Sole Source CONTRACT Filing Justification Template

*Use the following justification template for preparing to file sole source contracts in the* [*Sole Source Contracts Database*](https://sscd.des.wa.gov/Logon/Logon.aspx?ReturnUrl=%2f) *(SSCD). Once completed, copy and paste the answers into the corresponding SSCD question and answer fields. You will also need to include a copy of this completed form in the documents you post to your agency website and in* [*WEBS*](https://pr-webs-customer.des.wa.gov/)*.*

# What is a sole source contract?

*"Sole source"* *means a contractor providing goods or services of such a unique nature or sole availability at the location required that the contractor is clearly and justifiably the only practicable source to provide the goods or services. (RCW 39.26.010)*

*Unique qualifications or services are those which are highly specialized or one-of-a-kind.*

*Other factors which may be considered include past performance, cost-effectiveness (learning curve), and/or follow-up nature of the required goods and/or services. Past performance alone does not provide adequate justification for a sole source contract. Time constraints may be considered as a contributing factor in a sole source justification however will not be on its own a sufficient justification.*

# Why is a sole source justification required?

*The State of Washington, by policy and law, believes competition is the best strategy to obtain the best value for the goods and services it purchases, and to ensure that all interested vendors have a fair and transparent opportunity to sell goods and services to the state.*

*A sole source contract does not benefit from competition. Thus the state, through RCW 39.26.010, has determined it is important to evaluate whether the conditions, costs and risks related to the proposal of a sole source contract truly outweigh forgoing the benefits of a competitive contract.*

***Providing compelling answers to the following questions will facilitate the evaluation.***

## Specific Problem or Need

* Background:

Health Care Authority (HCA) recently received approval from the Centers for Medicare & Medicaid Services (CMS) to extend our Medicaid Transformation Project (MTP) through June 30, 2028. This approval was effective July 1, 2023. HCA was unable to take any action for the contractual obligations for the renewal prior to the approval from CMS.

With this approval, HCA received funding to develop new initiatives as well as continue several existing programs. The Medicaid reentry program is the largest and most complex of the new MTP initiatives. It is a risky project. It is necessary to accomplish the first steps of the project to successfully implement the reentry program. The first step of the reentry project is distributing capacity building funds to jails, prisons, and other community organizations. Capacity building funds will be used to purchase IT services such as electronic health record technology and billing systems, hiring and training, developing new procedures, and other activities. All necessary investments for implementing the Medicaid reentry project. The investment of millions of dollars in capacity building funds must be carefully distributed and accurately tracked and reported.

In addition to the capacity building funds, the Medicaid Transformation Program relies on a web portal to manage the distribution of over one billion dollars to hundreds of providers since 2017. The financial executor portal collects, distributes, and monitors funds drawn down from the portal by the Accountable Communities of Health (ACHs) and the Managed Care Organizations (MCOs), in addition they report out and monitor the interest associated with the accounts for the ACHs and tax documents for each ACH as required by the IRS. Public Consulting Group (PCG) provides assistance to the ACHs in payment processing to various hospitals and providers, as well as assistance with registration for new administrators and staff. PCG has a funding distribution plan in accordance with CMS as described in MTP’s Special Terms and Conditions (STCs). PCG has developed a dashboard for providing report downloads for portal users, providers, stakeholders, and the agency.

The original contract for PCG was via a Work Order under an HCA specific Health Consulting Convenience Pool. PCG was a contractor under this pool at the time Medicaid Transformation started in 2017. Under this Work Order, PCG developed a Financial Executor (FE) payment web portal to facilitate the funds flow process for various programs. The main FE function was to distribute payments and develop incentive reporting to various organizations including five Managed Care plans, nine ACHs and their partnering providers, Indian health care providers, and over 50 public hospitals.

The current system with PCG is also adaptable for future requirements with minimal cost to the program. Under the MTP extension, ACHs can earn Health-Related Social Needs (HRSN) funding for infrastructure and HRSN services. Given that ACHs have accounts already setup in the FE, HCA is looking to distribute HRSN payments to ACHs through this payment web portal. This will help streamline payment processes and HRSN financial reporting requirements, as required by CMS.

