In accordance with the payment terms outlined in this section and the Contractor's completion of the Scope of Work as set forth in this Contract, the Contractor will be compensated an amount not to exceed \$15,888,095.00 during the entire term of this Contract, which includes any extensions or renewals thereof. Payment will occur as follows:

1.3.4.2 Payment Methodology.

- A. Operations Costs. The Contractor will be paid a fixed monthly amount for services rendered, in accordance with the pricing set forth in Special Contract Attachment 3.1 (i.e., the Cost Proposal).
1. Deliverables and Performance Measure Withholding Payment. The Contractor may invoice 92% of the variable amount each month. The Agency will withhold 8% of the monthly amount to assure the Contractor meets required Deliverables and Performance Measures as follows:
 - a. Section 1.3.2.C Assessments - 6% of the monthly amount
 - b. Section 1.3.2.D Inter-rater Reliability- 2% of the monthly amount

In order to claim the withhold amount, the Contractor must show in the monthly performance report that each performance measure has been met. Determination of whether performance measures have been met is strictly and solely at the discretion of the Agency.
- B. Withholding of Final Payment. The Agency may withhold the last full monthly payment due at the end of the Contract until such time as the Contractor has fully completed all Turnover activities and completely closed out the Contract.

1.3.4.3 Timeframes for Regular Submission of Initial and Adjusted Invoices. The Contractor shall submit an Invoice for services rendered in accordance with this Contract. Invoice(s) shall be submitted monthly. Unless a longer timeframe is provided by federal law, and in the absence of the express written consent of the Agency, all Invoices shall be submitted within six months from the last day of the month in which the services were rendered. All adjustments made to Invoices shall be submitted to the Agency within ninety (90) days from the date of the Invoice being adjusted. Invoices shall comply with all applicable rules concerning payment of such claims.

1.3.4.4 Submission of Invoices at the End of State Fiscal Year. Notwithstanding the timeframes above, and absent (1) longer timeframes established in federal law or (2) the express written consent of the Agency, the Contractor shall submit all Invoices to the Agency for payment by August 1st for all services performed in the preceding state fiscal year (the State fiscal year ends June 30).

1.3.4.5 Payment of Invoices. The Agency shall verify the Contractor's performance of the Deliverables and timeliness of Invoices before making payment. The Agency will not pay Invoices that are not considered timely as defined in this Contract. If the Contractor wishes for untimely Invoice(s) to be considered for payment, the Contractor may submit the Invoice(s) in accordance with instructions for the Long Appeal Board Process to the State Appeal Board for consideration. Instructions for this process may be found at:

http://www.dom.state.ia.us/appeals/general_claims.html.

The Agency shall pay all approved Invoices in arrears. The Agency may pay in less than sixty (60) days, but an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa law.

1.3.4.6 Reimbursable Expenses. Unless otherwise agreed to by the parties in an amendment to the Contract that is executed by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State for any Deliverables provided by or on behalf of the Contractor pursuant to this Contract. The Contractor shall be solely responsible for paying all costs, expenses, and charges it incurs in connection with its performance under this Contract.

1.4 Insurance Coverage.

The Contractor and any subcontractor shall obtain the following types of insurance for at least the minimum amounts listed below:

Type of Insurance	Limit	Amount
General Liability (including contractual liability) written on occurrence basis	General Aggregate	\$2 Million
	Product/Completed Operations Aggregate	\$1 Million
	Personal Injury	\$1 Million
	Each Occurrence	\$1 Million
Automobile Liability (including any auto, hired autos, and non-owned autos)	Combined Single Limit	\$1 Million
Excess Liability, Umbrella Form	Each Occurrence	\$1 Million
	Aggregate	\$1 Million
Workers' Compensation and Employer Liability	As required by Iowa law	As Required by Iowa law
Property Damage	Each Occurrence	\$1 Million
	Aggregate	\$1 Million
Professional Liability	Each Occurrence	\$2 Million
	Aggregate	\$2 Million

1.5 Business Associate Agreement. The Contractor, acting as the Agency's Business Associate, performs certain services on behalf of or for the Agency pursuant to this Contract that require the exchange of information that is protected by the Health Insurance Portability and Accountability Act of 1996, as amended, and the federal regulations published at 45 CFR part 160 and 164. The Business Associate agrees to comply with the Business Associate Agreement Addendum (BAA), and any amendments thereof, as posted to the Agency's website: <http://dhs.iowa.gov/HIPAA/baa>. This BAA, and any amendments thereof, is incorporated into the Contract by reference.

By signing this Contract, the Business Associate consents to receive notice of future amendments to the BAA through electronic mail. The Business Associate shall file and maintain a current electronic mail address with the Agency for this purpose. The Agency may amend the BAA by posting an updated version of the BAA on the Agency's website at: <http://dhs.iowa.gov/HIPAA/baa>, and providing the Business Associate electronic notice of the amended BAA. The Business Associate shall be deemed to have accepted the amendment unless the Business Associate notifies the Agency of its non-acceptance in accordance with the Notice provisions of the Contract within 30 days of the Agency's notice referenced herein. Any agreed alteration of the then current Agency BAA shall have no force or effect until the agreed alteration is reduced to a Contract amendment that must be signed by the Business Associate, Agency Director, and the Agency Security and Privacy Officer.

1.6 Qualified Service Organization. The Contractor acknowledges that it will be receiving, storing, processing, or otherwise dealing with confidential patient records from programs covered by 42 CFR part 2, and the Contractor acknowledges that it is fully bound by those regulations. The Contractor will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by 42 CFR part 2. "Qualified Service Organization" as used in this Contract has the same meaning as the definition set forth in 42 CFR § 2.11.

SECTION 2. GENERAL TERMS FOR SERVICES CONTRACTS

2.1 Definitions. Definitions in this section correspond with capitalized terms in the Contract.

“Acceptance” means that the Agency has determined that one or more Deliverables satisfy the Agency’s Acceptance Tests. Final Acceptance means that the Agency has determined that all Deliverables satisfy the Agency’s Acceptance Tests. Non-acceptance means that the Agency has determined that one or more Deliverables have not satisfied the Agency’s Acceptance Tests.

“Acceptance Criteria” means the Specifications, goals, performance measures, testing results and/or other criteria designated by the Agency and against which the Deliverables may be evaluated for purposes of Acceptance or Non-acceptance thereof.

“Acceptance Tests” or **“Acceptance Testing”** mean the tests, reviews, and other activities that are performed by or on behalf of the Agency to determine whether the Deliverables meet the Acceptance Criteria or otherwise satisfy the Agency, as determined by the Agency in its sole discretion.

“Applicable Law” means all applicable federal, state, and local laws, rules, ordinances, regulations, orders, guidance, and policies in place at Contract execution as well as any and all future amendments, changes, and additions to such laws as of the effective date of such change. Applicable Law includes, without limitation, all laws that pertain to the prevention of discrimination in employment and in the provision of services (e.g., Iowa Code ch. 216 and Iowa Code § 19B.7). For employment, this would include equal employment opportunity and affirmative action, and the use of targeted small businesses as subcontractors of suppliers. The term Applicable Law also encompasses the applicable provisions of Section 508 of the Rehabilitation Act of 1973, as amended, and all standards and requirements established by the Architectural and Transportation Barriers Access Board and the Iowa Office of the Chief Information Officer.

“Bid Proposal” or **“Proposal”** means the Contractor’s proposal submitted in response to the Solicitation, if this Contract arises out of a competitive process.

“Business Days” means any day other than a Saturday, Sunday, or State holiday as specified by Iowa Code §1C.2.

“Confidential Information” means, subject to any applicable State and federal laws and regulations, including but not limited to Iowa Code Chapter 22, any confidential or proprietary information or trade secrets disclosed by either party (a “Disclosing Party”) to the other party (a “Receiving Party”) that, at the time of disclosure, is designated as confidential (or like designation), is disclosed in circumstances of confidence, or would be understood by the parties, exercising reasonable business judgment, to be confidential. Regardless of whether or not the following information is designated as confidential, the term Confidential Information includes information that could be used to identify recipients or applicants of Agency services and recipients of Contract services including Protected Health Information (45 C.F.R. § 160.103) and Personal Information (Iowa Code § 715C.1(11)), Agency security protocols and procedures, Agency system architecture, information that could compromise the security of the Agency network or systems, and information about the Agency’s current or future competitive procurements, including the evaluation process prior to the formal announcement of results.

Confidential Information does not include any information that: (1) was rightfully in the possession of the Receiving Party from a source other than the Disclosing Party prior to the time of disclosure of the information by the Disclosing Party to the Receiving Party; (2) was known to the Receiving Party prior to the disclosure of the information by the Disclosing Party; (3) was disclosed to the Receiving Party without restriction by an independent third party having a legal right to disclose the information; (4) is in the public domain or shall have become publicly available other than as a result of disclosure by the Receiving Party in violation of this Agreement or in breach of any other agreement with the Disclosing Party; (5) is independently developed by the Receiving Party without any reliance on Confidential Information disclosed by the Disclosing Party; or (6) is disclosed by the Receiving Party with the written consent of the Disclosing Party.

