

**Sole Source Contract
between the
State of Washington
Office of Financial Management/
Office of Chief Information Officer
and
Apptio, Inc.**

This Contract is made and entered into by and between the state of Washington, Office of Financial Management/Office of Chief Information Officer, hereinafter referred to as the "OCIO" or "AGENCY", and the below named firm, hereinafter referred to as "CONTRACTOR."

Company Name	Apptio, Inc.
Address	11100 NE 8th St., Suite 600
Address	Bellevue, WA 98004
Phone:	1.425.453.5861
FAX:	1.425.453.1403
Email:	
WA State UBI Number:	602768211

SCOPE OF WORK

- A. Exhibit A, attached hereto and incorporated by reference, contains the *General Terms and Conditions* governing Professional Services to be performed under this Contract, the nature of the working relationship between the AGENCY and the CONTRACTOR, and specific obligations of both parties.
- B. The CONTRACTOR will provide services and staff, and otherwise do all things necessary for or incidental to the performance of the Professional Services, as set forth in Exhibit B, Scope of Work.

PERIOD OF PERFORMANCE

This Contract will commence on December 9, 2014, regardless of the date of execution, and continue through June 30, 2015 (the "Initial Term"), unless terminated earlier in accordance with the terms of this Contract. Provided AGENCY has requested and CONTRACTOR has delivered an average of at least twenty (20) hours per calendar week of Professional Services during the Initial Term, this Contract will automatically renew for twelve (12) months thereafter (the "Renewal Term") in accordance with, and pursuant to, the terms of Exhibit B hereto, unless AGENCY provides written notice of non-renewal at least thirty (30) days prior to the expiration of the Initial Term.

DES FILING REQUIREMENT

The provisions of Chapter 39.26 RCW require the agency to file this sole source contract with the Department of Enterprise Services (DES) for approval. No contract so filed is effective nor shall Professional Services commence under it until the tenth (10th) working day following the date of filing subject to DES approval.

COMPENSATION

Fees and Payment Terms. AGENCY will pay CONTRACTOR the fees and any other amounts owing under this Contract and further described in Exhibit B, plus any applicable sales, use, excise, or other taxes, as reflected in the Managed Services Queue ("Queue"), which shall be jointly managed by the parties. AGENCY will pay all amounts due within thirty (30) days of the date of the applicable invoice. Any amount not paid when due will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. AGENCY will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by CONTRACTOR to collect any amount that is not paid when due. All amounts payable under this Contract are denominated in United States dollars, and AGENCY will pay all such amounts in United States dollars.

BILLING PROCEDURES AND PAYMENT

AGENCY will pay CONTRACTOR upon receipt of properly completed, undisputed invoices, which shall be submitted to the Contract Manager not more frequently than monthly.

The invoices shall describe and document, to the AGENCY'S reasonable satisfaction, a description of the Professional Services performed, the number of hours worked, and fees. The invoice shall include the contract reference number K1609.

Upon delivery of an invoice in accordance with this Contract, AGENCY shall have seven (7) days to confirm whether such invoice conforms with the criteria set forth in this Contract and the Services invoiced therein are billed in accordance with the hours set forth in the Queue. If such invoice conforms with the criteria set forth in this Contract and the Services invoiced therein are billed in accordance with the hours set forth in the Queue, AGENCY shall accept the Deliverables by providing CONTRACTOR written notice indicating its acceptance ("**Acceptance**"). If any invoice is rejected, a detailed description of why the invoice was rejected shall be delivered in writing to CONTRACTOR. CONTRACTOR will correct any errors or non-conformities in the invoices within fourteen (14) days following receipt of AGENCY'S written notice of rejection so that they comply with the criteria of the Contract and the Services invoiced therein are billed in accordance with the hours set forth in the Queue. In the event AGENCY has not provided written notice of acceptance or rejection within seven (7) days after delivery of the invoice, the invoice shall be deemed accepted.

