



Contract By Authorized Board

Commodity or Service: Third-Party Administration of Employee Reimbursement Accounts and Commuter Benefits Programs

Request for Bid/Proposal No: ETI0022

Authorized Board: Employee Trust Funds
Board Funding Agreement

Contract Period: 01/01/2012 through 12/31/2013 with option for one (1) additional one-year periods

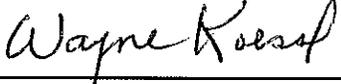
1. This contract is entered into by and between the State of Wisconsin, Department of Employee Trust Funds (Department), the State of Wisconsin Employee Trust Funds Board (Board), and the contractor whose name, address, and principal officer appears on page 2. The Department is the sole point of contract for Board contracting;
2. Whereby the Department of Employee Trust Funds agrees to direct the purchase and the contractor agrees to supply the contract requirements cited above in accordance with the terms and conditions of the request for bid cited above, and in accordance with the contractor's bid submitted on this request for bid which request for bid is hereby made a part of this contract;
3. In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employees or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s.51.01(5), Wis. Stats., sexual orientation as defined in s.111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities. The contractor agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.
4. Contracts estimated to be over twenty-five thousand dollars (\$25,000) require the submission of a written affirmative action plan. Contractors with an annual work force of less than twenty-five (25) employees are exempted from this requirement.

Within fifteen (15) working days after the award of the contract, the plan shall be submitted for approval to the Department. Technical assistance regarding this clause is provided by the Purchasing Agent, Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707-7931, (608) 266-8989, mark.blank@etf.state.wi.us.

5. For purposes of administering the contract, the Order of Precedence is: this contract; the Business Associate Agreement; the technical and cost proposals for the RFP ETI0022 submitted by Fringe Benefits Management Company dated April 28, 2009; RFP ETI0022 dated March 23, 2009, including all appendices, attachments and amendments; Amendment 1 dated December 17, 2009.
6. Assignment of contract to WageWorks, Inc; per Standard Terms and Conditions (Request for Bids & Proposals) Section 17.0 of RFP ETI0022 & FBMC letter of November 18, 2010. Payments for all administrative fee invoices (ERA and Commuter Benefits) will be made to Fringe Benefits Management Company, a Division of Wameworks. FEIN 94-3351864. Until further notice, continue to use FEIN 59-1657263 "WISMART payment address A" when paying the invoices for claims reimbursement.
7. For purposes of administering the contract, the following document is added: Plan Document for the State of Wisconsin Section 125 Cafeteria Plan including Appendix A, Amended and Restated Health Flexible Spending Account Plan; Appendix B, Amended and Restated Dependent Care Flexible Spending Account Plan; and Plan Document Amendment #1, effective January 1, 2011, and all attachments. For purposes of administering this contract the Restated Order of Precedence is:
 - 1) this Contract;
 - 2) Contract Amendment #1 dated December 17, 2009;
 - 3) the Business Associate Agreement;
 - 4) the Plan Document for the State of Wisconsin Section 125 Cafeteria Plan as described above including all appendices, attachments and amendments;
 - 5) the technical and cost proposals for the RFP ETI0022 submitted by Fringe Benefits Management Company dated April 28, 2009;
 - 6) RFP ETI0022 dated March 23, 2009, including all appendices, attachments and amendments.
8. In accordance with RFP ETI0022, Section 1.9 Contract Term and Funding, and Fringe Benefits Management Company, a Division of Wameworks letter dated January 24, 2012, effective January 1, 2013, the Employee Reimbursement Accounts Program participant fee will be \$4.85 per participant per month and the Commuter Benefits Participant fee will be \$5.18 per participant per month.
9. For the purposes of administering the contract, the following document is added effective July 1, 2012: Amendment 3, The FSA funding arrangement as outlined in Appendix A, and the Commuter payment arrangement as outlined in Appendix B. All other provisions of this contract unrelated to this Amendment remain in effect.

This document can be made available in accessible formats to qualified individuals with disabilities.

Contract Number & Service: Third-Party Administration of Employee
Reimbursement Accounts and Commuter Benefits Programs

| State of Wisconsin Department of Employee Trust Funds | |
|--|---|
| By Authorized Board (Name) | Employee Trust Funds Board |
| By (Name) | Wayne Koessl |
| Signature |  |
| Title | Chair, Employee Trust Funds Board |
| Phone | 608-266-9854 (Robert J. Marchant, Deputy Secretary) |
| Date (MM/DD/CCYY) | 01/11/2013 |

| To be Completed by Contractor | |
|------------------------------------|--|
| Legal Company Name | WageWorks, Inc |
| Trade Name | FRINGE BENEFITS MANAGEMENT CO, A DIVISION OF WAGEWORKS, INC. |
| Taxpayer Identification Number | 94-3351864 |
| Company Address (City, State, Zip) | 3101 SESSIONS ROAD, TALLAHASSEE, FLORIDA 32303 |
| By (Name) | Barbara L. Gonzales |
| Signature |  |
| Title | Vice President, Public Sector Division |
| Phone | (850) 425-6200 x 2448 |
| Date (MM/DD/CCYY) | 12/20/12 |

**AMENDMENT 3 TO AGREEMENT ETI0022 BETWEEN
STATE OF WISCONSIN ("CLIENT")
AND WAGeworks, INC. ("WAGeworks")**

This Amendment ("Amendment") effective July 1, 2012 ("Effective Date") is to the agreement entered into by and between Client and WageWorks for FSA and commuter benefits administration services ("Agreement"). The following amendments are incorporated into and made a part of the Agreement. In the case of a conflict, the terms of this Amendment will control and prevail over those contained in the Agreement.

