State of Wisconsin

DOA-3261 (R08/2003)

s. 16.75, Wis. Statutes

|  |  |
| --- | --- |
| **PROPOSALS MUST BE SEALED AND ADDRESSED TO:**Department of Employee Trust FundsP.O. Box 7931Madison, WI 53707-7913 | Proposal envelope must be sealed and plainly marked in lower left corner with due date and **Request for Proposal ETE0017**. Late proposals shall be rejected. The soliciting purchasing office on or before the date and time that the proposal is due MUST date and time stamp proposals. Proposals dated and time stamped in another office shall be rejected. Receipt of a proposal by the mail system does not constitute receipt of a proposal by the purchasing office. Any proposal that is inadvertently opened as a result of not being properly and clearly marked is subject to rejection. Proposals must be submitted separately, i.e., not included with sample packages or other proposals. Proposal openings are public unless otherwise specified. Records will be available for public inspection after issuance of the notice of intent to award or the award of the contract. Vendor should contact person named below for an appointment to view the proposal record. Proposals shall be firm for acceptance for 180 days from date of proposal opening, unless otherwise noted. The attached terms and conditions apply to any subsequent award.  |
| REQUESTS FOR PROPOSAL **ETE0017 – Federal Tax Counsel to the State of Wisconsin Employee Trust Funds Board for the Wisconsin Retirement System and Related Programs** |
| THIS IS NOT AN ORDER | Proposals MUST be in this office no later thanFebruary 16, 2015 2:00 PM, CST | Public Opening [ ]  |
| VENDOR (Name and Address) | No Public Opening [x]  |
| Name (Contact for further information) Kristen Schipper |
| Phone (608) 261-0737 | Date Jan. 26, 2015 |
| Quote Price and Delivery FOB Madison, WI |
| Request for Proposal (RFP) for Federal Tax Counsel to the State of Wisconsin Employee Trust Funds Board for the Wisconsin Retirement System and related programs. RFP ETE0017 amendments, questions and answers will be posted on the ETF website <http://etfextranet.it.state.wi.us/> and will not be mailed. |
| Payment Terms:       | Delivery Time:       |
|  In signing this proposal, we certify that we have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a proposal; that this proposal has been independently arrived at without collusion with any other vendor, competitor or potential competitor; that this proposal has not been knowingly disclosed prior to the opening of proposals to any other vendor or competitor; that the above statement is accurate under penalty of perjury. We will comply with all terms, conditions and specifications required by the State in this Request for Proposals and all terms of our proposal. |
| Name of Authorized Firm Representative (Type or Print)      | Title      | Phone (       )       |
| Fax (       )       |
| Signature of Above | Date | Federal Employer Identification No. | Social Security No. if Sole Proprietor (Voluntary) |
|       |       |       |

Request for Proposal ETE0017

Federal Tax Counsel

to the

State of Wisconsin Employee Trust Funds Board

for the

Wisconsin Retirement System

and Related Programs

Issued by the State of Wisconsin Department of Employee Trust Funds

On behalf of the Employee Trust Funds Board

Release Date: January 26, 2015

Table of Contents

[1 Proposal Procedures and Requirements 1](#_Toc384299724)

[2 MANDATORY REQUIREMENTS…………………………………………………… 14](#_Toc384299725)

[3 Proposer Qualifications 16](#_Toc384299725)

[4 SPECIAL TERMS AND CONDITIONS 19](#_Toc384299727)

[Appendices: 24](#_Toc384299729)

[Appendix A Proposer’s Checklist 25](#_Toc384299730)

[Appendix B Mandatory Requirements 28](#_Toc384299731)

[Appendix C Designation of Confidential and Proprietary Information 29](#_Toc384299732)

[Appendix D Standard Terms and Conditions 31](#_Toc384299733)

[Appendix E Vendor Information and References 39](#_Toc384299734)

[Appendix F Cost Proposal 42](#_Toc384299735)

[APPENDIX G Business Associate Agreement 43](#_Toc384299736)

APPENDIX H SAMPLE ETF CONTRACT………………………………...………………..50

Tables

[Table 1 Reference Materials 2](#_Toc377369122)

[Table 2 Format for Submission of Clarification Questions 5](#_Toc377369123)

[Table 3 Calendar of Events 6](#_Toc377369124)

# Proposal Procedures and Requirements

## RFP Introduction

This section of the Request for Proposal (RFP) details the procedure the Proposer must follow to submit a proposal for the Federal Tax Counsel to the State of Wisconsin Employee Trust Funds Board for the Wisconsin Retirement System (WRS) and related programs and the minimum requirements that the Proposer must meet to be eligible for consideration.

#### Delegation of Authority

On September 25, 2014, The State of Wisconsin Employee Trust Funds Board delegated to the Department of Employee Trust Funds (ETF) the authority to solicit proposals for and contract with Federal Tax Counsel.

#### Scope and Background

The Department of Employee Trust Funds is a Wisconsin State agency that administers retirement, health, life, income continuation, long-term disability, and long‑term care insurance programs for over 580,000 state and local government employees and annuitants.

The WRS is a defined-benefit multi-employer qualified retirement system under Section 401(a) of the Internal Revenue Code. Employees of the State of Wisconsin, the University of Wisconsin System, local government employers, technical colleges and school districts are included in this system, which covers over 1,500 employers and over 580,000 active, inactive and retired members. For greater detail about the WRS and the many benefits programs administered by ETF, please see the chart below.

ETF will select qualified counsel to provide ETF with legal services on specific issues as well as on an as-needed basis in a variety of civil matters requiring expertise in federal tax law, primarily regarding ongoing qualification of defined benefit public employee retirement plans under the Internal Revenue Code (IRC). ETF intends to use the results of this Request for Proposal to award a contract.

This procurement is authorized under Chapter 40 of the Wisconsin State Statutes. All decisions and actions under this request for proposal are solely under the authority of the Employee Trust Funds Board. Procurement statutes and rules that govern other State agencies may not be applicable.

State law requires the Board and ETF to ensure that the WRS complies with and is administered in a manner consistent with the IRC. Wis. Stats. §§ 40.015, 40.03 (1)(am) and (2)(t). The Board is authorized by law to employ or select any legal contractors as are required for the administration of the Trust Fund. Wis. Stats. § 40.03 (1)(c).

All the benefit plans that ETF administers are affected by the IRC. The WRS is a tax-qualified plan. During the past five years of work with outside tax counsel, ETF has received two favorable determination letters from the IRS, and worked on numerous complex ad-hoc tax-related projects.