“Contract” means the collective documentation memorializing the terms of the agreement between the Agency and the Contractor identified in the Contract Declarations and Execution Section and includes the signed Contract Declarations and

Execution Section, the General Terms for Services Contracts, the Special Terms, and any Special Contract Attachments, as these documents may be amended from time to time.

“Deficiency” means a defect, flaw, anomaly, failure, omission, interruption of service, or other problem of any nature whatsoever with respect to a Deliverable, including, without limitation, any failure of a Deliverable to conform to or meet an applicable specification. Deficiency also includes the lack of something essential or necessary for completeness or proper functioning of a Deliverable.

“Deliverables” means all of the services, goods, products, work, work product, data, items, materials and property to be created, developed, produced, delivered, performed, or provided by or on behalf of, or made available through, the Contractor (or any agent, contractor or subcontractor of the Contractor) in connection with this Contract. This includes data that is collected on behalf of the Agency.

“Documentation” means any and all technical information, commentary, explanations, design documents, system architecture documents, database layouts, test materials, training materials, guides, manuals, worksheets, notes, work papers, and all other information, documentation and materials related to or used in conjunction with the Deliverables, in any medium, including hard copy, electronic, digital, and magnetically or optically encoded media.

“Force Majeure” means an event that no human foresight could anticipate or which if anticipated, is incapable of being avoided. Circumstances must be abnormal and unforeseeable, so that the consequences could not have been avoided through the exercise of all due care. The delay or impossibility of performance must be beyond the control and without the fault or negligence of the parties. Force Majeure does not include: financial difficulties of the Contractor or any parent, subsidiary, affiliated or associated company of the Contractor; claims or court orders that restrict the Contractor’s ability to deliver the Deliverables contemplated by this Contract; strikes; labor unrest; or supply chain disruptions.

“Invoice” means a Contractor’s claim for payment. At the Agency’s discretion, claims may be submitted on an original invoice from the Contractor or may be submitted on a claim form acceptable to the Agency, such as a General Accounting Expenditure (GAX) form.

“Solicitation” means the formal or informal procurement (and any Addenda thereto) identified in the Contracts Declarations and Execution Section

that was issued to solicit the Bid Proposal leading to this Contract.

“Special Contract Attachments” means any attachment to this Contract.

“Special Terms” means the Section of the Contract entitled “Special Terms” that contains terms specific to this Contract, including but not limited to the Scope of Work and contract payment terms. If there is a conflict between the General Terms for Services Contracts and the Special Terms, the Special Terms shall prevail.

“Specifications” means all specifications, requirements, technical standards, performance standards, representations, and other criteria related to the Deliverables stated or expressed in this Contract, the Documentation, the Solicitation, and the Bid Proposal. Specifications shall include the Acceptance Criteria and any specifications, standards, or criteria stated or set forth in any applicable state, federal, foreign, and local laws, rules and regulations. The Specifications are incorporated into this Contract by reference as if fully set forth in this Contract.

“State” means the State of Iowa, the Agency, and all State of Iowa agencies, boards, and commissions, and when this Contract is available to political subdivisions, any political subdivisions of the State of Iowa.

2.2 Duration of Contract. The term of the Contract shall begin and end on the dates specified in the Contract Declarations and Execution Section, unless extended or terminated earlier in accordance with the termination provisions of this Contract. The Agency may, in its sole discretion, amend the end date of this Contract by exercising any applicable extension by giving the Contractor a written extension at least sixty (60) days prior to the expiration of the initial term or renewal term.

2.3 Scope of Work. The Contractor shall provide Deliverables that comply with and conform to the Specifications. Deliverables shall be performed within the boundaries of the United States.

2.4 Compensation.

2.4.1 Withholding Payments. In addition to pursuing any other remedy provided herein or by law, the Agency may withhold compensation or payments to the Contractor, in whole or in part, without penalty to the Agency or work stoppage by the Contractor, in the event the Agency determines that: (1) the Contractor has failed to perform any of its duties or obligations as set forth in this Contract; (2) any

Deliverable has failed to meet or conform to any applicable Specifications or contains or is experiencing a Deficiency; or (3) the Contractor has failed to perform Close-Out Event(s). No interest shall accrue or be paid to the Contractor on any compensation or other amounts withheld or retained by the Agency under this Contract.

2.4.2 Erroneous Payments and Credits. The Contractor shall promptly repay or refund the full amount of any overpayment or erroneous payment within thirty (30) Business Days after either discovery by the Contractor or notification by the Agency of the overpayment or erroneous payment.

2.4.3 Offset Against Sums Owed by the Contractor. In the event that the Contractor owes the State any sum under the terms of this Contract, any other contract or agreement, pursuant to a judgment, or pursuant to any law, the State may, in its sole discretion, offset any such sum against: (1) any sum Invoiced by, or owed to, the Contractor under this Contract, or (2) any sum or amount owed by the State to the Contractor, unless otherwise required by law. The Contractor agrees that this provision constitutes proper and timely notice under any applicable laws governing offset.

2.5 Termination.

2.5.1 Termination for Cause by the Agency. The Agency may terminate this Contract upon written notice for the breach by the Contractor or any subcontractor of any material term, condition or provision of this Contract, if such breach is not cured within the time period specified in the Agency's notice of breach or any subsequent notice or correspondence delivered by the Agency to the Contractor, provided that cure is feasible. In addition, the Agency may terminate this Contract effective immediately without penalty and without advance notice or opportunity to cure for any of the following reasons:

2.5.1.1 The Contractor furnished any statement, representation, warranty, or certification in connection with this Contract, the Solicitation, or the Bid Proposal that is false, deceptive, or materially incorrect or incomplete;

2.5.1.2 The Contractor or any of the Contractor's officers, directors, employees, agents, subsidiaries, affiliates, contractors or subcontractors has committed or engaged in fraud, misappropriation, embezzlement, malfeasance, misfeasance, or bad faith;

2.5.1.3 The Contractor or any parent or affiliate of the Contractor owning a controlling interest in the Contractor dissolves;

2.5.1.4 The Contractor terminates or suspends its business;

2.5.1.5 The Contractor's corporate existence or good standing in Iowa is suspended, terminated, revoked or forfeited, or any license or certification held by the Contractor related to the Contractor's performance under this Contract is suspended, terminated, revoked, or forfeited;

2.5.1.6 The Contractor has failed to comply with any applicable international, federal, state (including, but not limited to Iowa Code Chapter 8F), or local laws, rules, ordinances, regulations, or orders when performing within the scope of this Contract;

2.5.1.7 The Agency determines or believes the Contractor has engaged in conduct that: (1) has or may expose the Agency or the State to material liability; or (2) has caused or may cause a person's life, health, or safety to be jeopardized;

2.5.1.8 The Contractor infringes or allegedly infringes or violates any patent, trademark, copyright, trade dress, or any other intellectual property right or proprietary right, or the Contractor misappropriates or allegedly misappropriates a trade secret;

2.5.1.9 The Contractor fails to comply with any applicable confidentiality laws, privacy laws, or any provisions of this Contract pertaining to confidentiality or privacy; or

2.5.1.10 Any of the following has been engaged in by or occurred with respect to the Contractor or any corporation, shareholder or entity having or owning a controlling interest in the Contractor:

- Commencing or permitting a filing against it which is not discharged within ninety (90) days, of a case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect; or filing an answer admitting the material allegations of a petition filed against it in any involuntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts; or consenting to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts;
- Seeking or suffering the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets;
- Making an assignment for the benefit of creditors;

- Failing, being unable, or admitting in writing the inability generally to pay its debts or obligations as they become due or failing to maintain a positive net worth and such additional capital and liquidity as is reasonably adequate or necessary in connection with the Contractor's performance of its obligations under this Contract; or
- Taking any action to authorize any of the foregoing.

2.5.2 Termination Upon Notice. Following a thirty (30) day written notice, the Agency may terminate this Contract in whole or in part without penalty and without incurring any further obligation to the Contractor. Termination can be for any reason or no reason at all.

2.5.3 Termination Due to Lack of Funds or Change in Law. Notwithstanding anything in this Contract to the contrary, and subject to the limitations set forth below, the Agency shall have the right to terminate this Contract without penalty and without any advance notice as a result of any of the following:

2.5.3.1 The legislature or governor fail in the sole opinion of the Agency to appropriate funds sufficient to allow the Agency to either meet its obligations under this Contract or to operate as required and to fulfill its obligations under this Contract; or

2.5.3.2 If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by the Agency to make any payment hereunder are insufficient or unavailable for any other reason as determined by the Agency in its sole discretion; or

2.5.3.3 If the Agency's authorization to conduct its business or engage in activities or operations related to the subject matter of this Contract is withdrawn or materially altered or modified; or

2.5.3.4 If the Agency's duties, programs or responsibilities are modified or materially altered; or

2.5.3.5 If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation, or order is enacted, promulgated, or issued that materially or adversely affects the Agency's ability to fulfill any of its obligations under this Contract.

The Agency shall provide the Contractor with written notice of termination pursuant to this section.

2.5.4 Other remedies. The Agency's right to terminate this Contract shall be in addition to and not exclusive of other remedies available to the Agency, and the Agency shall be entitled to exercise any other rights and pursue any remedies, in law, at equity, or otherwise.