Payment shall be considered timely if made by the AGENCY within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.

The AGENCY may, in its sole discretion, terminate the Contract if the CONTRACTOR fails to satisfactorily comply with any term or condition of this Contract.

No payments in advance or in anticipation of Professional Services or supplies to be provided under this Contract shall be made by the AGENCY.

CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this Contract.

CONTRACTOR Contract Manager	AGENCY Contract Manager
<p>Apptio, Inc. 11100 NE 8th St., Suite 600 Bellevue, WA 98004</p> <p><i>Phone</i> : (425) 453-5861 <i>Fax</i>: (425) 452-1403 <i>Email address</i>: DCalvert-Lee@apptio.com</p>	<p>Mary Groebner Office of Financial Management (OFM)/Office of Chief Information Officer (OCIO) PO Box 43113 Olympia WA 98504-3113</p> <p><i>Phone</i>: (360) 902-0335 <i>Email address</i>: mary.groebner@ocio.wa.gov</p>

NOTICES

Any notice required or permitted to be given in accordance with this Contract will be effective if it is in writing and sent by certified or registered mail, or insured courier, return receipt requested, to the appropriate party at the address set forth in the Contract Management section of this Contract and with the appropriate postage affixed. Either party may change its address for receipt of notice by notice to the other party in accordance with this section. Notices are deemed given two business days following the date of mailing or one business day following delivery to a courier.

INSURANCE

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

1. Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence.

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

2. Automobile Liability. In the event that Professional Services delivered pursuant to this Contract involve the use of vehicles, either owned or unowned by the CONTRACTOR, automobile liability insurance shall be required. The minimum limit for automobile liability is:

\$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

3. The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insureds under the insurance policy/ies.

All policies shall be primary to any other valid and collectable insurance. CONTRACTOR shall instruct the insurers to give AGENCY thirty (30) calendar days advance notice of any insurance cancellation.

CONTRACTOR shall submit to AGENCY within fifteen (15) calendar days of the contract effective date a certificate of insurance that outlines the coverage and limits defined in the *Insurance* section. CONTRACTOR shall submit renewal certificates as appropriate during the term of the Contract.

ASSURANCES

AGENCY and the CONTRACTOR agree that all activity pursuant to this Contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

ORDER OF PRECEDENCE

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

1. Applicable federal and state of Washington statutes and regulations
2. Special terms and conditions as contained in this basic contract instrument
3. Exhibit A – General Terms and Conditions
4. Exhibit B – Scope of Work
5. Any other provision, term or material incorporated herein by reference or otherwise incorporated

ENTIRE AGREEMENT

This Contract, including all applicable Statements of Work, is the final and complete expression of the agreement between these parties regarding Agency's use of the Professional Services. No employee, agent, or other representative of CONTRACTOR has any authority to bind CONTRACTOR with respect to any statement, representation, warranty, or other expression unless the same is specifically set forth in this Contract. No usage of trade or other regular practice or method of dealing between the parties will be used to modify, interpret, supplement, or alter the terms of this Contract. This Contract may be changed only by a written agreement signed by an authorized agent of the party against whom enforcement is sought. CONTRACTOR will not be bound by, and specifically objects to, any term, condition, or other provision that is different from or in addition to this Contract (whether or not it would materially alter this Contract) that is proffered by AGENCY in any receipt, acceptance, confirmation, correspondence, or otherwise, unless CONTRACTOR specifically agrees to such provision in writing and signed by an authorized agent of CONTRACTOR.

CONFORMANCE

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

APPROVAL

This Contract shall be subject to the written approval of the AGENCY'S authorized representative and shall not be binding until so approved. The Contract may be altered, amended, or waived only by a written amendment executed by both parties.

Apptio, Inc.