The scope of this contract will include:

1. Advise on drafting of proposed legislation, regulations, rules, policies and plan documents regarding benefit plans under Chapter 40 of the Wisconsin Statutes to ensure compliance with the qualification provisions for public employee retirement plans under the IRC to maintain the status of the WRS as a governmental plan under 26 USC § 414(d) and 29 USC § 1002(32).
2. Provide legal advice and guidance on federal tax and international tax matters relating to the administration of public employee benefit plans under the IRC and related Treasury Regulations and Chapter 40 of the Wisconsin Statutes.
3. Respond to and represent the WRS in the event of an IRS examination of any retirement or benefit plans administered by ETF.
4. Represent or assist in the representation of ETF before the IRS if the IRS seeks fines, forfeitures, penalties or other recovery for non-compliance by ETF in the administration of the WRS.
5. Provide timely informational updates regarding changes to federal law and regulations that may affect the WRS.
6. Work with ETF staff, or, as directed by ETF, with other entities, to resolve issues related to tax-preferred programs administered by third parties.
7. File a request for a determination letter before the WRS’ current determination letter expires.
8. Upon request, attend board meetings and other staff meetings in Madison, Wisconsin. Travel costs to be reimbursed consistent with State authorized rates. Vendor must submit qualified receipts to receive reimbursement.

Program background information is provided to assist the Proposer in completing the RFP response document. For additional information on the programs, please review these related websites:

Table 1 Reference Materials

|  |  |
| --- | --- |
| **Document** | **Web Address** |
| Employee Trust Funds Internet Site | <http://etf.wi.gov> |
| WI State Statutes Ch. 40 | <http://www.legis.state.wi.us/statutes/Stat0040.pdf> |
| ETF 10, 11, 20, 40, 41, 50, 52, 60 and 70, WI Admin. Code | <https://docs.legis.wisconsin.gov/code/toc/etf> |
| WRS 2012 Program Fact Sheet | <http://etf.wi.gov/publications/et8901.pdf> |
| Fact Sheets | <http://etf.wi.gov/about_etf.htm> |
| 2012 Comprehensive Annual Financial Report | <http://etf.wi.gov/about/2012-cafr.pdf> |
| Act 32 Study of the Wisconsin Retirement System | <http://www.etf.wi.gov/publications/wrs-study.pdf> |

### Procuring and Contracting Agency

This RFP is issued for the State of Wisconsin Employee Trust Funds Board by the Department of Employee Trust Funds. The Department is the sole point of contact for the State in the selection process.

Prospective proposers are prohibited from contacting any person other than the individual listed here regarding this RFP. Violation of this requirement may result in the proposer being disqualified from further consideration.

|  |  |
| --- | --- |
| Express/Common Carrier Delivery:Kristen SchipperDept. of Employee Trust Funds801 West Badger RoadMadison, WI 53713-2526 | USPS Mail Delivery:Kristen SchipperDept. of Employee Trust FundsP.O. Box 7931Madison, WI 53707-7931 |
| Telephone: (608) 261-0737E-mail: ETFProcurement@etf.wi.gov |

### Definitions

The following definitions are used throughout the RFP:

Board means the State of Wisconsin Employee Trust Funds Board.

Business Daymeans each Calendar Day except Saturday, Sunday, and official State of Wisconsin holidays (see also: Calendar Day, Day).

Calendar Dayrefers to a period of twenty-four hours starting at midnight.

Calendar of Events means the schedule of events in RFP, Section 1.1.6.

Confidential Information means all tangible and intangible information and materials being disclosed in connection with the Contract, in any form or medium without regard to whether the information is owned by the State of Wisconsin or by a third party, which satisfies at least one of the following criteria: (i) Personally Identifiable Information; (ii) Protected Health Information under HIPAA, 45 CFR 160.103; (iii) Proprietary Information; (iv) non-public information related to the State of Wisconsin’s employees, customers, technology (including data bases, data processing and communications networking systems), schematics, specifications, and all information or materials derived therefrom or based thereon; (v) information expressly designated as confidential in writing by the State of Wisconsin; (vi) all information that is restricted or prohibited from disclosure by state or federal law, including Individual Personal Information and Medical Records as governed by Wis. Stat. § 40.07, Wis. Admin. Code § ETF 10.70(1) and 10.01(3m); (vi) any material submitted by the vendor in response to this request that the vendor considers confidential and proprietary information and which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or material which can be kept confidential under the Wisconsin public records law, and identified on a Designation of Confidential and Proprietary Informa­tion form (DOA-3027). Prices cannot be held confidential.

Contract means the written agreement resulting from the successful Proposal and subsequent negotiations that shall incorporate, among other things, the RFP and successful Vendor’s Proposal, and all modifications hereto and thereto, and in additional shall contain such other terms and conditions as may be required by the State of Wisconsin.

Contractor means the bidder who is awarded the contract.

CST means Central Standard Time.

Daymeans calendar day unless otherwise indicated.

Department means the Department of Employee Trust Funds.

ETF means the State of Wisconsin Department of Employee Trust Funds.

Firm means an entity submitting a proposal in response to this RFP.

Mandatory means the least possible threshold, functionality, degree, performance, etc. needed to meet the mandatory requirement.

Personally Identifiable Information or PII means an individual’s last name and the individual’s first name or first initial, in combination with and linked to any of the following elements, if the element is not publicly available information and is not encrypted, redacted, or altered in any manner that renders the element unreadable: (a) the individual’s Social Security number; (b) the individual’s driver’s license number or state identification number; (c) the number of the individual’s financial account, including a credit or debit card account number, or any security code, access code, or password that would permit access to the individual’s financial account; (d) the individual’s DNA profile; or (e) the individual’s unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical representation, and any other information protected by state or federal law.

Proposal means the complete response of a Proposer submitted on the approved forms and setting forth the Proposer’s prices for providing the services described in the RFP.

Proposer means any individual, company, corporation, or other entity that responds to this RFP. Used interchangeably with “Vendor” and means a firm or individual submitting a proposal in response to this RFP.

Protected Health Information or PHI is health information protected under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 CFR 160.103.

RFP means Request for Proposal.

Services means all work performed, and labor, actions, recommendations, plans, research, and documentation provided by, the Contractor necessary to fulfill that which the Contractor is obligated to provide under the Contract.

State means State of Wisconsin.

State Statutes or ss or Wisconsin Statutes or Wis. Stats. means Wisconsin State statutes referenced in this document and/or the RFP, viewable at: <http://www.legis.state.wi.us/rsb/stats.html>.

Subcontractor means a person or company hired by the Vendor to perform a specific task as part of this RFP.

USPS means United States Postal Service.

Vendor means a person or company that sells goods or provides services. Used interchangeably with “Proposer” and means a firm or individual submitting a proposal in response to this RFP.

WRS means the Wisconsin Retirement System.

Please see the glossary on the ETF home page at: <http://etf.wi.gov/glossary.htm> for additional definitions.

### Clarification of the Specifications and Requirements

Any questions concerning this RFP must be submitted via e-mail to ETFProcurement@etf.wi.gov on or before the date identified in Section 1.1.6, to the individual identified in Section 1.1.1. Proposers are expected to raise any questions they have concerning the RFP at this point in the process. Questions are to be submitted as an MS Word document using the format specified below:

Table 2 Format for Submission of Clarification Questions

|  |  |  |  |
| --- | --- | --- | --- |
| No. | RFP Section | RFP Page | Question |
| Q1 |  |  |  |
| A1 |  |  |  |
| Q2 |  |  |  |
| A2 |  |  |  |

All questions must include the name of the Firm and the person submitting the question(s). The RFP number and title must be referenced in your e-mail. A compilation of all questions and answers, along with any RFP updates, will be posted to the ETF Extranet (see below) no later than the date indicated in Section 1.1.6.