2.5.5 Limitation of the State's Payment

Obligations. In the event of termination of this Contract for any reason by either party (except for termination by the Agency pursuant to Section 2.5.1, *Termination for Cause by the Agency*) the Agency shall pay only those amounts, if any, due and owing to the Contractor hereunder for Deliverables actually and satisfactorily provided in accordance with the provisions of this Contract up to and including the date of termination of this Contract and for which the Agency is obligated to pay pursuant to this Contract; provided however, that in the event the Agency terminates this Contract pursuant to Section 2.5.3, *Termination Due to Lack of Funds or Change in Law*, the Agency's obligation to pay the Contractor such amounts and other compensation shall be limited by, and subject to, legally available funds. Payment will be made only upon submission of Invoices and proper proof of the Contractor's claim. Notwithstanding the foregoing, this section in no way limits the rights or remedies available to the Agency and shall not be construed to require the Agency to pay any compensation or other amounts hereunder in the event of the Contractor's breach of this Contract or any amounts withheld by the Agency in accordance with the terms of this Contract. The Agency shall not be liable, under any circumstances, for any of the following:

2.5.5.1 The payment of unemployment compensation to the Contractor's employees;

2.5.5.2 The payment of workers' compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;

2.5.5.3 Any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead, or other costs associated with the performance of the Contract;

2.5.5.4 Any damages or other amounts associated with the loss of prospective profits, anticipated sales, goodwill, or for expenditures, investments, or commitments made in connection with this Contract; or

2.5.5.5 Any taxes the Contractor may owe in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes, or property taxes.

2.5.6 Contractor's Contract Close-Out Duties.

Upon receipt of notice of termination, at expiration of the Contract, or upon request of the Agency (hereafter, "Close-Out Event"), the Contractor shall:

2.5.6.1 Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the Close-Out Event, describing the

status of all work performed under the Contract and such other matters as the Agency may require.

2.5.6.2 Immediately cease using and return to the Agency any property or materials, whether tangible or intangible, provided by the Agency to the Contractor.

2.5.6.3 Cooperate in good faith with the Agency and its employees, agents, and independent contractors during the transition period between the Close-Out Event and the substitution of any replacement service provider.

2.5.6.4 Immediately return to the Agency any payments made by the Agency for Deliverables that were not rendered or provided by the Contractor.

2.5.6.5 Immediately deliver to the Agency any and all Deliverables for which the Agency has made payment (in whole or in part) that are in the possession or under the control of the Contractor or its agents or subcontractors in whatever stage of development and form of recordation such property is expressed or embodied at that time.

2.5.7 Termination for Cause by the Contractor.

The Contractor may only terminate this Contract for the breach by the Agency of any material term of this Contract, if such breach is not cured within sixty (60) days of the Agency's receipt of the Contractor's written notice of breach.

2.6 Reserved.

2.7 Indemnification.

2.7.1 By the Contractor. The Contractor agrees to indemnify and hold harmless the State and its officers, appointed and elected officials, board and commission members, employees, volunteers, and agents (collectively the "Indemnified Parties"), from any and all costs, expenses, losses, claims, damages, liabilities, settlements, and judgments (including, without limitation, the reasonable value of the time spent by the Attorney General's Office,) and the costs, expenses, and attorneys' fees of other counsel retained by the Indemnified Parties directly or indirectly related to, resulting from, or arising out of this Contract, including but not limited to any claims related to, resulting from, or arising out of:

2.7.1.1 Any breach of this Contract;

2.7.1.2 Any negligent, intentional, or wrongful act or omission of the Contractor or any agent or subcontractor utilized or employed by the Contractor;

2.7.1.3 The Contractor's performance or attempted performance of this Contract, including any agent or subcontractor utilized or employed by the Contractor;

2.7.1.4 Any failure by the Contractor to make all reports, payments, and withholdings required by federal and state law with respect to social security,

employee income and other taxes, fees, or costs required by the Contractor to conduct business in the State of Iowa;

2.7.1.5 Any claim of misappropriation of a trade secret or infringement or violation of any intellectual property rights, proprietary rights, or personal rights of any third party, including any claim that any Deliverable or any use thereof (or the exercise of any rights with respect thereto) infringes, violates, or misappropriates any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other intellectual property right or proprietary right of any third party.

2.8 Insurance.

2.8.1 Insurance Requirements. The Contractor, and any subcontractor, shall maintain in full force and effect, with insurance companies licensed by the State of Iowa, at the Contractor's expense, insurance covering its work during the entire term of this Contract, which includes any extensions or renewals thereof. The Contractor's insurance shall, among other things:

2.8.1.1 Be occurrence based and shall insure against any loss or damage resulting from or related to the Contractor's performance of this Contract regardless of the date the claim is filed or expiration of the policy.

2.8.1.2. Name the State of Iowa and the Agency as additional insureds or loss payees on the policies for all coverages required by this Contract, with the exception of Workers' Compensation, or the Contractor shall obtain an endorsement to the same effect; and

2.8.1.3 Provide a waiver of any subrogation rights that any of its insurance carriers might have against the State on the policies for all coverages required by this Contract, with the exception of Workers' Compensation.

The requirements set forth in this section shall be indicated on the certificates of insurance coverage supplied to the Agency.

2.8.2 Types and Amounts of Insurance Required.

Unless otherwise requested by the Agency in writing, the Contractor shall cause to be issued insurance coverages insuring the Contractor and/or subcontractors against all general liabilities, product liability, personal injury, property damage, and (where applicable) professional liability in the amount specified in the Special Terms for each occurrence. In addition, the Contractor shall ensure it has any necessary workers' compensation and employer liability insurance as required by Iowa law.

2.8.3 Certificates of Coverage. The Contractor shall submit certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to the Agency upon execution of this Contract. The Contractor shall maintain all insurance policies required by this Contract in full force and effect during the entire term of this Contract, which includes any extensions or renewals thereof, and shall not permit such policies to be canceled or amended except with the advance written approval of the Agency. The insurer shall state in the certificate that no cancellation of the insurance will be made without at least a thirty (30) day prior written notice to the Agency. The certificates shall be subject to approval by the Agency. Approval of the insurance certificates by the Agency shall not relieve the Contractor of any obligation under this Contract.

2.8.4 Notice of Claim. Contractor shall provide prompt notice to the Agency of any claim related to the contracted services made by a third party. If the claim matures to litigation, the Contractor shall keep the Agency regularly informed of the status of the lawsuit, including any substantive rulings. The Contractor shall confer directly with the Agency about and before any substantive settlement negotiations.

2.9 Ownership and Security of Agency Information.

2.9.1 Ownership and Disposition of Agency Information. Any information either supplied by the Agency to the Contractor, or collected by the Contractor on the Agency's behalf in the course of the performance of this Contract, shall be considered the property of the Agency ("Agency Information"). The Contractor will not use the Agency Information for any purpose other than providing services under the Contract, nor will any part of the information and records be disclosed, sold, assigned, leased, or otherwise provided to third parties or commercially exploited by or on behalf of the Contractor. The Agency shall own all Agency Information that may reside within the Contractor's hosting environment and/or equipment/media.

2.9.2 Foreign Hosting and Storage Prohibited. Agency Information shall be hosted and/or stored within the continental United States only.

2.9.3 Access to Agency Information that is Confidential Information. The Contractor's employees, agents, and subcontractors may have access to Agency Information that is Confidential Information to the extent necessary to carry out responsibilities under the Contract. Access to such Confidential Information shall comply with both the

State's and the Agency's policies and procedures. In all instances, access to Agency Information from outside of the United States and its protectorates, either by the Contractor, including a foreign office or division of the Contractor or its affiliates or associates, or any subcontractor, is prohibited.

2.9.4 No Use or Disclosure of Confidential Information. Confidential Information collected, maintained, or used in the course of performance of the Contract shall only be used or disclosed by the Contractor as expressly authorized by law and only with the prior written consent of the Agency, either during the period of the Contract or thereafter. The Contractor shall immediately report to the Agency any unauthorized use or disclosure of Confidential Information. The Contractor may be held civilly or criminally liable for improper use or disclosure of Confidential Information.

2.9.5 Contractor Breach Notification Obligations. The Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized use or disclosure of Confidential Information or other event(s) requiring notification in accordance with applicable law. In the event of a breach of the Contractor's security obligations or other event requiring notification under applicable law, the Contractor agrees to follow Agency directives, which may include assuming responsibility for informing all such individuals in accordance with applicable laws, and to indemnify, hold harmless, and defend the State of Iowa against any claims, damages, or other harm related to such breach.

2.9.6 Compliance of Contractor Personnel. The Contractor and the Contractor's personnel shall comply with the Agency's and the State's security and personnel policies, procedures, and rules, including any procedure which the Agency's personnel, contractors, and consultants are normally asked to follow. The Contractor agrees to cooperate fully and to provide any assistance necessary to the Agency in the investigation of any security breaches that may involve the Contractor or the Contractor's personnel. All services shall be performed in accordance with State Information Technology security standards and policies as well as Agency security protocols and procedures. By way of example only, see Iowa Code 8B.23, <http://secureonline.iowa.gov/links/index.html>, and <https://ocio.iowa.gov/home/standards>.