## Sole Source Criteria

* Describe the unique features, qualifications, abilities or expertise of the contractor proposed for this sole source contract.

The web portal system that was created by PCG specifically for Medicaid Transformation is owned by PCG. If HCA conducts a competitive solicitation for a new contract and a new vendor is awarded the contract, a new system would have to be created for the web portal and the public funding would increase by over $1m. States use Section 1115 Medicaid waivers to develop and perform unique projects. MTP implemented unique work with ACHs that necessitated a specialized, custom-built web portal for distributing funds. HRSN and the reentry projects under the renewal of MTP are similarly unique. One contractor, PCG, is in position to modify the portal—without disrupting the business of the current portal—and implement additional specifications unique to these new projects.

The agency is seeking a sole source contract for PCG to maintain the integrity of the funds flow process for MTP. The FE web portal was specifically designed as a pass-through payment system to distribute funds to providers that participate in MTP and the renewal of MTP. PCG obtained the working knowledge of a specialized web portal beginning with implementation of MTP in 2017. That specialized knowledge is now critical to developing and implementing the portal for HRSN and the reentry projects in the renewal of MTP. As mentioned earlier, PCG will continue to distribute funds earned by ACHs through the FE web portal until June 2024. Also, ACHs must continue to use the FE web portal to distribute payments to their partnering providers through the end of 2024. PCG will be required to provide monitoring payment reports to ACHs and HCA, continue to monitor and report interest earned through bank statements, as well as provide tax statements as required by the IRS to participating providers.

In addition, PCG was awarded as the capacity building administrator in California for the re-entry pre-release program. California was the first state in the country to receive federal approval for a re-entry pre-release program, followed by Washington. PCG’s unique experience with California for capacity building administration provides for less of a learning curve in this particularly new space. Selecting another contractor would result in an implementation delay of an estimated 6-12 months. This delay would put the program at-risk, including the potential to miss federal implementation deadlines and the possibility of a reduction in authorized expenditure authority.

* What kind of market research did the agency conduct to conclude that alternative sources were inappropriate or unavailable? Provide a narrative description of the agency’s due diligence in determining the basis for the sole source contract, including methods used by the agency to conduct a review of available sources such as researching trade publications, industry newsletters and the internet; contacting similar service providers; and reviewing statewide pricing trends and/or agreements.  Include a list of businesses contacted (if you state that no other businesses were contacted, explain why not), date of contact, method of contact (telephone, mail, e-mail, other), and documentation demonstrating an explanation of why those businesses could not or would not, under any circumstances, perform the contract; or an explanation of why the agency has determined that no businesses other than the prospective contractor can perform the contract.

HCA conducted multiple forms of market research to find alternative contracting methods to serve this business need.

HCA reviewed DES’s Statewide agreements and found PCG is available as a vendor under three different Statewide contracts (01620, 05116, and 10521), however, none of these contracts have a scope of work that is compatible with HCA’s needs.

HCA has also reached out to its current 11 contractors potentially qualified for this type of work under HCA’s DES approved Health Consulting Convenience Pool. None of the 11 contractors were able to fulfil this work request due to the highly specialized nature of the web portal PCG provides and timeline needed for implementation.

HCA has also researched other states with similar programs and they too are using PCG as a contractor for this type of work.

* + The State of Connecticut Office of the State Comptroller contracted PCG to serve as a Third-Party Administrator (TPA) for the Connecticut Essential Workers COVID-19 Assistance Fund. The Program provided benefits for lost wages, out-of-pocket medical expenses, and burial expenses to certain essential employees who could not work due to contracting COVID-19 or symptoms that were later diagnosed as COVID-19. The scope of work was later expanded upon the passage of Public Act 22-118 to include a Premium Pay Program. This program provided financial relief to essential workers – the critical workforce that helped keep the state operational during the COVID-19 pandemic. After meeting certain criteria, employees were eligible for up to a $1,000 payment. As the TPA, PCG provided claim processing and payments, as well as customer service throughout the application and payment periods.
	+ PCG created a Hospital Web Portal for the Wisconsin (WI) Health Maintenance Organization (HMO). The portal is a web-based reporting tool for tracking HMO assessment payments to a variety of WI hospitals and surgical centers. The portal developed by PCG automates data processing and validation, reducing the time and cost of overseeing the payment process and the risk of calculation and reporting errors.
	+ PCG developed a payment system for California’s PATH Grant Connect (GC) program. GC is the system of record for the applications, reviews, approvals, reporting and fiscal/ invoice tracking. Back and forth for budget, invoicing and pass through invoicing/ funding communication primarily occurs through that portal.
* What considerations were given to providing opportunities in this contract for small business, including but not limited to unbundling the goods and/or services acquired.