If a Proposer discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in this RFP, the Proposer should immediately notify the individual identified in Section 1.1.1 of such error and request modification or clarification of this RFP document.

If it becomes necessary to update any part of this RFP, ETF will publish the updates on ETF’s Extranet website at <http://etfextranet.it.state.wi.us/>. ETF will not mail updates. Electronic versions of the RFP and all appendices and exhibits are available on ETF’s Extranet.

### Vendor Conference

There will not be a Vendor conference.

### Reasonable Accommodations

ETF will provide reasonable accommodations, including information in an alternative format, for qualified individuals with disabilities upon request.

### Calendar of Events

Listed below are the important dates by which actions related to this RFP must be completed. If the Board or ETF finds it necessary to change any of the specific dates and times in the calendar of events listed below, it will do so by issuing a supplement to the RFP via the ETF Extranet listed in Section 1.1.3. No other formal notification will be issued.

Table 3 Calendar of Events

|  |  |
| --- | --- |
| Date | Event |
| January 26, 2015 | ETF Issues RFP |
| January 30, 2015 | Vendor Questions and Letter of Intent to Bid Due |
| February 6, 2015 | ETF Posts Answers to Questions on ETF Extranet |
| **\*February 16, 2015 2 PM CST** | **Proposals Due** |
| April 3, 2015 | ETF Notifies Vendors of Intent to Award Contract |
| April 17, 2015 | Begin contract negotiations |
| July 1, 2015 | Contract start date |
| \***All dates are estimated except the question & RFP proposal due dates.** |

### Letter of Intent

A letter of intent indicating that a Proposer intends to submit a response to this RFP should be submitted to ETF by the date indicated in Section 1.1.6. In the letter, identify the Proposer’s organization and give the name, location, telephone number, fax number and e-mail address of one or more persons authorized to act on the Proposer's behalf. Proposers should submit the letter of intent via e-mail to the address in Section 1.1.1. The RFP number and title must be referenced in your e-mail. The letter of intent does not obligate the Proposer to submit a proposal and does not constitute submitting a proposal.

### Contract Term

The contract shall be effective on July 1, 2015 and shall run through June 30, 2016. An option to renew the contract for five (5) additional one-year (1) periods may be included, subject to the satisfactory negotiation of terms, including prices.

### Due Diligence and Errors/Omissions Coverage

The selected Vendor shall exercise due diligence in providing services under any contract awarded. In order to protect ETF’s governing boards and any ETF employee against liability, cost, or expenses (including reasonable attorney fees) which may be incurred or sustained as a result of Vendor errors or other failure to comply with the terms of the awarded contract, the selected Vendor shall maintain errors and omissions insurance in an amount acceptable to ETF in force during the contract period and shall furnish ETF with a certificate of insurance for such amount. Further, this certificate shall designate the State of Wisconsin Employee Trust Funds Board and its affiliated boards as additional insured parties.

**Any exceptions to this requirement must be stated in writing and included in the proposal submitted.**

### Criminal Background Verification

ETF follows the provisions in the Wisconsin Human Resources Handbook Chapter 246, Securing Applicant Background Checks (see <http://oser.state.wi.us/docview.asp?docid=6658>). The Vendor is expected to perform background checks that, at a minimum, adhere to those standards. This includes the criminal history record from the Wisconsin Department of Justice (DOJ), Wisconsin Circuit Court Automation Programs (CCAP), and other state justice departments for persons who have lived in a state(s) other than Wisconsin. More stringent background checks are permitted. Details regarding the Vendor's background check procedures should be provided to ETF regarding the measures used by the Vendor to protect the security and privacy of program data and participant information. A copy of the result of the criminal background check the Vendor conducted must be made available to ETF upon request. ETF reserves the right to conduct its own criminal background checks on any or all employees or contractors of and referred by the Vendor for the delivery or provision of services.

### VendorNet Registration

The State of Wisconsin’s purchasing information and Vendor notification service is available to all businesses and organizations that want to sell to the State. Anyone may access VendorNet on the Internet at http://vendornet.state.wi.us to get information on State purchasing practices and policies, goods and services that the State buys, and tips on selling to the State. Vendors may use the same website address for inclusion on the Proposers’ list for goods and services that the organization wants to sell to the State. A subscription with notification guarantees the organization will receive an e-mail message each time a State agency, including any campus of the University of Wisconsin System, posts a request for proposal in the Vendor’s designated commodity/service area(s) with an estimated value over $50,000. Increasingly, State agencies also are using VendorNet to post simplified bids valued at $50,000 or less. Vendors also may receive e-mail notices of these simplified bid opportunities.

###  Business Associate Agreement

A Business Associate Agreement (Appendix G) is attached. At the time a contract is issued, Vendor and ETF must enter into a Business Associate Agreement. It is the intention of the agreement to comply with the Privacy and Security Rules of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) concerning Protected Health Information.

### General Instructions

The evaluation and selection of a Vendor may be based on the information submitted in the Vendor’s proposal, references, oral presentations (if requested), and the Vendors’ responses to requests for additional information or clarification.

**Failure to respond to each of the requirements in Sections 2 & 3 may be the basis for rejecting a proposal.** Each response must include the RFP section number or appendix letter when providing narratives required by the RFP.

### Incurring Costs

The State of Wisconsin, ETF, and the Board are not liable for any costs incurred by Vendors in replying to this RFP or making requested oral presentations.

### Submitting the Proposal

**Vendors must submit one (1) original (marked “Original”) and four (4) complete paper copies of the proposal to the address listed in 1.1.1 by the deadline listed in 1.1.6.**

**One complete un-locked and non-password protected electronic copy (i.e., MS Word) of the proposal must also be provided on one flash drive. The flash drive must be labeled on the outside with the Vendor’s name.**

**In addition, the flash drive must contain one electronic copy of the proposal with all confidential material redacted and labelled “Redacted for Confidentiality” per Appendix C.**

Last, the flash drive must contain one electronic copy of the Cost Proposal, labelled “COST ETE0017.”

Each paper copy of the Vendor’s proposal must follow the format indicated in Appendix A.

Each electronic copy of the proposal must be in MS-Word format and must be a single document (except for the cost proposal, as identified in Appendix F).

The Department will not accept Proposals submitted via fax or e-mail.

Receipt of a proposal by any mail system does not constitute receipt of a proposal for purposes of this RFP.

All paper copies of a Vendor’s proposal must be packaged, sealed and show the following information on the outside of the package:

* [Proposer's Name and Address]
* Title: **ETE0017 – Federal Tax Counsel to the State of Wisconsin Employee Trust Funds Board for the Wisconsin Retirement System and Related Programs**
* Proposal Due Date: **February 16, 2015 2 PM CST**.