2.9.7 Subpoena. In the event that a subpoena or other legal process is served upon the Contractor for records containing Confidential Information, the Contractor shall promptly notify the Agency and

cooperate with the Agency in any lawful effort to protect the Confidential Information.

2.9.8 Return and/or Destruction of Information.

Upon expiration or termination of the Contract for any reason, the Contractor agrees to comply with all Agency directives regarding the return or destruction of all Agency Information and any derivative work. Delivery of returned Agency Information must be through a secured electronic transmission or by parcel service that utilizes tracking numbers. Such information must be provided in a format useable by the Agency. Following the Agency's verified receipt of the Agency Information and any derivative work, the Contractor agrees to physically and/or electronically destroy or erase all residual Agency Information regardless of format from the entire Contractor's technology resources and any other storage media. This includes, but is not limited to, all production copies, test copies, backup copies and /or printed copies of information created on any other servers or media and at all other Contractor sites. Any permitted destruction of Agency Information must occur in such a manner as to render the information incapable of being reconstructed or recovered. The Contractor will provide a record of information destruction to the Agency for inspection and records retention no later than thirty (30) days after destruction.

2.9.9 Contractor's Inability to Return and/or Destroy Information. If for any reason the Agency Information cannot be returned and/or destroyed upon expiration or termination of the Contract, the Contractor agrees to notify the Agency with an explanation as to the conditions which make return and/or destruction not possible or feasible. Upon mutual agreement by both parties that the return and/or destruction of the information is not possible or feasible, the Contractor shall make the Agency Information inaccessible. The Contractor shall not use or disclose such retained Agency Information for any purposes other than those expressly permitted by the Agency. The Contractor shall provide to the Agency a detailed description as to the procedures and methods used to make the Agency Information inaccessible no later than thirty (30) days after making the information inaccessible. If the Agency provides written permission for the Contractor to retain the Agency Information in the Contractor's information systems, the Contractor will extend the protections of this Contract to such information and limit any further uses or disclosures of such information.

2.9.10 Contractors that are Business Associates. If the Contractor is the Agency's Business Associate,

and there is a conflict between the Business Associate Agreement and this Section 2.9, the provisions in the Business Associate Agreement shall control.

2.10 Intellectual Property.

2.10.1 Ownership and Assignment of Other Deliverables. The Contractor agrees that the State and the Agency shall become the sole and exclusive owners of all Deliverables. The Contractor hereby irrevocably assigns, transfers and conveys to the State and the Agency all right, title and interest in and to all Deliverables and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables, including copyrights, patents, trademarks, trade secrets, trade dress, mask work, utility design, derivative works, and all other rights and interests therein or related thereto. The Contractor represents and warrants that the State and the Agency shall acquire good and clear title to all Deliverables, free from any claims, liens, security interests, encumbrances, intellectual property rights, proprietary rights, or other rights or interests of the Contractor or of any third party, including any employee, agent, contractor, subcontractor, subsidiary, or affiliate of the Contractor. The Contractor (and Contractor's employees, agents, contractors, subcontractors, subsidiaries and affiliates) shall not retain any property interests or other rights in and to the Deliverables and shall not use any Deliverables, in whole or in part, for any purpose, without the prior written consent of the Agency and the payment of such royalties or other compensation as the Agency deems appropriate. Unless otherwise requested by the Agency, upon completion or termination of this Contract, the Contractor will immediately turn over to the Agency all Deliverables not previously delivered to the Agency, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors, or affiliates, without the prior written consent of the Agency.

2.10.2 Waiver. To the extent any of the Contractor's rights in any Deliverables are not subject to assignment or transfer hereunder, including any moral rights and any rights of attribution and of integrity, the Contractor hereby irrevocably and unconditionally waives all such rights and enforcement thereof and agrees not to challenge the State's rights in and to the Deliverables.

2.10.3 Further Assurances. At the Agency's request, the Contractor will execute and deliver such instruments and take such other action as may be requested by the Agency to establish, perfect, or

protect the State's rights in and to the Deliverables and to carry out the assignments, transfers and conveyances set forth in Section 2.10, *Intellectual Property*.

2.10.4 Publications. Prior to completion of all services required by this Contract, the Contractor shall not publish in any format any final or interim report, document, form, or other material developed as a result of this Contract without the express written consent of the Agency. Upon completion of all services required by this Contract, the Contractor may publish or use materials developed as a result of this Contract, subject to confidentiality restrictions, and only after the Agency has had an opportunity to review and comment upon the publication. Any such publication shall contain a statement that the work was done pursuant to a contract with the Agency and that it does not necessarily reflect the opinions, findings, and conclusions of the Agency.

2.11 Warranties.

2.11.1 Construction of Warranties Expressed in this Contract with Warranties Implied by Law.

Warranties made by the Contractor in this Contract, whether: (1) this Contract specifically denominates the Contractor's promise as a warranty; or (2) the warranty is created by the Contractor's affirmation or promise, by a description of the Deliverables to be provided, or by provision of samples to the Agency, shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties that arise through the course of dealing or usage of trade. The warranties expressed in this Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the Deliverables provided by the Contractor. With the exception of Subsection 2.11.3, the provisions of this section apply during the Warranty Period as defined in the Contract Declarations and Execution Section.

2.11.2 Contractor represents and warrants that:

2.11.2.1 All Deliverables shall be wholly original with and prepared solely by the Contractor; or it owns, possesses, holds, and has received or secured all rights, permits, permissions, licenses, and authority necessary to provide the Deliverables to the Agency hereunder and to assign, grant and convey the rights, benefits, licenses, and other rights assigned, granted, or conveyed to the Agency hereunder or under any license agreement related hereto without violating any rights of any third party;
2.11.2.2 The Contractor has not previously and will not grant any rights in any Deliverables to any third

party that are inconsistent with the rights granted to the Agency herein; and

2.11.2.3 The Agency shall peacefully and quietly have, hold, possess, use, and enjoy the Deliverables without suit, disruption, or interruption.

2.11.3 The Contractor represents and warrants that:

2.11.3.1 The Deliverables (and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables); and
2.11.3.2 The Agency's use of, and exercise of any rights with respect to, the Deliverables (and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables), do not and will not, under any circumstances, misappropriate a trade secret or infringe upon or violate any copyright, patent, trademark, trade dress or other intellectual property right, proprietary right or personal right of any third party. The Contractor further represents and warrants there is no pending or threatened claim, litigation, or action that is based on a claim of infringement or violation of an intellectual property right, proprietary right or personal right or misappropriation of a trade secret related to the Deliverables. The Contractor shall inform the Agency in writing immediately upon becoming aware of any actual, potential, or threatened claim of or cause of action for infringement or violation or an intellectual property right, proprietary right, or personal right or misappropriation of a trade secret. If such a claim or cause of action arises or is likely to arise, then the Contractor shall, at the Agency's request and at the Contractor's sole expense:

- Procure for the Agency the right or license to continue to use the Deliverable at issue;
- Replace such Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation, or misappropriation;
- Modify or replace the affected portion of the Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation, or misappropriation; or
- Accept the return of the Deliverable at issue and refund to the Agency all fees, charges, and any other amounts paid by the Agency with respect to such Deliverable. In addition, the Contractor agrees to indemnify, defend, protect, and hold harmless the State and its officers, directors, employees, officials, and agents as provided in the Indemnification Section of this Contract, including for any breach of the representations and warranties made by the Contractor in this section.

The warranty provided in this Section 2.11.3 shall be perpetual, shall not be subject to the contractual Warranty Period, and shall survive termination of this Contract. The foregoing remedies provided in this subsection shall be in addition to and not exclusive of other remedies available to the Agency and shall survive termination of this Contract.

2.11.4 The Contractor represents and warrants that the Deliverables shall:

2.11.4.1 Be free from material Deficiencies; and

2.11.4.2 Meet, conform to, and operate in accordance with all Specifications and in accordance with this Contract during the Warranty Period, as defined in the Contract Declarations and Execution Section.

During the Warranty Period the Contractor shall, at its expense, repair, correct or replace any Deliverable that contains or experiences material Deficiencies or fails to meet, conform to or operate in accordance with Specifications within five (5) Business Days of receiving notice of such Deficiencies or failures from the Agency or within such other period as the Agency specifies in the notice. In the event the Contractor is unable to repair, correct, or replace such Deliverable to the Agency's satisfaction, the Contractor shall refund the fees or other amounts paid for the Deliverables and for any services related thereto.

The foregoing shall not constitute an exclusive remedy under this Contract, and the Agency shall be entitled to pursue any other available contractual, legal, or equitable remedies. The Contractor shall be available at all reasonable times to assist the Agency with questions, problems, and concerns about the Deliverables, to inform the Agency promptly of any known Deficiencies in any Deliverables, repair and correct any Deliverables not performing in accordance with the warranties contained in this Contract, notwithstanding that such Deliverables may have been accepted by the Agency, and provide the Agency with all necessary materials with respect to such repaired or corrected Deliverable.