Office of Financial Management

Signature

Signature

Title

Date

Title

Date

**EXHIBIT A -
GENERAL TERMS AND CONDITIONS**

DEFINITIONS

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

- A. "AGENCY" shall mean the Office of Financial Management/Office of Chief Information Officer of the State of Washington, any division, section, office, unit or other entity of the AGENCY, or any of the officers or other officials lawfully representing that AGENCY.
- B. "AGENT" shall mean the Director, and/or the delegate authorized in writing to act on the Director's behalf.
- C. "CONTRACTOR" shall mean that firm, provider, organization, individual or other entity performing service(s) under this Contract, and shall include all employees of the CONTRACTOR.
- D. "SUBCONTRACTOR" shall mean one not in the employment of the CONTRACTOR, who is performing all or part of those services under this Contract under a separate contract with the CONTRACTOR. The terms "SUBCONTRACTOR" and "SUBCONTRACTORS" means SUBCONTRACTOR(s) in any tier.

ACCESS TO DATA

In compliance with RCW 39.26.180(2), the CONTRACTOR shall provide access to data generated under this Contract to AGENCY, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the CONTRACTOR'S reports, including computer models and methodology for those models. Notwithstanding the foregoing, nothing in this Contract shall create, modify, or otherwise affect any rights relating to the Hosted Software as set forth in that separate Contract Number K1053 for Managed Services for IT Enterprise Applications Software as a Service Agreement by and between the Parties.

ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this Contract shall be made by the AGENCY.

AMENDMENTS

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

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

The CONTRACTOR must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

ASSIGNMENT

Either party may assign this Contract and its obligations hereunder to any successor to its business by merger or consolidation or to any party acquiring substantially all of the assets of the assignor's business that is the subject of the Contract, provided the assigning party causes the assignee to assume in writing all obligations of the assignor under this Contract. The rights and obligations of this Contract shall bind and benefit any successors or assigns of the parties.

AGENCY may assign this Contract to any public agency, commission, board, or the like without permission, within the political boundaries of the state of Washington, provided that such assignment shall not operate to relieve AGENCY of any of its duties and obligations hereunder.

ATTORNEYS' FEES

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

CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

The CONTRACTOR shall not use or disclose any information concerning the AGENCY, or information that may be classified as confidential, for any purpose not directly connected with the administration of this Contract, except with prior written consent of the AGENCY, or as may be required by law.

Mutual Confidentiality. Each party agrees to use the other party's confidential information solely for the purposes contemplated by this Contract, and to refrain from disclosing the other party's confidential information to any third party, unless: (a) any disclosure is necessary or appropriate in connection with the receiving party's performance of its obligations or exercise of its rights under this Contract or any other agreement between the parties; (b) any disclosure is required by applicable law (e.g., pursuant to applicable securities laws or legal process); provided, that the receiving party uses reasonable efforts to give the disclosing party reasonable advance notice thereof (i.e., so as to afford the disclosing party an opportunity to intervene and seek an order or other appropriate relief for the protection of its confidential information from any unauthorized use or disclosure); or (c) any disclosure is made with the consent of the disclosing party.

CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONTRACTOR terminate this Contract if it is found after due notice and examination by the AGENT that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONTRACTOR in the procurement of, or performance under this Contract.

In the event this Contract is terminated as provided above, the AGENCY shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of this Contract by the CONTRACTOR. The rights and remedies of the AGENCY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the AGENT makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Contract.

COPYRIGHT PROVISIONS

Unless otherwise provided, all materials produced under this Contract marked "Works Made For Hire to be Owned by OCIO" in Exhibit B shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the AGENCY (the "Work Product"). The AGENCY shall be considered the author of such Work Product. In the event any Work Product are not considered "works for hire" under the U.S. Copyright laws, CONTRACTOR hereby irrevocably assigns all right, title, and interest in the Work Product, including all intellectual property rights, to the AGENCY effective from the moment of creation of such materials.