**An original plus four (4) copies of the cost proposal must be sealed and submitted as a separate part of the proposal.** The cost proposal form is located in Appendix F. The Cost Proposal must be packaged, sealed and show the following information on the outside of the package:

* [Proposer's Name and Address]
* Title: **COST ETE0017 – Federal Tax Counsel to the State of Wisconsin Employee Trust Funds Board for the Wisconsin Retirement System and Related Programs**
* Proposal Due Date: **February 16, 2015 2 PM CST**

**Failure to provide a sealed cost proposal using the exact form provided in Appendix F may result in your proposal being disqualified and rejected**. **No mention of the cost proposal may be made in any other part of the response to this RFP.** Proposers should provide the hourly rates and should note anticipated annual increases, if any, plus the reason for such anticipated annual increases. Unless the Vendor outlines such increases in the cost proposal via Appendix F and the reason for them, the initial price will hold for the duration of the contract, including renewals.

### Proposal Organization and Format

Proposals must be typed and submitted on 8.5 by 11-inch paper and bound securely.

Only provide promotional materials if they are relevant to a specific requirement of this request. If provided, all materials must be included with the response to the relevant requirement and clearly identified as “promotional materials.” Electronic access to such materials is preferred.

**Proposers responding to this RFP must comply with the following format requirements:**

|  |  |
| --- | --- |
| Front Cover | Include at a minimum the following information:* Proposer's Business Name
* Title:

*Proposal Response for ETE0017 – Federal Tax Counsel to the State of Wisconsin Employee Trust Funds Board for the Wisconsin Retirement System and Related Programs** Proposal Date
 |
| TAB 1 | Table of Contents. Provide a table of contents for the Proposal. |
| TAB 2 | Complete & provide the following in the following order:* CHECKLIST: Complete the Proposer’s checklist provided as Appendix A to this RFP, and include it with your response.
* DOA 3261: Complete and sign DOA 3261 (the first page in this RFP document) and include it with your response.
* TRANSMITTAL LETTER: A signed transmittal letter must accompany the proposal. The transmittal letter must be written on the Vendor’s official business stationery and signed by an official that is authorized to legally bind the Vendor. Include in the letter:
	+ Name, signature and title of Proposer’s authorized representative.
	+ Name and address of Firm.
	+ Telephone number, fax number, and e-mail address of representative.
	+ Title and RFP number: [RFP #] – [RFP Title]
	+ Executive Summary.
	+ A statement that the proposal is a firm and irrevocable offer for six (6) months after the proposal due date.
* APPENDIX B: Complete the mandatory requirements form.
* APPENDIX C: Designation of Confidential & Proprietary Information (DOA-3027). Complete form and sign.
* APPENDIX D: Standard Terms & Conditions (DOA-3054) & Supplemental Standard Terms and Conditions (DOA-3681). Including this signifies the proposer agrees to these terms as stated unless assumptions and exceptions are spelled out in Tab 4.
* APPENDIX E: Vendor Information (DOA-3477) & Vendor References (DOA-3478). The Vendor must provide three (3) references from public employee retirement plans represented by the Firm. ETF will determine which, if any, references to contact to assess the quality of work performed and personnel assigned to the project. The results of any references will be used in scoring proposals. Although these clients shall serve as the primary references for purposes of this RFP, ETF specifically reserves the right to contact **any** clients or past clients for information about the Firm's performance under past and present contracts.
 |
| TAB 3 | Response to Sections 2 & 3Provide the descriptive material called for in Section 2. Provide a point-by-point response to each and every statement in Section 3. The response must follow the same numbering system, use the same headings, and address each point or sub-point. Proposers should re-state each requirement immediately preceding the response to that requirement and distinguish the requirement from the proposer’s response clearly. For example, box off the requirement and leave the response without a box:**3.1 Firm Profile**Describe the law firm or legal practice, including years of existence, size, number of attorneys (broken down by partner, associate, of counsel, etc.), number of non-attorney professionals and other employees, areas of practice, number of attorneys whose practice is primarily in the area of governmental retirement and benefits plans, number of offices and locations, and other descriptive material about the Firm. *Response.*Provide a succinct explanation of how each requirement is addressed. Merely indicating that you will complete a task without demonstrating how you will do so may result in your proposal being rejected. |
| TAB 4 | Assumptions & Exceptions All assumptions and exceptions must be included in this tab and will be scored. Provide a succinct explanation for each item as well as a reference to the section of the proposal to which it relates. **Any assumption or exception made but not included in this Tab 4 will be invalid**. Exceptions to the Department’s contract terms and conditions may be considered during contract negotiations if it is beneficial to the Department. **If exceptions to the standard terms are not presented in this section, the exception will not be discussed or considered during contract negotiations**. When documenting assumptions and exceptions, clearly label each assumption or exception, restate the original term or condition, state your assumption or exception to the term or condition with one of the following labels:* RFP Assumption
* RFP Exception
* Standard Terms & Conditions Exception
 |

**SEALED COST PROPOSAL: Cost Proposal located in Appendix F. Failure to provide a sealed cost proposal using the exact form provided in Appendix F may result in your proposal being disqualified and rejected**. **No mention of the cost proposal may be made in any other part of the response to this RFP.** Proposers should provide the hourly rates and should note anticipated annual increases, if any, plus the reason for such anticipated annual increases. Unless the Vendor outlines such increases in the cost proposal via Appendix F and the reason for them, the initial price will hold for the duration of the contract, including renewals.

### Multiple Proposals

Multiple proposals from one Vendor are not permissible.

### Contacting Vendor References and Conducting Site Visits

By submitting a proposal in response to this RFP, the Vendor grants rights to ETF to contact or arrange a visit with any or all of the Vendor’s clients and/or references.

## Proposal Review and Award Process

### Preliminary Evaluation

Proposals will initially be reviewed to determine if mandatory requirements are met. Failure to meet mandatory requirements as stated in Appendix B, or failure to follow the required instructions for completing the proposal as specifically outlined in this document may result in rejection of the proposal.

### Proposal Scoring

Proposals that pass the preliminary evaluation may be reviewed by an evaluation committee and scored against stated criteria. The committee may review written proposals, references, additional clarifications, oral presentations, site visits and other information to score proposals. The evaluation committee reserves the right to stop scoring any proposal at any time.

The evaluation committee's scoring will be tabulated and remaining proposals will be ranked based on the numerical scores received.

ETF may request reports on a Vendor's financial stability, and if financial stability is not substantiated, may reject a Vendor's proposal.

ETF may request demonstrations of the Vendor's proposed products(s) and/or service(s), and review results of past awards to the Vendor by the State of Wisconsin.

### Evaluation Criteria

Proposals will be evaluated based upon the proven ability of the Proposer to satisfy the requirements in an efficient, cost-effective manner, and taking into account quality of service. Proposals will be scored using the following criteria:

| **Criteria** | **Weight** |
| --- | --- |
| Technical Score | 80% |
| Cost | 20% |
| Total | 100% |

### Right to Reject Proposals and Negotiate Contract Terms

This RFP does not commit ETF to awarding a contract, or pay any cost incurred in the preparation of a proposal. ETF retains the right to accept or reject any or all proposals, or accept or reject any part of a proposal deemed to be in ETF’s best interest. ETF shall be the sole judge as to compliance with the instructions contained in this RFP.

ETF may negotiate the terms of the contract, including the award amount and the contract length, with the selected Vendor prior to entering into a contract. ETF reserves the right to add contract terms and conditions to the contract during contract negotiations.