2.11.5 The Contractor represents, warrants and covenants that all services to be performed under this Contract shall be performed in a professional, competent, diligent, and workmanlike manner by knowledgeable, trained, and qualified personnel, all in accordance with the terms and Specifications of this Contract and the standards of performance considered generally acceptable in the industry for similar tasks and projects. In the absence of a Specification for the performance of any portion of this Contract, the parties agree that the applicable Specification shall be the generally accepted industry standard. So long as the Agency notifies the Contractor of any services performed in violation of

this standard, the Contractor shall re-perform the services at no cost to the Agency, such that the services are rendered in the above-specified manner, or if the Contractor is unable to perform the services as warranted, the Contractor shall reimburse the Agency any fees or compensation paid to the Contractor for the unsatisfactory services.

2.11.6 The Contractor represents and warrants that the Deliverables will comply with all Applicable Law.

2.11.7 Obligations Owed to Third Parties. The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to this Contract are or will be fully satisfied by the Contractor so that the Agency will not have any obligations with respect thereto.

2.12 Acceptance of Deliverables.

2.12.1 Acceptance of Written Deliverables. For the purposes of this section, written Deliverables means documents including, but not limited to project plans, planning documents, reports, or instructional materials ("Written Deliverables"). Although the Agency determines what Written Deliverables are subject to formal Acceptance, this section generally does not apply to routine progress or financial reports. Absent more specific Acceptance Criteria in the Special Terms, following delivery of any Written Deliverable pursuant to the Contract, the Agency will notify the Contractor whether or not the Deliverable meets contractual specifications and requirements. Written Deliverables shall not be considered accepted by the Agency, nor does the Agency have an obligation to pay for such Deliverables, unless and until the Agency has notified the Contractor of the Agency's Final Acceptance of the Written Deliverables. In all cases, any statements included in such Written Deliverables that alter or conflict with any contractual requirements shall in no way be considered as changing the contractual requirements unless and until the parties formally amend the Contract.

2.12.2. Reserved.

2.12.3 Notice of Acceptance and Future Deficiencies. The Contractor's receipt of any notice of Acceptance, including Final Acceptance, with respect to any Deliverable shall not be construed as a waiver of any of the Agency's rights to enforce the terms of this Contract or require performance in the event the Contractor breaches this Contract or any Deficiency is later discovered with respect to such Deliverable.

2.13 Contract Administration.

2.13.1 Independent Contractor. The status of the Contractor shall be that of an independent contractor. The Contractor, its employees, agents, and any subcontractors performing under this Contract are not employees or agents of the State or any agency, division, or department of the State simply by virtue of work performed pursuant to this Contract. Neither the Contractor nor its employees shall be considered employees of the Agency or the State for federal or state tax purposes simply by virtue of work performed pursuant to this Contract. The Agency will not withhold taxes on behalf of the Contractor (unless required by law).

2.13.2 Incorporation of Documents. To the extent this Contract arises out of a Solicitation, the parties acknowledge that the Contract consists of these contract terms and conditions as well as the Solicitation and the Bid Proposal. The Solicitation and the Bid Proposal are incorporated into the Contract by reference. If the Contractor proposed exceptions or modifications to the Sample Contract attached to the Solicitation or to the Solicitation itself, these proposed exceptions or modifications shall not be incorporated into this Contract unless expressly set forth herein. If there is a conflict between the Contract, the Solicitation, and the Bid Proposal, the conflict shall be resolved according to the following priority, ranked in descending order: (1) the Contract; (2) the Solicitation; (3) the Bid Proposal.

2.13.3 Intent of References to Bid Documents. To the extent this Contract arises out of a Solicitation, the references to the parties' obligations, which are contained in this Contract, are intended to supplement or clarify the obligations as stated in the Solicitation and the Bid Proposal. The failure of the parties to make reference to the terms of the Solicitation or the Bid Proposal in this Contract shall not be construed as creating a conflict and will not relieve the Contractor of the contractual obligations imposed by the terms of the Solicitation and the Contractor's Bid Proposal. Terms offered in the Bid Proposal, which exceed the requirements of the Solicitation, shall not be construed as creating an inconsistency or conflict with the Solicitation or the Contract. The contractual obligations of the Agency are expressly stated in this document. The Bid Proposal does not create any express or implied obligations of the Agency.

2.13.4 Compliance with the Law. The Contractor, its employees, agents, and subcontractors shall comply at all times with all Applicable Law. All such Applicable Law is incorporated into this

Contract as of the effective date of the Applicable Law. The Contractor and Agency expressly reject any proposition that future changes to Applicable Law are inapplicable to this Contract and the Contractor's provision of Deliverables and/or performance in accordance with this Contract. When providing Deliverables pursuant to this Contract the Contractor, its employees, agents, and subcontractors shall comply with all Applicable Law.

2.13.4.1 The Contractor, its employees, agents, and subcontractors shall not engage in discriminatory employment practices which are forbidden by Applicable Law. Upon the State's written request, the Contractor shall submit to the State a copy of its affirmative action plan, containing goals and time specifications, and non-discrimination and accessibility plans and policies regarding services to clients as required under 11 Iowa Admin. Code chapter 121.

2.13.4.2 In the event the Contractor contracts with third parties for the performance of any of the Contractor obligations under this Contract as set forth in Section 2.13.9, the Contractor shall take such steps as necessary to ensure such third parties are bound by the terms and conditions contained in this Section 2.13.4.

2.13.4.3 Notwithstanding anything in this Contract to the contrary, the Contractor's failure to fulfill any requirement set forth in this Section 2.13.4 shall be regarded as a material breach of this Contract and the State may cancel, terminate, or suspend in whole or in part this Contract. The State may further declare the Contractor ineligible for future state contracts in accordance with authorized procedures or the Contractor may be subject to other sanctions as provided by law or rule.

2.13.4.4 The Contractor, its employees, agents, and subcontractors shall also comply with all Applicable Law regarding business permits and licenses that may be required to carry out the work performed under this Contract.

2.13.4.5 If all or a portion of the funding used to pay for the Deliverables is being provided through a grant from the Federal Government, the Contractor acknowledges and agrees that pursuant to applicable federal laws, regulations, circulars, and bulletins, the awarding agency of the Federal Government reserves certain rights including, without limitation, a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes, the Deliverables developed under this Contract and the copyright in and to such Deliverables.

2.13.5 Procurement. The Contractor shall use procurement procedures that comply with all applicable federal, state, and local laws and regulations.

2.13.6 Non-Exclusive Rights. This Contract is not exclusive. The Agency reserves the right to select other contractors to provide Deliverables similar or identical to those described in the Scope of Work during the entire term of this Contract, which includes any extensions or renewals thereof.

2.13.7 Amendments. This Contract may only be amended by mutual written consent of the parties, with the exception of (1) the Contract end date, which may be extended under the Agency's sole discretion, and (2) the Business Associate Agreement, which may be modified or replaced on notice pursuant to Section 1.5, *Business Associate Agreement*. Amendments shall be executed on a form approved by the Agency that expressly states the intent of the parties to amend this Contract. This Contract shall not be amended in any way by use of terms and conditions in an Invoice or other ancillary transactional document. To the extent that language in a transactional document conflicts with the terms of this Contract, the terms of this Contract shall control.

2.13.8 No Third Party Beneficiaries. There are no third party beneficiaries to this Contract. This Contract is intended only to benefit the State and the Contractor.

2.13.9 Use of Third Parties. The Agency acknowledges that the Contractor may contract with third parties for the performance of any of the Contractor's obligations under this Contract. The Contractor shall notify the Agency in writing of all subcontracts relating to Deliverables to be provided under this Contract prior to the time the subcontract(s) become effective. The Agency reserves the right to review and approve all subcontracts. The Contractor may enter into these contracts to complete the project provided that the Contractor remains responsible for all Deliverables provided under this Contract. All restrictions, obligations, and responsibilities of the Contractor under this Contract shall also apply to the subcontractors and the Contractor shall include in all of its subcontracts a clause that so states. The Agency shall have the right to request the removal of a subcontractor from the Contract for good cause.

2.13.10 Choice of Law and Forum. The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Contract without regard to the conflict of law provisions of Iowa law. Any and all litigation commenced in

connection with this Contract shall be brought and maintained solely in Polk County District Court for the State of Iowa, Des Moines, Iowa, or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa, wherever jurisdiction is appropriate. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to the Agency or the State of Iowa.

2.13.11 Assignment and Delegation. The Contractor may not assign, transfer, or convey in whole or in part this Contract without the prior written consent of the Agency. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment. The Contractor may not delegate any of its obligations or duties under this Contract without the prior written consent of the Agency. The Contractor may not assign, pledge as collateral, grant a security interest in, create a lien against, or otherwise encumber any payments that may or will be made to the Contractor under this Contract.

2.13.12 Integration. This Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in this Contract.

2.13.13 No Drafter. No party to this Contract shall be considered the drafter of this Contract for the purpose of any statute, case law, or rule of construction that would or might cause any provision to be construed against the drafter.

2.13.14 Headings or Captions. The paragraph headings or captions used in this Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.

2.13.15 Not a Joint Venture. Nothing in this Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Contract.

2.13.16 Joint and Several Liability. If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation, or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of this Contract, for any default of activities and obligations, and for any fiscal liabilities.

2.13.17 Supersedes Former Contracts or Agreements. This Contract supersedes all prior contracts or agreements between the Agency and the Contractor for the Deliverables to be provided in connection with this Contract.