WHEREAS, the parties wish to change the FSA funding arrangement and commuter payment information under the Agreement.

NOW, THEREFORE, BE IT AGREED, in consideration of the mutual promises contained herein, the parties agree as follows as of the Effective Date:

1. The FSA funding arrangement as outlined in Appendix A will be attached to the existing Agreement.
2. The Commuter payment arrangement as outlined in Appendix B will be attached to the existing Agreement .

IN WITNESS WHEREOF, the parties have hereto by their duly authorized representatives executed this Amendment.

For Client:

By Wayne Koessl

Name Wayne Koessl

Title Chair, Employee Trust Funds Board

Date 01/11/13

For WageWorks:

By Barbara L. Gonzales

Name Barbara L. Gonzales

Title Vice President, Public Sector Division

Date 12/20/12

Appendix A- Client Wire, ACH Credit or EFT Funding Arrangement For FSA

The Client agrees to provide benefit claims funding based on the following:

- A. Client agrees to provide an initial funding amount for each plan year that this Agreement is in effect. For the 2012 plan year, WageWorks will roll over the initial funding amount (\$750,000) originally provided to Fringe Benefits Management Company, less the amount applied to initial funding for commuter benefits (as described in Appendix B, Item 1). WageWorks will apply those funds as the 2012 plan year's initial funding amount. For subsequent plan years, WageWorks will roll over the prior year's initial funding amount and apply those funds toward the applicable plan year's initial funding amount. WageWorks reserves the right to require additional funds in the event actual benefit spend exceeds the initial funding amount.
- B. The funds in Item A above shall be provided at least 15 days prior to the first day of each Plan Year. In addition, if this Agreement is first effective during a plan year, the funds in Item A above shall be provided at least 15 days prior to the first day of the month that the benefits will be administered by WageWorks.
- C. On the applicable day, Client shall initiate an ACH Credit or electronic funds transfer or wire to WageWorks account shown below. Failure to ensure that there are sufficient funds will delay the creation of Participant Accounts, preventing Participants from any access to their Available Benefits. Any WageWorks service level agreements shall be waived if the initial funding is delayed.
- D. On the first business day of each week, WageWorks shall transmit an invoice reminder notice via electronic mail to one or more electronic addresses designated by the Client, that an on-line report containing all purchases, payments and reimbursements made under the FSA during the previous week is available for download on the WageWorks Employer Site. The report shall indicate the dollar amount that is due to WageWorks for the previous week's purchases, payments and reimbursements.
- E. Client shall ensure that WageWorks receive the amounts described in Item D on the fourth business day following the report date in Item D by either issuing a wire or electronic funds transfer (EFT) or ACH credit.
- F. Intentionally omitted.
- G. When notified by WageWorks of insufficient funds Client shall have two (2) business days to provide the funds through electronic funds or wire transfer to an account designated by WageWorks.
- H. Intentionally omitted.
- I. Intentionally omitted.
- J. After the second failure to provide timely funding in a single plan year, all applicable WageWorks services may be suspended until a funding arrangement satisfactory to WageWorks has been implemented by Client.

K. Intentionally omitted.

L. Upon termination of the plan, the remaining funding amounts shall be reconciled and returned to Client (less any amounts owed WageWorks pursuant to this Addendum or the Agreement) as soon as administratively practicable but in no event later than 90 days after the completion of run-out period and any ancillary manual claims settlement. Standard mode of return of funds shall be via ACH credit.

Client acknowledges and agrees that all funds provided by Client to WageWorks shall be comprised of the Client's general assets. In no event will Client provide funds that constitute plan assets or that constitute Participant contributions, whether made by salary reduction or otherwise, as those terms have their general meanings under ERISA. In addition Client agrees to pay Wage Works the entire amount delivered or deliverable to participants in Client's plans regardless of whether Client collects sufficient payroll deductions from its Employees.

On behalf of Client, I agree to this funding arrangement:

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|--|---|
| Name of Client (Employer) | State of Wisconsin Employee Trust Funds Board |
| Name of person signing for Employer (print): | Wayne Koessl |
| Title (print): | Chair, Employee Trust Funds Board |
| Telephone: | 608-266-9854 (Robert J. Marchant, Deputy Secretary, Department of Employee Trust Funds) |
| Date: 01/11/13 | |
| Authorized Signature: <i>Wayne Koessl</i> | |

Union Bank of California
350 California Street, 10th Fl
San Francisco, CA 94104

Account Name: WageWorks FSA/HRA Deposits Account

Account Number: 3120004394

ABA Routing #: 122000496

NOTE: DO NOT SEND FEES TO THIS ACCOUNT.