### Contract Award

Based on the results of the evaluation and taking into account all of the evaluation factors, the evaluation committee will award to the highest scoring proposal. ETF reserves the right not to award a contract. If contract negotiations cannot be concluded successfully with the awarded Proposer(s), ETF may negotiate a contract with the next highest scoring Proposer(s).

### Notice of Intent to Award

All Vendors who respond to this RFP will be notified of ETF’s intent to award the contract. All decisions and actions under this RFP are solely under the authority of the Board. Procurement statutes and rules that govern other State agencies may not be applicable.

### Appeals Process

Notices of intent to protest and protests must be made in writing.  The appeal must state the contract number, detailed factual grounds for the objection to the contract award, and must identify any Wisconsin Statutes and Wisconsin Administrative Codes that are alleged to have been violated. Protestors can only submit an appeal once per award.

The written notice of intent to protest the Notice of Intent to Award of a contract must be filed with:

|  |  |
| --- | --- |
| Express/Common Carrier Delivery:Robert J. Conlin, SecretaryDept. of Employee Trust Funds801 West Badger RoadMadison, WI 53713-2526 | USPS Mail Delivery:Robert J. Conlin, SecretaryDept. of Employee Trust FundsP.O. Box 7931Madison, WI 53707-7931 |

This notice must be received in that office no later than five (5) working days after the Notice of Intent to Award is issued.  Faxed documents will not be accepted.  The written protest must be received within ten (10) working days after the Notice of Intent to Award is issued.

The decision of the Board is final, and subjective judgment of evaluators is not appealable.

# mandatory requirements

**This section is pass/fail. Respond by completing Appendix B and/or any descriptive information called for.**

## Attorney Turnover Plan

Provide a description of how any turnover on key personnel assigned to this account would be handled. The mandatory requirement is met if you provide a description.

## Firm Transition Plan

In the event the Board terminates the Contract, the contractor must send an updated transition plan to ETF within thirty (30) days of the written notice of termination to the contractor. Confirm you accept and will comply with this requirement.

## Conflict of Interest

The Firm has no conflict of interest with regard to any other work performed by the Firm for the State of Wisconsin.

## Malpractice Insurance

The Firm has proof of malpractice insurance.

## Response Complies with RFP Instructions

The Firm adhered to the instructions in this RFP on preparing and submitting the proposal.

## Suspension and Debarment

The Firm has not been suspended or debarred from performing government work.

## Discipline & Licensing

Neither the Firm nor any of the attorneys or others listed in the proposal have been the subject of any disciplinary action or inquiry during the past five (5) years, and the attorneys working on the contract have current licenses to practice law in at least one state or the District of Columbia and in at least one federal district in good standing.

## Public Employee Retirement Plan Representation

The Firm has represented a public employee retirement plan.

## References

The Firm provided at least three (3) references via Appendix E. Each reference must identify the state and/or other public plan for which the Firm provided tax counsel services.

## Compliance with Standard Terms

The Firm agrees to meet all contractual requirements as stated in Sections 1 and 4 and Appendix D Standard Terms and Conditions and Supplemental Terms and Conditions.

## Disaster Recovery

The Firm must certify that it has a written business recovery plan as it relates to providing the services described in this RFP.

# Proposer’S Qualifications

**This section is scored. Your response is mandatory, and failure to respond to each section, point-by-point, may result in your response being rejected. Responses will be scored on whether they are complete and satisfactory.**

The purpose of this section is to provide ETF and the Board with a basis for determining the Proposer’s capability to undertake this contract.

All Proposers must respond to the following by restating each question or statement and providing a detailed written response. Instructions for formatting the written response to this section are found in Section 1.1.16.

The Proposer’s services must be able to be performed according to the requirements contained in this RFP. All resources necessary are to be provided by the Proposer and included on the Cost Proposal (Appendix F).

The Proposer must provide sufficient detail for the Board and ETF to understand how the Vendor will comply with each requirement. If the Proposer believes that the Proposer’s qualifications go beyond the minimum requirements or add value, the Proposer should indicate those capabilities in each section.

## Firm Profile

Describe the law firm or legal practice, including years of existence, size, number of attorneys (broken down by partner, associate, of counsel, etc.), number of non-attorney professionals and other employees, areas of practice, number of attorneys whose practice is primarily in the area of governmental retirement and benefits plans, number of offices and locations, and other descriptive material about the Firm.

## Firm Ownership & Personnel Changes

Highlight any acquisitions, or mergers or other material developments (changes in ownership, personnel, business, etc.) pending or that occurred in the past five years at your Firm. Describe any known changes in personnel that would materially affect the Firm’s ability to work with a large public retirement plan like the WRS.

## Attorney Profiles

Identify the attorneys who will perform work under the contract and provide the professional and experience qualifications of each attorney. This must include the number of years each attorney has represented or worked for public employee retirement plans.

## Team Profile

a. Provide a curricula vitae (CV) or resume for each attorney (must include jurisdictions where currently licensed to practice law). In addition, provide a list of each attorney’s specific experience working for and representing defined benefit or cash-balance public employee retirement plans. This list must include a brief description of the plans previously represented by each attorney, the size of each plan (number of employees and employers) and the types of programs offered by each plan (as set forth in subparagraphs i through x of the RFP as well as any benefits programs of a type not administered by ETF) represented by the attorney. The list must indicate what experience each attorney has working with:

* + 1. Defined benefit public employee retirement plans (e.g., Wis. Stats. § 40.20 et seq.).
		2. Cash balance public employee retirement plans.
		3. Deferred compensation programs for public employees (e.g., Wis. Stats. § 40.80 et seq.).
		4. Duty disability benefits for public employees (e.g., Wis. Stats. § 40.65).
		5. Employee-funded reimbursement accounts (e.g., Wis. Stats. § 40.85, et seq.).
		6. Sick leave conversion credits (e.g., Wis. Stats. § 40.05(4)(b), et seq., § 40.95).
		7. Group health insurance plans (e.g., Wis. Stats. §§ 40.51 to 40.53).
		8. Group life insurance plans (e.g., Wis. Stats. §§ 40.70 and 40.72).
		9. Group income continuation insurance plans (e.g., Wis. Stat. §§ 40.61 and 40.62).
		10. Group health long-term disability insurance plan (e.g., Wis. Admin. Code § ETF 50.44, et seq.).

b. A list of each attorney’s publications regarding public employee retirement plans.

c. A list of each attorney’s experience on the board of, teaching or making presentations to national organizations that represent or educate public employee retirement plans and their employees.

d. A list of each attorney’s experience practicing before the Internal Revenue Service (IRS), including experience with the determination letter process, experience representing a public or private employee retirement plan during an IRS audit or examination; using the Employee Plans Compliance Resolution System (including the voluntary and self-correction programs); and resolving any fine or penalty issues with the IRS, including the outcome of such representation.

e.A list of disciplinary action, if any, taken by any professional organization, governmental licensing agency or other regulatory body, against each attorney. ETF reserves the right to disqualify the Firm based on the nature of the disciplinary action.