Given that the FE payment web portal is a specialized platform developed specifically by PCG for HCA, we did not consider other opportunities with other vendors. As all operations are tied to the main web portal, HCA is unable to unbundle any part of the services needed for this program.

* Provide a detailed and compelling description that includes quantification of the costs and risks mitigated by contracting with this contractor (i.e. learning curve, follow-up nature).

By continuing to contract with PCG and using the existing FE payment web portal, HCA is likely saving over $1m.

* Is the agency proposing this sole source contract because of special circumstances such as confidential investigations, copyright restrictions, etc.? If so, please describe.

The current web portal that is used for the financial executor needs for this program is owned by the current contractor – Public Consultant Group.

* Is the agency proposing this sole source contract because of unavoidable, critical time delays or issues that prevented the agency from completing this acquisition using a competitive process? If so, please describe. For example, if time constraints are applicable, identify when the agency was on notice of the need for the goods and/or service, the entity that imposed the constraints, explain the authority of that entity to impose them, and provide the timelines within which work must be accomplished.

HCA is faced with timing constraints for implementing the new pre-release re-entry program. CMS notified HCA of the program approval on June 30, 2023 with the expectation that the state can implement the new program on July 1, 2024. Due to timing constraints of standing up a new program, HCA feels that we can leverage the existing PCG infrastructure in place through the FE payment web portal to distribute capacity building funding to carceral facilities and other qualified applicants that participate in the new pre-release re-entry program.

If the agency is not granted a sole source contract with PCG, HCA will not have sufficient time to procure a new FE contract and obtain a qualified vendor or create a compatible payment system prior to the distribution timing of the capacity building funding and HRSN payments. If HCA selects a second FE web portal through an open competitive process, HCA and hundreds of providers would need to access and use two web portals for MTP payments for a period of time. HCA will be pressed for resources, and constrained by time, to successfully implement a second FE web portal. An insufficient implementation schedule will risk successful implementation of a second portal and risk successful distribution of capacity building funds and the implementation of a statewide Medicaid reentry project.

* Is the agency proposing this sole source contract because of a geographic limitation? If the proposed contractor is the only source available in the geographical area, state the basis for this conclusion and the rationale for limiting the size of the geographical area selected.

There are no geographic limitations for this contract.

* What are the consequences of not having this sole source filing approved? Describe in detail the impact to the agency and to services it provides if this sole source filing is not approved.

Without having a sole source contract with PCG, HCA risks having payment interruptions to over 100 carceral facilities participating in the MTP program. HCA would also be at risk of not meeting financial requirements specified by CMS. The agency would be at risk of not having the capability to make payments within the timelines set by MTP. In addition, the additional cost to the program would be significantly increased due to the restructuring and development of a financial executor portal system.

## Sole Source Posting

* Provide the date in which the sole source posting, the draft contract, and a copy of the Sole Source Contract Justification Template were published in WEBS.
	+ If exempt from posting in WEBS, please provide which exemption.
	+ If failed to post, please explain why.
* Were responses received to the sole source posting in WEBS?
	+ If one or more responses are received, list name of entities responding and explain how the agency concluded the contract is appropriate for sole source award.

## Reasonableness of Cost

* Since competition was not used as the means for procurement, how did the agency conclude that the costs, fees, or rates negotiated are fair and reasonable? Please make a comparison with comparable contracts, use the results of a market survey, or employ some other appropriate means calculated to make such a determination.

The agency concluded that leveraging an existing payment portal system outweighs the additional cost and time needed to procure and develop a new payment system with another contractor. HCA reached out to contractors under HCA’s DES approved Health Consulting Convenience Pool qualified for this type of work and none of the contractors were able to fulfil this work request due to the highly specialized nature of the web portal PCG provides and timeline needed for implementation.