Appendix B-Commuter Payment Information

1. Initial Payment

Client shall pay WageWorks an amount equal to the total amount of the estimated commuter benefits that Participants will elect to receive for the first month that WageWorks provides administrative services pursuant to this Agreement, which estimated amount will be determined by multiplying \$120 by the estimated number of Participants that will elect qualified transit/vanpooling benefits for the first month and/or qualified parking benefits for the first month following the Effective Date ("Initial Payment"). For the 2012 plan year, WageWorks will roll over the initial funding amount originally provided to Fringe Benefits Management Company and apply those funds as the first benefit month's initial funding amount. The remaining balance of initial funding provided to Fringe Benefits Management Company will be applied as initial funding for the 2012 FSA plan year (as described in Appendix A, Item A).

The Initial Payment is due on the first day of the month prior to the initial Enrollment Deadline (or the next business day). If the Initial Payment is less than 80% of the total commuter benefits actually elected by Participants for the first month as of the initial Enrollment Deadline, WageWorks shall have the right to require Client to provide additional funding within two (2) business days of its request ("Supplemental Payment"), such that the Initial Payment and the Supplemental Payment shall equal at least 80% of the total commuter benefits elected by Participants for the first month as of the initial Enrollment Deadline.

2. Invoice Amount and Payment

a. Electronic Invoice.

WageWorks shall deliver monthly invoices for the Invoice Amount (as set forth in paragraph (c)) electronically to one or more Client designated e-mail addresses. Client shall be responsible for timely informing WageWorks of changes to such address. All invoices shall be paid using one of the following methods:

Must Select One:

- Wire or ACH Credit to WageWorks' account, based on the provisions of Appendix A-2
- WageWorks to issue ACH debit against Client's account (Appendix A-2 must also be completed)

b. Due Date

Client agrees to pay the Invoice Amount according to the method selected above as necessary to ensure that the Service Fees are received by WageWorks no later than the 5th (fifth) day of the month (or the next banking business day if the 5th is not a banking business day) subsequent to the date the invoice is provided to Client ("Due Date").

If Client selects ACH Debit, Client authorizes WageWorks (or its delegate Bank (ODI)) to initiate an ACH Debit against Client's direct deposit account to ensure that WageWorks receives the Invoice Amount on the Due Date.

If Client selects ACH Credit or Client wire to WageWorks, Client shall ensure that WageWorks shall receive the Monthly Service Fees (unrestricted) on the Due Date by either issuing a wire or electronic funds transfer (EFT) or ACH Credit.

c. Invoice Amount

The Invoice Amount, which shall be reflected on each monthly invoice, shall consist of the following:

- (i) Commuter benefits delivered or paid by WageWorks to or on behalf of the Participants for the prior Benefit Period, except in cases where reimbursement of a benefit is provided directly by Client's payroll;
- (ii) The Participant Monthly Fee, as described in the fee section of the Agreement;
- (iii) Any fees and/or costs for optional services elected by Client; plus
- (iv) An estimated charge reflecting the aggregate cost of commuter benefits to be delivered by WageWorks for the next Benefit Period, which shall be equal to the amount of commuter benefits delivered or paid for the prior Benefit Period (e.g., the amount described in subsection (i) above) (the "Estimated Charge"), less a credit for the payment of the Initial Payment (in the case of the first monthly invoice) or the prior month's Estimated Charge, as reflected on the prior month's invoice.

d. Other Client Responsibilities with Respect to Invoices

Client is given the choice of the Enrollment Deadline (no later than the 10th of each month) and the date on which a payroll file is made available to Client. However, all invoices are generated approximately six (6) days subsequent to the monthly payroll file being made available. Client agrees that it is responsible for making the appropriate choices of the aforementioned dates so that it has sufficient time to pay the invoices on the Due Date.

3. Address Designation

The delivery address for transit passes, commuter cards, and reimbursement payments, shall be designated by the Participant unless Client has chosen to be the address of record in which case such address shall be used. In either case, WageWorks shall not be responsible for verifying the correctness, accuracy or completeness of addresses.

4. Undelivered Transit Media Claims

WageWorks will reimburse a Participant who files a timely claim for undelivered physical transit media as long as he or she files such claim within the period designated by WageWorks. If WageWorks has mailed the transit media in a properly addressed envelope to the Participant, using the address designated in accordance with Section 3 above, with the proper postage, Client shall be responsible for payment of the reimbursement amounts.

Notwithstanding, Client's liability under this Section 4 shall be limited as follows. If the Participant provided his delivery addresses, then Client shall be responsible for the costs of reimbursements up to the first 1% of the value of the all passes delivered in that month, and WageWorks shall be responsible for amounts in excess of that 1%. WageWorks shall bear the reimbursement costs if WageWorks either failed to mail the media to the address as provided by Client or enrolled Employees, as applicable, or affixed improper postage.