## Litigation

Provide details of any judgment, criminal conviction, investigation or litigation pending against the Firm. During the past five years, has the Firm been subject to any litigation alleging breach of contract, fraud, breach of fiduciary duty or other willful or negligent misconduct? ETF reserves the right to reject a response based on this information. Provide certification that the Firm has not been in bankruptcy and/or receivership within the last five calendar years.

## Firm Strengths

Describe the Firm’s strengths and overall ability to perform the federal tax counsel services under the RFP, highlighting the distinct qualities and experiences of the Firm individual attorneys. Reference the scope of this contract and how the firm’s strengths fulfill that scope. Scope:

1. Advise on drafting of proposed legislation, regulations, rules, policies and plan documents regarding benefit plans under Chapter 40 of the Wisconsin Statutes to ensure compliance with the qualification provisions for public employee retirement plans under the IRC to maintain the status of the WRS as a governmental plan under 26 USC § 414(d) and 29 USC § 1002(32).
2. Provide legal advice and guidance on federal tax and international tax matters relating to the administration of public employee benefit plans under the IRC and related Treasury Regulations and Chapter 40 of the Wisconsin Statutes.
3. Respond to and represent the WRS in the event of an IRS examination of any retirement or benefit plans administered by ETF.
4. Represent or assist in the representation of ETF before the IRS if the IRS seeks fines, forfeitures, penalties or other recovery for non-compliance by ETF in the administration of the WRS.
5. Provide timely informational updates regarding changes to federal law and regulations that may affect the WRS.
6. Work with ETF staff, or, as directed by ETF, with other entities, to resolve issues related to tax-preferred programs administered by third parties.
7. File a request for a determination letter before the WRS’ current determination letter expires.
8. Upon request, attend board meetings and other staff meetings in Madison, Wisconsin. Travel costs to be reimbursed consistent with State authorized rates. Vendor must submit qualified receipts to receive reimbursement.

# Special terms and conditions

The Vendor will comply with the following terms and conditions outlined in this section as well as the Standard Terms and Conditions in Appendix D. This section will be scored based on assumptions and exceptions taken in Tab 4.

## Legal Relations

* The Vendor shall at all times comply with and observe all federal and State laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct.
* In carrying out any provisions of this RFP or in exercising any power or authority granted to the Vendor thereby, there shall be no liability upon ETF, it being understood that in such matters that ETF acts as an agent of the State.
* The Vendor accepts full liability and agrees to hold harmless ETF, its employees, agents and Vendors for any act or omission of the Vendor, or any of its employees, in connection with this contract.
* No employee of the Vendor may represent himself or herself as an employee of ETF or the State.

## Liquidated Damages

Both parties acknowledge that it can be difficult to ascertain actual damages when a Contractor fails to carry out the responsibilities of the Contract. Because of that, the Contractor acknowledges that for the Contract resulting from this Proposal, it will negotiate liquidated damages, as required by the State of Wisconsin, for the Contract. The Contractor agrees that the Agency shall have the right to liquidate such damages, through deduction from the Contractor’s invoices, in the amount equal to the damages incurred, or by direct billing to the Contractor.

The Department shall notify the Contractor in writing of any claim for liquidated damages pursuant to this section within thirty (30) days after the Contractor’s failure to perform in accordance with the terms and conditions of this agreement.

## Termination of Contract

* ETF may terminate any contract issued as a result of this RFP at any time at its sole discretion by delivering sixty (60) calendar days’ written notice to the Vendor.
* Upon termination, ETF's liability shall be limited to the prorated cost of the services performed as of the date of termination plus expenses incurred with the prior written approval of ETF.
* If the Vendor terminates this contract, the Vendor shall refund all payments made hereunder by ETF to the Vendor for work not completed or not accepted by ETF. Termination shall require written notice to be delivered by the Vendor to ETF not less than sixty (60) days prior to termination.
* Continuation of this RFP beyond the limits of funds available shall be contingent upon appropriation of the necessary funds, and the termination of this RFP by lack of appropriations shall be without penalty to ETF. Termination under this clause is effective immediately, without advance notice and without further payment.

## Termination for Cause

The State of Wisconsin reserves the right to cancel this Contract in whole or in part without penalty in one (1) or more of the following occurrences:

* If the Contractor intentionally furnished any statement, representation, warranty, or certification in connection with its Proposal which is materially false, incorrect, or incomplete;
* If the Contractor fails to perform any material requirement of the Contract, breaches any material requirement of the Contract required under this Contract, or if the Contractor’s full and satisfactory performance of the Contract is substantially endangered. Before terminating the Contract, the State of Wisconsin shall give written notice of intent to terminate to Contractor after a thirty (30) day written notice and cure period;
* If applicable, fails to follow the sales and use tax certification requirements of s. 77.66 of the Wisconsin Statutes;
* Incurs a delinquent Wisconsin tax liability;
* Fails to submit a non-discrimination or affirmative action plan per the requirements of subch. II, Chapter 111 of the Wisconsin Statutes (Wisconsin’s Fair Employment Law) as required herein;
* Is presently identified on the list of parties excluded from State of Wisconsin procurement and non-procurement Contracts;
* Becomes a state debarred contractor, or becomes excluded from state Contracts;
* Fails to maintain and keep in force all required insurance, permits and licenses as required per the Contract;
* Fails to maintain the confidentiality of the State of Wisconsin’s information that is considered to be Confidential Information;
* Files a petition in bankruptcy, becomes insolvent, or otherwise takes action to dissolve as a legal entity; or
* If at any time the Contractor’s performance threatens the health or safety of a State of Wisconsin employee, citizen, or customer.

In the event of a termination for cause, by the State of Wisconsin, the State of Wisconsin shall be liable for payments for any work accepted by the State of Wisconsin prior to the date of termination.

## Ownership of Materials

* Except for medical records as defined by Wis. Admin. Code § ETF 10.01 (3m), ETF will provide to the Vendor all information, data, reports and other materials necessary to carry out the scope of services under this contract. The Vendor shall not use the information for any purpose other than carrying out the work described in the contract.
* The selected Vendor will furnish ETF (without additional charge) all data, models, information, reports and other materials associated with and generated under this contract by the Vendor.

## Security and Privacy

The Board and ETF take the security and privacy of member data very seriously. Should a Vendor fail to properly protect private information, any cost ETF pays to mitigate the data breach will be subtracted from the total contract price. The Vendor is responsible for taking timely action and must absorb the cost of mitigating the damages to affected members.

In addition to the requirements of this section, please refer to the Business Associate Agreement in Appendix G for requirements regarding HIPAA-covered information.

* The Vendor agrees to maintain the strict confidentiality of individual records supplied to the Vendor or its employees under this RFP. In addition, the Vendor will only share confidential information with its employees on a need to know basis.
* The Vendor agrees not to disclose any information furnished to the Vendor or its employees by ETF, including any information derived directly or indirectly from information furnished by ETF to any person or entity of any description who is not a party to this RFP without express, written approval of the Secretary of ETF in advance.
* Under no circumstances are participant names, addresses, or other data to be used or made available for any purpose other than specifically provided for in this contract.