2.13.18 Waiver. Except as specifically provided for in a waiver signed by duly authorized representatives of the Agency and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

2.13.19 Notice. With the exception of the Business Associate Agreement, as set forth in Section 1.5, *Business Associate Agreement*, any notices required by the Contract shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party's Contract Manager as set forth in the Contract Declarations and Execution Section. From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party.

Each such notice shall be deemed to have been provided:

- At the time it is actually received in the case of hand delivery;
- Within one (1) day in the case of overnight delivery, courier or services such as Federal Express with guaranteed next-day delivery; or
- Within five (5) days after it is deposited in the U.S. Mail.

2.13.20 Cumulative Rights. The various rights, powers, options, elections, and remedies of any party provided in this Contract, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled.

2.13.21 Severability. If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Contract.

2.13.22 Time is of the Essence. Time is of the essence with respect to the Contractor's performance of the terms of this Contract. The Contractor shall

ensure that all personnel providing Deliverables to the Agency are responsive to the Agency's requirements and requests in all respects.

2.13.23 Authorization. The Contractor represents and warrants that:

2.13.23.1 It has the right, power, and authority to enter into and perform its obligations under this Contract.

2.13.23.2 It has taken all requisite action (corporate, statutory, or otherwise) to approve execution, delivery, and performance of this Contract and this Contract constitutes a legal, valid, and binding obligation upon itself in accordance with its terms.

2.13.24 Successors in Interest. All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and legal representatives.

2.13.25 Records Retention and Access.

2.13.25.1 Financial Records. The Contractor shall maintain accurate, current, and complete records of the financial activity of this Contract which sufficiently and properly document and calculate all charges billed to the Agency during the entire term of this Contract, which includes any extensions or renewals thereof, and for a period of at least seven (7) years following the date of final payment or completion of any required audit (whichever is later). If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the seven (7) year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular seven (7) year period, whichever is later. The Contractor shall permit the Agency, the Auditor of the State of Iowa or any other authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records, or other records of the Contractor relating to orders, Invoices or payments, or any other Documentation or materials pertaining to this Contract, wherever such records may be located. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. Based on the audit findings, the Agency reserves the right to address the Contractor's board or other managing entity regarding performance and expenditures. When state or federal law or the terms of this Contract require compliance with the OMNI Circular, or other similar

provision addressing proper use of government funds, the Contractor shall comply with these additional records retention and access requirements:

2.13.25.1.1 Records of financial activity shall include records that adequately identify the source and application of funds. When the terms of this Contract require matching funds, cash contributions made by the Contractor and third-party in-kind (property or service) contributions, these funds must be verifiable from the Contractor's records. These records must contain information pertaining to contract amount, obligations, unobligated balances, assets, liabilities, expenditures, income, and third-party reimbursements.

2.13.25.1.2 The Contractor shall maintain accounting records supported by source documentation that may include but are not limited to cancelled checks, paid bills, payroll, time and attendance records, and contract award documents.

2.13.25.1.3 The Contractor, in maintaining project expenditure accounts, records and reports, shall make any necessary adjustments to reflect refunds, credits, underpayments or overpayments, as well as any adjustments resulting from administrative or compliance reviews and audits. Such adjustments shall be set forth in the financial reports filed with the Agency.

2.13.25.1.4 The Contractor shall maintain a sufficient record keeping system to provide the necessary data for the purposes of planning, monitoring, and evaluating its program.

2.13.25.2 The Contractor shall retain all non-medical and medical client records for a period of seven (7) years from the last date of service for each patient; or in the case of a minor patient or client, for a period consistent with that established by Iowa Code § 614.1(9), whichever is greater.

2.13.26 Audits. Local governments and non-profit subrecipient entities that expend \$750,000 or more in a year in federal awards (from all sources) shall have a single audit conducted for that year in accordance with the provisions of the OMNI Circular, OMB Uniform Guidance: Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. 200. A copy of the final audit report shall be submitted to the Agency if either the schedule of findings and questioned costs or the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the Agency. If an audit report is not required to be submitted per the criteria above, the subrecipient must provide written notification to the Agency that the audit was conducted in accordance with Government Auditing Standards and that neither the

schedule of findings and questioned costs nor the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the Agency. See the OMNI Circular, Section 200.330, Subrecipient and Contractor Determinations for a discussion of subrecipient versus contractor (vendor) relationships. The Contractor shall provide the Agency with a copy of any written audit findings or reports, whether in draft or final form, within two (2) Business Days following receipt by the Contractor. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors.

2.13.27 Reimbursement of Audit Costs. If the Auditor of the State of Iowa notifies the Agency of an issue or finding involving the Contractor's noncompliance with laws, rules, regulations, and/or contractual agreements governing the funds distributed under this Contract, the Contractor shall bear the cost of the Auditor's review and any subsequent assistance provided by the Auditor to determine compliance. The Contractor shall reimburse the Agency for any costs the Agency pays to the Auditor for such review or audit.

2.13.28 Staff Qualifications and Background Checks. The Contractor shall be responsible for assuring that all persons, whether they are employees, agents, subcontractors, or anyone acting for or on behalf of the Contractor, are properly licensed, certified, or accredited as required under applicable state law and the Iowa Administrative Code. The Contractor shall provide standards for service providers who are not otherwise licensed, certified, or accredited under state law or the Iowa Administrative Code.

The Agency reserves the right to conduct and/or request the disclosure of criminal history and other background investigation of the Contractor, its officers, directors, shareholders, and the Contractor's staff, agents, or subcontractors retained by the Contractor for the performance of Contract services.

2.13.29 Solicitation. The Contractor represents and warrants that no person or selling agency has been employed or retained to solicit and secure this Contract upon an agreement or understanding for commission, percentage, brokerage, or contingency excepting bona fide employees or selling agents maintained for the purpose of securing business.

2.13.30 Obligations Beyond Contract Term. All obligations of the Agency and the Contractor incurred or existing under this Contract as of the date of expiration or termination will survive the expiration or termination of this Contract. Contract sections that survive include, but are not necessarily limited to, the following: (1) Section 2.4.2,

Erroneous Payments and Credits; (2) Section 2.5.5, *Limitation of the State's Payment Obligations*; (3) Section 2.5.6, *Contractor's Contract Close-Out Duties*; (4) Section 2.7, *Indemnification*, and all subparts thereof; (5) Section 2.9, *Ownership and Security of Agency Information*, and all subparts thereof; (6) Section 2.10, *Intellectual Property*, and all subparts thereof; (7) Section 2.13.10, *Choice of Law and Forum*; (8) Section 2.13.16, *Joint and Several Liability*; (9) Section 2.13.20, *Cumulative Rights*; (10) Section 2.13.24 *Successors In Interest*; (11) Section 2.13.25, *Records Retention and Access*, and all subparts thereof; (12) Section 2.13.26, *Audits*; (13) Section 2.13.27, *Reimbursement of Audit Costs*; (14) Section 2.13.35, *Repayment Obligation*; and (15) Section 2.13.39, *Use of Name or Intellectual Property*.

2.13.31 Counterparts. The parties agree that this Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

2.13.32 Delays or Potential Delays of Performance.

Whenever the Contractor encounters any difficulty which is delaying or threatens to delay the timely performance of this Contract, including but not limited to potential labor disputes, the Contractor shall immediately give notice thereof in writing to the Agency with all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery schedule or be construed as a waiver by the Agency or the State of any rights or remedies to which either is entitled by law or pursuant to provisions of this Contract.

Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery schedule because of such delay.

Furthermore, the Contractor will not be excused from failure to perform that is due to a Force Majeure unless and until the Contractor provides notice pursuant to this provision.

2.13.33 Delays or Impossibility of Performance Based on a Force Majeure. Neither party shall be in default under the Contract if performance is prevented, delayed, or made impossible to the extent that such prevention, delay, or impossibility is caused by a Force Majeure. If a delay results from a subcontractor's conduct, negligence or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of the Contract unless the subcontractor or supplier is prevented from timely performance by a Force Majeure as defined in this Contract.

If a Force Majeure delays or prevents the Contractor's performance, the Contractor shall immediately use its best efforts to directly provide alternate, and to the extent possible, comparable performance. Comparability of performance and the possibility of comparable performance shall be determined solely by the Agency.

The party seeking to exercise this provision and not perform or delay performance pursuant to a Force Majeure shall immediately notify the other party of the occurrence and reason for the delay. The parties shall make every effort to minimize the time of nonperformance and the scope of work not being performed due to the unforeseen events. Dates by which performance obligations are scheduled to be met will be extended only for a period of time equal to the time lost due to any delay so caused.

2.13.34 Right to Address the Board of Directors or Other Managing Entity. The Agency reserves the right to address the Contractor's board of directors or other managing entity of the Contractor regarding performance, expenditures, and any other issue the Agency deems appropriate.

2.13.35 Repayment Obligation. In the event that any State and/or federal funds are deferred and/or disallowed as a result of any audits or expended in violation of the laws applicable to the expenditure of such funds, the Contractor shall be liable to the Agency for the full amount of any claim disallowed and for all related penalties incurred. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors.