The Work Product means all items in any format and includes, but is not limited to, data, reports, and documents prepared for the AGENCY under Exhibit B. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For Work Product that is delivered under Exhibit B, but that incorporate pre-existing materials not produced under the Contract CONTRACTOR hereby grants to the AGENCY a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such Work Product to translate, reproduce, distribute, publicly perform, and publicly display. The CONTRACTOR warrants and represents that CONTRACTOR has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the AGENCY.

The CONTRACTOR shall exert all reasonable effort to advise the AGENCY, at the time of delivery of Work Product furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document that was not produced in the performance of this Contract.

The AGENCY shall receive prompt written notice of each notice or claim of infringement received by the CONTRACTOR with respect to any Work Product delivered under this Contract. The AGENCY shall not have the right to modify or remove any restrictive markings placed upon the Work Product by the CONTRACTOR.

Notwithstanding anything to the contrary in this Contract, Work Product that is owned by AGENCY will not include Contractor's pre-existing software (including software separately licensed to AGENCY by Contractor), inventions, copyrights, patents, trade secrets, trademarks, and other proprietary or intellectual property rights, including processes, methodology, taxonomy, ideas, concepts and know-how of Contractor relating thereto, that existed before the commencement of Professional Services and/or that are independently developed by Contractor without use or knowledge of AGENCY'S data or confidential information and intellectual property, including any improvements, enhancements, and/or modifications of all of the foregoing (collectively, the "Pre-Existing Materials"). Contractor hereby grants to AGENCY a non-exclusive, worldwide, perpetual

(without regard to any termination or expiration of this Contract), irrevocable, fully paid, royalty-free license to use the Pre-Existing Materials as necessary to use and exploit the Work Product. For clarity, the foregoing license does not include any right to use Contractor's software, including the Hosted Software, subscribed to under separate agreement.

COVENANT AGAINST CONTINGENT FEES

The CONTRACTOR warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the CONTRACTOR for securing business.

The AGENCY shall have the right, in the event of breach of this clause by the CONTRACTOR, to annul this Contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

DISALLOWED COSTS

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms and applicable statutes and rules and make a determination of the dispute. If the Dispute Board cannot agree, the dispute shall be decided with the majority prevailing. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

WARRANTIES AND DISCLAIMER

Mutual Warranties. Each party represents and warrants to the other that: (a) this Contract has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such party in accordance with its terms; and (b) no authorization or approval from any third party is required in connection with such party's execution, delivery, or performance of this Contract.

Disclaimer. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS SECTION, CONTRACTOR MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. CONTRACTOR EXPRESSLY DISCLAIMS ALL IMPLIED

WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, AND TITLE.

DUPLICATE PAYMENT

The AGENCY shall not pay the CONTRACTOR, if the CONTRACTOR has charged or will charge the State of Washington or any other party under any other contract or agreement, for the same Professional Services or expenses.

GOVERNING LAW

This Contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

INDEMNIFICATION

To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend, and hold harmless State, agencies of State and all officials, agents and employees of State, from and against all third-party Claims for personal injuries or death arising out of or resulting from the performance of the Contract. "Claim," as used in this Indemnification Section, means any financial loss, claim, suit, action, damage, or expense, including but not limited to reasonably attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible personal property including loss of use resulting therefrom.

CONTRACTOR'S obligations to indemnify, defend, and hold harmless includes any Claim by CONTRACTORS' agents, employees, representatives, or any subcontractor or its employees.

CONTRACTOR expressly agrees to indemnify, defend, and hold harmless the State for any Claim arising out of or incident to CONTRACTOR'S or any subcontractor's performance or failure to perform the Contract. CONTRACTOR'S obligation to indemnify, defend, and hold harmless the State for Claims as defined herein shall not be eliminated or reduced by any actual or alleged concurrent ordinary negligence of State or its agents, agencies, employees and officials.