## Payment Terms

* Invoices must be itemized by cost proposal categories (attorney rate, actuary rate, paralegal rate) and according to specific work performed (e.g., “determination letter filing”) of expenses actually incurred.
* Invoices must be submitted to the following address:

Accounts Payable

Department of Employee Trust Funds

P.O. Box 7931

Madison, WI 53707-7931

or

Electronically by E-mail: ETFAccountsPayable@etf.wi.gov

* Approved payment will be made to the Vendor within thirty (30) calendar days of receipt of a proper invoice.

##  Dispute Resolution

In the event of any dispute or disagreement between the parties under this Contract, whether with respect to the interpretation of any provision of this Contract, or with respect to the performance of either party hereto, except for break of Contractor’s intellectual property rights, each party shall appoint a representative to meet for the purpose of endeavoring to resolve such dispute or negotiate for and adjustment to such provision.

No legal action of any kind, except for the seeking of equitable relief in the case of the public’s health, safety or welfare, may begin in regard to the dispute until this dispute resolution procedure has been elevated to the Contractor’s highest executive authority and the equivalent executive authority within the State of Wisconsin, and either of the representatives in good faith concludes, after a good faith attempt to resolve the dispute, that amicable resolution through continued negotiation of the matter at issue does not appear likely.

## Remedies of State

The State of Wisconsin shall be free to invoke any and all remedies permitted under Wisconsin law. In particular, if the Contractor fails to perform as specified in the Contract, the State of Wisconsin may issue a written notice of default providing for at least a seven (7) day period in which Contractor shall have an opportunity to cure, provided that cure is possible, feasible, and approved in writing by the State of Wisconsin. Time allowed for cure of a default shall not diminish or eliminate the Contractor’s liability. If the default remains, after opportunity to cure, then the State of Wisconsin may: (1) exercise any remedy provided in law or in equity or (2) terminate Contractor’s services.

If the Contractor fails to remedy any delay or other problem in its performance of this Contract after receiving reasonable notice from the State of Wisconsin to do so, the Contractor shall reimburse the State of Wisconsin for all reasonable costs incurred as a direct consequence of the Contractor’s delay, action, or inaction.

In case of failure to deliver Services in accordance with or Services from other sources as necessary, Contractor shall be responsible for the additional cost, including purchase price and administrative fees. This remedy shall be in addition to any other legal remedies available to the State of Wisconsin.

##  Transitional Services

Upon cancellation, termination, or expiration of the Contract for any reason, the Contractor shall provide reasonable cooperation, assistance and Services, and shall assist the State of Wisconsin to facilitate the orderly transition of the Work hereunder to the State of Wisconsin and or to an alternative Contractor selected for the transition upon written notice to the Contractor at least thirty (30) business days prior to termination or cancellation, and subject to the terms and conditions set forth herein.

Appendices:

APPENDIX A Proposer’s Checklist

APPENDIX B Mandatory Requirements

APPENDIX C Designation of Confidential and Proprietary Information (DOA-3027)

APPENDIX D Standard Terms and Conditions (DOA-3054) and Supplemental Standard Terms and Conditions (DOA-3681)

APPENDIX E Vendor Information (DOA-3477) and References (DOA-3478)

APPENDIX F Cost Proposal

APPENDIX G Business Associate Agreement

APPENDIX H Sample DOA-3049

Appendix A
Proposer’s Checklist

**Mandatory**

**This appendix must be completed with the proposal.**

( ) **Front Cover -** Include at a minimum the following information:

* Proposer's Business Name
* Title:

*Proposal Response for ETE0017 – Federal Tax Counsel to the State of Wisconsin Employee Trust Funds Board for the Wisconsin Retirement System and Related Programs*

* Proposal Date

( ) **TAB 1 -** Table of Contents. Provide a table of contents for the Proposal.

( ) **TAB 2 -** Complete & provide the following in the following order:

* **CHECKLIST:** Complete the Proposer’s checklist provided as Appendix A to this RFP, and include it with your response.
* **DOA 3261:** Complete and sign DOA 3261 (the first page in this RFP document) and include it with your response.
* **TRANSMITTAL LETTER:** A signed transmittal letter must accompany the proposal. The transmittal letter must be written on the Vendor’s official business stationery and signed by an official that is authorized to legally bind the Vendor. Include in the letter:
	+ Name, signature and title of Proposer’s authorized representative.
	+ Name and address of firm.
	+ Telephone number, fax number, and e-mail address of representative.
	+ Title and RFP number: “[RFP #] – [RFP Title]"
	+ Executive Summary.
	+ A statement that the proposal is a firm and irrevocable offer for six (6) months after the proposal due date.
* **APPENDIX B:** Complete the mandatory requirements form.
* **APPENDIX C:** Designation of Confidential & Proprietary Information (DOA-3027). Complete form and sign.
* **APPENDIX D:** Standard Terms & Conditions (DOA-3054) & Supplemental Standard Terms and Conditions (DOA-3681). Including this signifies the proposer agrees to these terms as stated unless assumptions and exceptions are spelled out in Tab 4.
* **APPENDIX E:** Vendor Information (DOA-3477) & Vendor References (DOA-3478). The Vendor must provide three (3) references from public employee retirement plans represented by the Firm. ETF will determine which, if any, references to contact to assess the quality of work performed and personnel assigned to the project. The results of any references will be used in scoring proposals. Although these clients shall serve as the primary references for purposes of this RFP, ETF specifically reserves the right to contact **any** clients or past clients for information about the Firm's performance under past and present contracts.

( ) **TAB 3 - Response to Sections 2 & 3**

 Provide the descriptive material called for in Section 2. Provide a point-by-point response to each and every statement in Section 3. The response must follow the same numbering system, use the same headings, and address each point or sub-point. Proposers should re-state each requirement immediately preceding the response to that requirement and distinguish the requirement from the Proposer’s response clearly. For example, box off the requirement and leave the response without a box:

**3.1 Firm Profile**

Describe the law firm or legal practice, including years of existence, size, number of attorneys (broken down by partner, associate, of counsel, etc.), number of non-attorney professionals and other employees, areas of practice, number of attorneys whose practice is primarily in the area of governmental retirement and benefits plans, number of offices and locations, and other descriptive material about the Firm.

*Response.*

Provide a succinct explanation of how each requirement is addressed. Merely indicating that you will complete a task without demonstrating how you will do so may result in your proposal being rejected.

( ) **TAB 4 – Assumptions & Exceptions**

All assumptions and exceptions must be included in this tab and will be scored. Provide a succinct explanation for each item as well as a reference to the section of the proposal to which it relates. **Any assumption or exception made but not included in this Tab 4 will be invalid.** Exceptions to the Department’s contract terms and conditions may be considered during contract negotiations if it is beneficial to the Department. **If exceptions to the standard terms are not presented in this section, the exception will not be discussed or considered during contract negotiations**. When documenting assumptions and exceptions, clearly label each assumption or exception, restate the original term or condition, state your assumption or exception to the term or condition with one of the following labels:

* “RFP Assumption”
* “RFP Exception”
* “Standard Terms & Conditions Exception”

( ) **SEALED COST PROPOSAL: Cost Proposal located in Appendix F. Failure to provide a sealed cost proposal using the exact form provided in Appendix F may result in your proposal being disqualified and rejected**. **No mention of the cost proposal may be made in any other part of the response to this RFP.** Proposers should provide the hourly rates and should note anticipated annual increases, if any, plus the reason for such anticipated annual increases. Unless the Vendor outlines such increases in the cost proposal via Appendix F and the reason for them, the initial price will hold for the duration of the contract, including renewals.