2.13.36 Reporting Requirements. If this Contract permits other State agencies and political subdivisions to make purchases off of the Contract, the Contractor shall keep a record of the purchases made pursuant to the Contract and shall submit a report to the Agency on a quarterly basis. The report shall identify all of the State agencies and political subdivisions making purchases off of this Contract and the quantities purchased pursuant to the Contract during the reporting period.

2.13.37 Immunity from Liability. Every person who is a party to the Contract is hereby notified and agrees that the State, the Agency, and all of their employees, agents, successors, and assigns are immune from liability and suit for or from the Contractor's and/or subcontractors' activities involving third parties and arising from the Contract.

2.13.38 Public Records. The laws of the State require procurement and contract records to be made public unless otherwise provided by law.

2.13.39 Use of Name or Intellectual Property. The Contractor agrees it will not use the Agency and/or

State's name or any of their intellectual property, including but not limited to, any State, state agency, board or commission trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the Agency and/or the State.

2.13.40 Taxes. The State is exempt from Federal excise taxes, and no payment will be made for any taxes levied on the Contractor's employees' wages. The State is exempt from State and local sales and use taxes on the Deliverables.

2.13.41 No Minimums Guaranteed. The Contract does not guarantee any minimum level of purchases or any minimum amount of compensation.

2.14 Contract Certifications. The Contractor will fully comply with obligations herein. If any conditions within these certifications change, the Contractor will provide written notice to the Agency within twenty-four (24) hours from the date of discovery.

2.14.1 Certification of Compliance with Pro-Children Act of 1994. The Contractor must comply with Public Law 103-227, Part C Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the Deliverables are funded by federal programs either directly or through State or local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees, and contracts. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities (other than clinics) where Women, Infants, and Children (WIC) coupons are redeemed.

The Contractor further agrees that the above language will be included in any subawards that contain provisions for children's services and that all subgrantees shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to \$1,000.00 per day.

2.14.2 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

By signing this Contract, the Contractor is providing the certification set out below:

2.14.2.1 The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the Agency or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2.14.2.2 The Contractor shall provide immediate written notice to the Agency if at any time the Contractor learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

2.14.2.3 The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principle, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. Contact the Agency for assistance in obtaining a copy of those regulations.

2.14.2.4 The Contractor agrees by signing this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Agency or agency with which this transaction originated.

2.14.2.5 The Contractor further agrees by signing this Contract that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

2.14.2.6 A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. A participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

2.14.2.7 Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

2.14.2.8 Except for transactions authorized under Section 2.14.2.4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the Agency or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2.14.2.9 The Contractor certifies, by signing this Contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Where the Contractor is unable to certify to any of the statements in this certification, such Contractor shall attach an explanation to this Contract.

2.14.3 Restriction on Lobbying.

This section is applicable to all federally-funded contracts.

Title 45 of the Code of Federal Regulations, Part 93 sets conditions on the use of Federal funds supporting this Contract. The Contractor shall comply with all requirements of CFR Part 93 which is incorporated herein as if fully set forth. No appropriated funds supporting this Contract may be expended by the Contractor for payment of any person for influencing or attempting to influence an employee of the agency (as defined in 5 U.S.C.552(f)), a member of Congress in connection with the award of this Contract, the making of any federal funding grant award connected to this Contract, the making of any Federal loan connected to this Contract, the entering into any cooperative agreement connected to this Contract, and the extension, continuation, or modification of this Contract.

2.14.3.1 The Contractor shall file with the Agency a certification form, set forth in Appendix A of 45 CFR Part 93, certifying the Contractor, including any subcontractor(s) at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) have not made, and will not

make, any payment prohibited under 45 CFR § 93.100.

2.14.3.2 The Contractor shall file with the Agency a disclosure form, set forth in Appendix B of 45 CFR Part 93, in the event the Contractor or subcontractor(s) at any tier (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) has made or has agreed to make any payment using non-appropriated funds, including profits from any covered Federal action, which would be prohibited under 45 CFR §93.100 if paid for with appropriated funds. All disclosure forms shall be forwarded from tier to tier until received by the Contractor and shall be treated as a material representation of fact upon which all receiving tiers shall rely.

2.14.3.3 The Contractor shall file with the Agency subsequent disclosure forms at the end of each calendar quarter in which there occurs any event that requires disclosure or materially affects the accuracy of the information contained in any disclosure form previously filed. Such events include:

2.14.3.3.1 A cumulative increase of \$25,000 or more in the amount paid or expected to be paid to influence a covered Federal action;

2.14.3.3.2 A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; and

2.14.3.3.3 A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

2.14.3.4 The Contractor may be subject to civil penalties if the Contractor fails to comply with the requirements of 45 CFR Part 93. An imposition of a civil penalty does not prevent the Agency from taking appropriate enforcement actions which may include, but not necessarily be limited to, termination of the Contract.

2.14.4 Certification Regarding Drug Free Workplace

2.14.4.1 **Requirements for Contractors Who are Not Individuals.** If the Contractor is not an individual, the Contractor agrees to provide a drug-free workplace by:

2.14.4.1.1 Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

2.14.4.1.2 Establishing a drug-free awareness program to inform employees about:

- The dangers of drug abuse in the workplace;

- The Contractor's policy of maintaining a drug-free workplace;
- Any available drug counseling, rehabilitation, and employee assistance programs; and
- The penalties that may be imposed upon employees for drug abuse violations;

2.14.4.1.3 Making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by Subsection 2.14.4.1.1;

2.14.4.1.4 Notifying the employee in the statement required by Subsection 2.14.4.1.1 that as a condition of employment on such contract, the employee will:

- Abide by the terms of the statement; and
- Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

2.14.4.1.5 Notifying the contracting agency within ten (10) days after receiving notice under the second unnumbered bullet of Subsection 2.14.4.1.4 from an employee or otherwise receiving actual notice of such conviction;

2.14.4.1.6 Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by 41 U.S.C. § 703; and

2.14.4.1.7 Making a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

2.14.4.2 Requirement for Individuals. If the Contractor is an individual, by signing the Contract, the Contractor agrees not to engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the Contract.

2.14.4.3 Notification Requirement. The Contractor shall, within thirty (30) days after receiving notice from an employee of a conviction pursuant to 41 U.S.C. § 701(a)(1)(D)(ii) or 41 U.S.C. § 702(a)(1)(D)(ii):

- 2.14.4.3.1** Take appropriate personnel action against such employee up to and including termination; or
- 2.14.4.3.2** Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

2.14.5 Conflict of Interest. The Contractor represents, warrants, and covenants that no relationship exists or will exist during the Contract period between the Contractor and the Agency that is a conflict of interest. No employee, officer, or agent of the Contractor or subcontractor shall participate in

the selection or in the award or administration of a subcontract if a conflict of interest, real or apparent, exists. The provisions of Iowa Code chapter 68B shall apply to this Contract. The Contractor shall establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by the desire for private gain for themselves or others with whom they have family, business, or other ties.

In the event the Contractor becomes aware of any circumstances that may create a conflict of interest the Contractor shall immediately take such actions to mitigate or eliminate the risk of harm caused by the conflict or appearance of conflict. The Contractor shall promptly, fully disclose and notify the Agency of any circumstances that may arise that may create a conflict of interest or an appearance of conflict of interest. Such notification shall be submitted to the Agency in writing within seven (7) Business Days after the conflict or appearance of conflict is discovered.

In the event the Agency determines that a conflict or appearance of a conflict exists, the Agency may take any action that the Agency determines is necessary to mitigate or eliminate the conflict or appearance of a conflict. Such actions may include, but are not limited to:

- 2.14.5.1** Exercising any and all rights and remedies under the Contract, up to and including terminating the Contract with or without cause; or
- 2.14.5.2** Directing the Contractor to implement a corrective action plan within a specified time frame to mitigate, remedy and/or eliminate the circumstances which constitute the conflict of interest or appearance of conflict of interest; or
- 2.14.5.3** Taking any other action the Agency determines is necessary and appropriate to ensure the integrity of the contractual relationship and the public interest.

The Contractor shall be liable for any excess costs to the Agency as a result of the conflict of interest.

2.14.6 Certification Regarding Sales and Use Tax. By executing this Contract, the Contractor certifies it is either (1) registered with the Iowa Department of Revenue, collects, and remits Iowa sales and use taxes as required by Iowa Code chapter 423; or (2) not a "retailer" or a "retailer maintaining a place of business in this state" as those terms are defined in Iowa Code § 423.1(42) and (43). The Contractor also acknowledges that the Agency may declare the Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in the Agency or its

representative filing for damages for breach of contract.

2.14.7 Certification Regarding Iowa Code Chapter 8F. If the Contractor is or becomes subject to Iowa Code chapter 8F during the entire term of this Contract, which includes any extensions or renewals thereof, the Contractor shall comply with the following:

2.14.7.1 As a condition of entering into this Contract, the Contractor shall certify that it has the information required by Iowa Code § 8F.3 available for inspection by the Agency and the Legislative Services Agency.

2.14.7.2 The Contractor agrees that it will provide the information described in this section to the Agency or the Legislative Services Agency upon request. The Contractor shall not impose a charge for making information available for inspection or providing information to the Agency or the Legislative Services Agency.