CONTRACTOR waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

LIMITATION OF LIABILITY

The parties agree that neither CONTRACTOR nor AGENCY shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages, nor shall CONTRACTOR nor AGENCY be liable to each other, regardless of the form of action, for any damages in excess of two times (2x) the amounts paid or payable hereunder during the then-trailing twelve (12) months. The limitations on liability in this section shall not apply to damages arising from either party's breach of its confidentiality obligations set forth herein, CONTRACTOR'S intellectual property indemnification obligations as set forth elsewhere in this Contract, and damages arising from any grossly negligent act or omission by a party or its personnel that results in

personal injury or death, or damage to tangible personal property of the other party or its personnel.

INDEPENDENT CAPACITY OF THE CONTRACTOR

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

INDUSTRIAL INSURANCE COVERAGE

The CONTRACTOR shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the CONTRACTOR fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, AGENCY may collect from the CONTRACTOR the full amount payable to the Industrial Insurance accident fund. The AGENCY may deduct the amount owed by the CONTRACTOR to the accident fund from the amount payable to the CONTRACTOR by the AGENCY under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the CONTRACTOR.

INTELLECTUAL PROPERTY INFRINGEMENT

- A. Defense of Infringement Claims. CONTRACTOR will, at its expense, either defend AGENCY from or settle any claim, proceeding, or suit ("Claim") brought by a third party against AGENCY alleging that Agency's use of the Services infringes or misappropriates any patent, copyright, trade secret, trademark, or other intellectual property right during the term of this Contract if: (a) AGENCY gives CONTRACTOR prompt written notice of the Claim; (b) AGENCY grants CONTRACTOR full and complete control over the defense and settlement of the Claim; (c) AGENCY provides assistance in connection with the defense and settlement of the Claim as CONTRACTOR may reasonably request; and (d) AGENCY complies with any settlement or court order made in connection with the Claim (e.g., relating to the future use of any infringing Services). AGENCY will not defend or settle any Claim without Contractor's prior written consent. AGENCY will have the right to participate in the defense of the Claim at its own expense and with counsel of its own choosing, but CONTRACTOR will have sole control over the defense and settlement of the Claim.
- B. Indemnification of Infringement Claims. CONTRACTOR will indemnify AGENCY from and pay (a) all damages, costs, and attorneys' fees finally awarded against AGENCY in any Claim under Section A above; (b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by AGENCY in connection with the defense of a Claim under Section A above (other than attorneys' fees and costs incurred without Contractor's consent after CONTRACTOR has accepted defense of the Claim); and, (c) all amounts that

CONTRACTOR agrees to pay to any third party to settle any Claim under Section A above .

- C. Exclusions from Obligations. CONTRACTOR will have no obligation under this Section for any infringement or misappropriation to the extent that it arises out of or is based upon (a) the Services are provided to comply with designs, requirements, or specifications required by or provided by AGENCY, if the alleged infringement or misappropriation would not have arisen but for the compliance with such designs, requirements, or specifications; (b) use of the Services by AGENCY for purposes not intended or outside the scope of the license granted to AGENCY; (c) Agency's failure to use the Services in accordance with instructions provided by CONTRACTOR, if the infringement or misappropriation would not have occurred but for such failure; or (d) any modification of the Services not made or authorized in writing by CONTRACTOR where such infringement or misappropriation would not have occurred absent such modification.
- D. Limited Remedy. This Section states Contractor's sole and exclusive liability, and Agency's sole and exclusive remedy, for the actual or alleged infringement or misappropriation of any third party intellectual property right by the Services.

LICENSING, ACCREDITATION AND REGISTRATION

The CONTRACTOR shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this Contract.

LIMITATION OF AUTHORITY

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

NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

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

NONDISCRIMINATION

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

PUBLICITY

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

RECORDS MAINTENANCE

The CONTRACTOR shall maintain books, records, documents, data and other evidence relating to this Contract and performance of the Professional Services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract.

CONTRACTOR shall retain such records for a period of six years following the date of final payment. Upon ten (10) days advance written notice, at no additional cost, these records, including materials generated under the Contract, shall be subject to inspection, review or audit by the AGENCY, personnel duly authorized by the AGENCY, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement, during normal business hours.