2.14.7.3 Pursuant to Iowa Code § 8F.4, the Contractor shall file an annual report with the Agency and the Legislative Services Agency within ten (10) months following the end of the Contractor's fiscal year (unless the exceptions provided in Iowa Code § 8F.4(1)(b) apply). The annual report shall contain:

2.14.7.3.1 Financial information relative to the expenditure of state and federal moneys for the prior year pursuant to this Contract. The financial information shall include but is not limited to budget and actual revenue and expenditure information for the year covered.

2.14.7.3.2 Financial information relating to all service contracts with the Agency during the preceding year, including the costs by category to provide the contracted services.

2.14.7.3.3 Reportable conditions in internal control or material noncompliance with provisions of laws, rules, regulations, or contractual agreements included in external audit reports of the Contractor covering the preceding year.

2.14.7.3.4 Corrective action taken or planned by the Contractor in response to reportable conditions in internal control or material noncompliance with laws, rules, regulations, or contractual agreements included in external audit reports covering the preceding year.

2.14.7.3.5 Any changes in the information submitted in accordance with Iowa Code §8F.3

2.14.7.3.6 A certification signed by an officer and director, two directors, or the sole proprietor of the Contractor, whichever is applicable, stating the annual report is accurate and the recipient entity is in full compliance with all laws, rules, regulations, and contractual agreements applicable to the recipient entity and the requirements of Iowa Code chapter 8F.

2.14.7.3.7 In addition, the Contractor shall comply with Iowa Code chapter 8F with respect to any subcontracts it enters into pursuant to this Contract. Any compliance documentation, including but not limited to certifications, received from subcontractors by the Contractor shall be forwarded to the Agency.

SECTION 3. SPECIAL CONTRACT ATTACHMENTS

- Attachment 3.1 Pricing Schedule**
- Attachment 3.2 Sample Report Monitoring Tool**
- Attachment 3.3 Sample Monthly Performance Reporting Tool**
- Attachment 3.4 Vendor Security Questionnaire**

Attachment 3.1: Pricing Schedule

Assessment Type	Initial Contract Years - Per Assessment Fee			Optional Contract Years - Per Assessment Fee		
	Year 1 10/1/2019 - 6/30/2020	Year 2 7/1/2020 - 6/30/2021	Year 3 7/1/2021 - 6/30/2022	Option Year 1 7/1/2022 - 6/30/2023	Option Year 2 7/1/2023 - 6/30/2024	Option Year 3 7/1/2024 - 6/30/2025
Per Assessment Costs	[Hatched Area]					
interRAI Assessment	\$ 449.00	\$ 449.00	\$ 458.00	\$ 467.00	\$ 476.00	\$ 486.00
SIS Assessment	\$ 525.00	\$ 525.00	\$ 536.00	\$ 547.00	\$ 558.00	\$ 569.00
Off-Year Assessment	\$ 190.00	\$ 190.00	\$ 194.00	\$ 198.00	\$ 202.00	\$ 206.00
Case Management Comprehensive Assessment	\$ 600.00	\$ 600.00	\$ 612.00	\$ 624.00	\$ 636.00	\$ 649.00
Emergency Needs Assessment	\$ 330.00	\$ 330.00	\$ 337.00	\$ 344.00	\$ 351.00	\$ 358.00
Mayo-Portland Adaptability Inventory (Add-on cost)	\$ 445.00	\$ 445.00	\$ 454.00	\$ 463.00	\$ 472.00	\$ 481.00
MCO CSA Ride-Along	\$ 550.00	\$ 550.00	\$ 561.00	\$ 572.00	\$ 583.00	\$ 595.00

Attachment 3.2: Sample Report Monitoring Tool

Note: this sample is for illustrative purposes only.

Report	Frequency	Due Date/Time	Copy Provided to	Contract Section
1.3.1.1 General Obligations				
Vendor Security Questionnaire	Annually	August 1, 2019 and July 1 each year thereafter		
Attestation of passed information security risk assessment. Attestation of passed network penetration scan Attestation of passed web application security scan	Annually	August 1, 2019 and July 1 each year thereafter		
Quality Assurance and Corrective Actions Report	Quarterly			
Performance Report	Monthly			
1.3.1.2 Transition				
Project Work Plans	TBD			
Operational Readiness Checklist	One-time			
1.3.1.3 – 1.3.1.4 Assessments				
1.3.1.5 Continuing Education and Training				
1.3.1.6 MCO Quality Oversight				

Attachment 3.3: Sample Monthly Performance Reporting Tool

Note: this sample is for illustrative purposes only.

Business Area	Contract Section	Performance Standard	Total Completed within timeframes	Standard Met (Y/N)
Transition		Submit transition, systems implantation, and operations plans to the Agency for approval within 14 calendar days after Contract execution.		
Assessments		Conduct and submit to the Agency and case workers CSA results within the following timeframes:		
		➤ Within thirty (30) calendar days from Agency referral for persons newly entering services.		
		➤ Within fourteen (14) calendar days prior to the third twelve-month anniversary of ISIS service entry indicating completion of the LOC-CSR for FFS Members who have had a SIS assessment previously.		

REPORTING

Report due during the month	Due Date/Time	Accepted by the Agency (Y/N)	Standard Met (Y/N)

Attachment 3.4: Vendor Security Questionnaire

Vendor Name:		Completed by:	Date:
			Updated:
Question		Response	
Data Protection			
1	In what geographic location(s) will DHS data be stored? Specify the timeframe in which DHS will be notified if this changes.		
2	How does the vendor detect changes to the integrity of DHS data and what measures are in place to ensure DHS data is not lost, modified or destroyed?		
3	How does the vendor ensure deleted data cannot be recoverable?		
4	How does the vendor detect degradation of DHS data?		
5	Define a security incident.		
6	Describe the vendor's incident response and reporting program.		
Cloud Service Providers			
7	Will DHS data be stored in a cloud?		
8	Who is the cloud service provider?		
9	Is the cloud service provider FedRAMP authorized and if so, specify the impact level.		
10	If not FedRAMP authorized, specify the security framework for which the cloud service provider is certified.		
11	How can DHS be assured cloud service providers meet the same security standards as that of the vendor?		
Access Control			
12	Who has access to the systems providing DHS data and services? How is this access controlled?		
13	What authentication method is required to access DHS data and applications (e.g. username and password)?		

14	Which multi-factor authentication methods does the vendor support?	
15	Does the vendor allow the use of personal devices for access to DHS data?	
16	Specify the frequency Vendor staff access to DHS data is reviewed.	
17	Which access control methodology does the vendor support: Role-based access control (RBAC), mandatory access control (MAC), or discretionary access control (DAC)? Define how you meet this methodology.	
Regulatory Compliance		
18	Is the vendor a HIPAA covered entity?	
19	Is the vendor a business associate of DHS? If yes, does the vendor have downstream business associate agreements with subcontractors?	
20	Define the vendor's HIPAA training. List the training modules and the time allotted for each module.	
21	Is the vendor audited or assessed by a third party? If yes, specify the security framework.	
22	Explain how the vendor performs an information security risk assessment. What is the frequency?	
23	Explain how the vendor manages their information security risk assessment program.	
Business Continuity and Resiliency		
23	Does the vendor have a business continuity plan?	
24	How often is the business continuity plan tested?	
25	How does the vendor ensure DHS can continue doing business at all times, even if there is a permanent catastrophic failure or natural or man-made disaster where DHS data or services are located?	
26	What guarantees does the vendor provide for recovery time objectives (RTO) and recovery point objectives (RPO)?	
Service and Data Integrity		

27	Is DHS data encrypted in transit? If so, specify the encryption algorithm and cipher strength. Who owns the encryption key?	
28	Is DHS data encrypted at rest? If so, specify the encryption algorithm and cipher strength. Who owns the encryption key?	
29	Specify the network security tools used to monitor data flow into the vendor's network for malware or cyber-attacks.	
30	What tools and procedures does the vendor utilize for intrusion detection and at what frequency? How is this capability tested for functionality at the hardware, network, and database levels?	
Multi-Tenancy		
31	How does the vendor separate DHS data and services from those of other clients?	
32	In what ways could the vendor's other client's affect the quality of the service or service levels provided to DHS?	
33	What resources will DHS share with other clients?	
Infrastructure and Application Security		
34	Who owns and operates the vendor's data centers and what physical and environment security measures are in place?	
35	What parts of the vendor's infrastructure are owned and operated by the vendor and what parts are obtained from a colocation service?	
36	What standards are followed for hardening network equipment, operating systems, and applications?	
37	Specify the tools used to perform vulnerability scans and the frequency. What is the timeframe to re-mediate high and critical findings?	
38	Specify the frequency of third party penetration tests to assess infrastructure security. Include the type of third party report received.	
39	What specifications does the vendor follow to purge data when equipment is retired or replaced? How does the vendor purge any resident DHS data?	

41	Does the vendor utilize a web application for this service? If so, does the vendor follow the OWASP Top 10 List?	
Non-production Environment Exposure		
42	Is DHS data loaded to a test environment? If so, who has access to the test environment?	
43	Which copies are de-identified and which are not?	
44	Is live DHS data used in testing?	