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

REGISTRATION WITH DEPARTMENT OF REVENUE

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

RIGHT OF INSPECTION

Upon ten (10) days advance written notice, the CONTRACTOR shall provide right of access to its facilities to the AGENCY, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, during normal business hours, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, the AGENCY may terminate the Contract under the "Termination for Convenience" clause, without the ten-day notice requirement, subject to renegotiation at the AGENCY'S discretion under those new funding limitations and conditions.

SEVERABILITY

The provisions of this Contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Contract.

SUBCONTRACTING

Neither the CONTRACTOR nor any SUBCONTRACTOR shall enter into subcontracts for any of the Professional Services contemplated under this Contract without obtaining prior written approval of the AGENCY, which approval shall not be unreasonably withheld. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the Department for any breach in the performance of the contractor's duties. This clause does not include contracts of employment between the contractor and personnel assigned to Professional Services under this Contract.

Additionally, the CONTRACTOR is responsible for ensuring that all applicable terms, conditions, assurances and certifications set forth in this Contract are carried forward to any subcontracts. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as provided by law.

TAXES

All payments accrued because of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the CONTRACTOR or its staff shall be the sole responsibility of the CONTRACTOR.

TERMINATION FOR CAUSE

If either AGENCY or CONTRACTOR violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its obligations under this Contract, then the aggrieved party shall give the other party written notice of such failure or violation. The responsible party will correct the violation or failure within thirty (30) calendar days or as otherwise mutually agreed in writing. If the failure or violation is not corrected, this Contract may be terminated immediately by written notice from the aggrieved party to the other party. The option to terminate shall be at the sole discretion of the aggrieved party. If CONTRACTOR is in material breach of this Contract with respect to a Professional Services and has not cured the same within the applicable cure period after receipt of written notice from AGENCY, then AGENCY may suspend the portion of the Contract relating to such Professional Services, withhold further payments for such portion of such Professional Services, and prohibit CONTRACTOR from incurring additional obligations of funds relating thereto pending corrective action by CONTRACTOR or a decision by AGENCY to terminate the Contract with respect to such Professional Services. For clarification, upon any termination by CONTRACTOR upon an uncured material default by AGENCY there shall be no refunds for any prepaid amounts.

If the Failure to Perform is without the defaulting party's control, fault, or negligence, the termination shall be deemed to be a Termination for Convenience.

This section shall not apply to any failure(s) to perform that results from the willful or negligent actions or omissions of the aggrieved party.

TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Contract, the AGENCY may, by 10 calendar days written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, the AGENCY shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

TERMINATION PROCEDURES

Upon termination of this Contract, the AGENCY, in addition to any other rights provided in this Contract, may require the CONTRACTOR to deliver to the AGENCY any Work Product specifically produced during the course of the performance of Professional Services under this Contract prior to termination.

The AGENCY shall pay to the CONTRACTOR the agreed upon price, if separately stated, for completed work and Professional Services accepted by the AGENCY and the amount agreed upon by the CONTRACTOR and the AGENCY for (i) completed Professional Services for which no separate price is stated, (ii) partially completed Professional Services, and (iii) other property or Professional Services that are accepted by the AGENCY

The rights and remedies of the AGENCY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

After receipt of a notice of termination, and except as otherwise directed by the AGENT, the CONTRACTOR shall:

1. Stop work under the Contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, Professional Services, or facilities except as may be necessary for completion of such portion of the Professional Services under the Contract that is not terminated;
3. Complete performance of such part of the Professional Services as shall not have been terminated; and
4. Take such action as may be necessary, for the protection and preservation of the Work Product related to this Contract, which is in the possession of the CONTRACTOR and in which the AGENCY has or may acquire an interest.

WAIVER

Waiver of any default or breach shall not be deemed a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by authorized representative of the AGENCY.

**EXHIBIT B -
SCOPE OF WORK**

OCIO will direct the CONTRACTOR in work designed to:

1. Perform ongoing load and distribution of data from defined and approved enterprise data sources (such as AFRS, CAMS, and HRMS) on the desired frequency/schedule;
2. Fulfill requests as approved by OCIO (requests originated by agencies and/or OCIO). Requests are for purposes of model changes (inclusive of allocation, weighting or other configuration), changes to existing reports, creation of new reports, and consultation or informational training as needed; and
3. Perform reviews of existing models and reports, recommend and, if/as approved by OCIO, implement desirable changes to models and reports to standardize agency projects (improving ability to aggregate at enterprise level) and improve performance of agency projects

To that end, CONTRACTOR shall:

1. Provide configuration, implementation, training, mentoring, consulting, and other professional services ("Professional Services") as set forth in the Managed Services Queue ("Queue"), which will be reviewed weekly.
 - a. Unless otherwise agreed by the parties, to the extent applicable, the Queue will include the following information: (a) a description of the Professional Services; (b) the schedule for definition and performance of the Professional Services; (c) the fees, reimbursable expenses, and other compensation payable by AGENCY to CONTRACTOR for the Professional Services; (d) any deliverables to be delivered by CONTRACTOR to AGENCY in connection with the Professional Services; and (e) any other terms agreed to by the parties.
 - b. CONTRACTOR will use commercially reasonable efforts to perform the Professional Services in accordance with the schedule and timeline.
2. Requests may originate from OCIO, agencies, or may originate from CONTRACTOR for standardization or performance improvements.

OCIO and CONTRACTOR will review the Queue on a weekly basis and the status of work items underway, and shall make revisions as necessary and mutually agreed upon. Representatives/liaisons of the requesting agencies may also participate in this review. In the event a request may exceed capacity available under this Contract, Apptio and OCIO will review the request to assess whether it can be segmented and performed under this contract, or whether it should instead proceed under the procedures outlined in the primary Apptio contract (K1053). OCIO will make the final determination as to which contract vehicle should be used.

3. No more than five (5) agencies are to retain report creation rights within Apptio.
4. CONTRACTOR shall also ensure that:
 - a. Enterprise data is available in agency projects on the frequency desired;

- b. Requested changes to existing models or reports have been made and new reports created, verified and signed off on by OCIO and the original requestor, and promoted to the Production environment; and
- c. Existing models and reports have undergone review and improvements identified and implemented on an ongoing basis

FEE STRUCTURE

1. The Professional Services performed under this Contract will be performed on a time and materials basis. In addition to Professional Services fees, CONTRACTOR will be reimbursed for Travel and Per Diem Expenses. "Travel Expenses" shall be defined as the reasonable travel-related expenses incurred by CONTRACTOR while conducting business authorized by OCIO, including, but not limited to, air and surface transportation, lodging, car rental, and meals. Compensation for travel expenses shall be made at current state of Washington reimbursement rates (State Administrative & Accounting Manual Section 10.90. <http://www.ofm.wa.gov/policy/10.90.htm>) CONTRACTOR is authorized to charge actual meal costs per SAAM 10.40.20a. Professional Services fees and Travel Expenses will be invoiced on a monthly basis in arrears.
2. Each week, the first twenty (20) hours of Professional Services delivered under this Contract shall be at a rate of \$55.00 per hour. OCIO may request CONTRACTOR provide up to ten (10) additional hours of Professional Services in a given week to be delivered at a rate of \$125.00 per hour. CONTRACTOR shall have no obligation to provide Professional Services under this Contract in excess of thirty (30) hours per week, but may do so upon request via the Queue and at its sole and absolute discretion.
3. If applicable and unless otherwise agreed by the parties in writing, during the Renewal Term all Professional Services will be provided at a rate of \$125 per hour, regardless of whether such hours are the first twenty (20) hours or any other hours delivered during a given week in accordance with the terms of this Contract.