Appendix B
Mandatory Requirements

**This appendix must be completed with the proposal.**

|  |  |
| --- | --- |
| **MANDATORY REQUIREMENTS** | **Check One** |
| *The following requirements are mandatory and must be met by any Vendor who submits a proposal. Failure to comply with one or more of the mandatory requirements may disqualify the proposal. A response to each item in Appendix B is a mandatory requirement.* ***If you cannot agree to each item listed, you must specify the reason in Proposal Tab 4 – Assumptions and Exceptions – of your proposal response.*** | **Agree** | **Disagree – Assumption or Exception Stated in Tab 4** |
| Provide a description of how any turnover on key personnel assigned to this account would be handled. The mandatory requirement is met if you provide a description. |  |  |
| In the event the Board terminates the Contract, the contractor must send an updated transition plan to ETF within thirty (30) days of the written notice of termination to the contractor. Confirm you accept and will comply with this requirement.  |  |  |
| The Firm has no conflict of interest with regard to any other work performed by the Firm for the State of Wisconsin. |  |  |
| The Firm has proof of malpractice insurance. |  |  |
| The Firm adhered to the instructions in this RFP on preparing and submitting the proposal. |  |  |
| The Firm has not been suspended or debarred from performing government work. |  |  |
| Neither the Firm nor any of the attorneys or others listed in the proposal have been the subject of any disciplinary action or inquiry during the past five (5) years, and the attorneys working on the contract have current licenses to practice law in at least one state or the District of Columbia and in at least one federal district in good standing. |  |  |
| The Firm has represented a public employee retirement plan. |  |  |
| The Firm provided at least three (3) references via Appendix E. Each reference must identify the state and/or other public plan for which the Firm provided tax counsel services. |  |  |
| The Firm agrees to meet all contractual requirements as stated in Sections 1 and 4 and Appendix D Standard Terms and Conditions and Supplemental Terms and Conditions.  |  |  |
| The Firm must certify that it has a written business recovery plan as it relates to providing the services described in this RFP. |  |  |

Appendix C
Designation of Confidential and Proprietary Information

**Mandatory**

**This appendix must be completed with the Proposal.**

**The Proposal’s flash drive** must contain one electronic copy of the Proposal with all confidential material redacted and labelled “Redacted for Confidentiality.”

Note: No matter what method the vendor uses to redact, ETF is not responsible for checking that the redactions match the vendor’s Designation of Confidential and Proprietary Information (DOA 3027). Proposers should be aware that ETF may need to electronically send the redacted files the proposer provides to members of the public and other proposers when responding appropriately to records requests. ETF is not responsible for checking that redactions, when viewed on-screen via electronic file, cannot be thwarted. ETF is not responsible for responding to records requests via printed hard copy, even if redactions are only effective on printed hard copy. ETF may post redacted proposals on ETF’s public website at http://etfextranet.it.state.wi.us/ in exactly the same file format the proposer provides, and ETF is not responsible if the redacted file the proposer provides does not adequately protect the information when the redacted file is copied and pasted, uploaded, emailed, and/or transferred via any electronic means.

**STATE OF WISCONSIN**

DOA-3027 N(R01/98)

**DESIGNATION OF CONFIDENTIAL AND PROPRIETARY INFORMATION**

The attached material submitted in response to Bid/Proposal # includes proprietary and confidential information which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or is otherwise material that can be kept confidential under the Wisconsin Open Records Law. As such, we ask that certain pages, as indicated below, of this bid/proposal response be treated as confidential material and not be released without our written approval.

**Prices always become public information when bids/proposals are opened, and therefore cannot be kept confidential.**

Other information cannot be kept confidential unless it is a trade secret. Trade secret is defined in s. 134.90(1)(c), Wis. Stats. as follows: "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique or process to which all of the following apply:

 1. The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

 2. The information is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.

We request that the following pages not be released:

Section Page # Topic

IN THE EVENT THE DESIGNATION OF CONFIDENTIALITY OF THIS INFORMATION IS CHALLENGED, THE UNDERSIGNED HEREBY AGREES TO PROVIDE LEGAL COUNSEL OR OTHER NECESSARY ASSISTANCE TO DEFEND THE DESIGNATION OF CONFIDENTIALITY AND AGREES TO HOLD THE STATE HARMLESS FOR ANY COSTS OR DAMAGES ARISING OUT OF THE STATE'S AGREEING TO WITHHOLD THE MATERIALS.

Failure to include this form in the bid/proposal response may mean that all information provided as part of the bid/proposal response will be open to examination and copying. The State considers other markings of confidential in the bid/proposal document to be insufficient. The undersigned agrees to hold the State harmless for any damages arising out of the release of any materials unless they are specifically identified above.

 Firm Name

 Authorized Representative

 Signature

 Authorized Representative

 Type or Print

 Date

Appendix D
Standard Terms and Conditions

**Standard Terms and Conditions and Supplemental Standard Terms and Conditions for Procurements for Services**

**Vendor agrees to the Terms and Conditions as stated in this Appendix D.**

**Assumptions & Exceptions must be addressed in the Proposal
Tab 4 - Assumptions and Exceptions**

**Appendix D will be scored based on Assumptions and Exceptions taken in Tab 4.**

Standard Terms and Conditions (Request for Bids / Proposals)

Wisconsin Department of Administration

Chs. 16, 19, 51

DOA-3054 (R10/2005)

**1.0 SPECIFICATIONS:** The specifications in this request are the minimum acceptable. When specific manufacturer and model numbers are used, they are to establish a design, type of construction, quality, functional capability and/or performance level desired. When alternates are bid/proposed, they must be identified by manufacturer, stock number, and such other information necessary to establish equivalency. The State of Wisconsin shall be the sole judge of equivalency. Proposers/proposers are cautioned to avoid bidding alternates to the specifications which may result in rejection of their bid/proposal.

**2.0 DEVIATIONS AND EXCEPTIONS:** Deviations and excep­tions from original text, terms, conditions, or specifications shall be described fully, on the proposer's/proposer's letter­head, signed, and attached to the request. In the absence of such statement, the bid/proposal shall be accepted as in strict compliance with all terms, conditions, and specifica­tions and the proposers/proposers shall be held liable.

**3.0 QUALITY:** Unless otherwise indicated in the request, all material shall be first quality. Items which are used, demonstrators, obsolete, seconds, or which have been discontinued are unacceptable without prior written approval by the State of Wisconsin.

**4.0 QUANTITIES:** The quantities shown on this request are based on estimated needs. The State reserves the right to increase or decrease quantities to meet actual needs.

**5.0 DELIVERY:** Deliveries shall be F.O.B. destination freight prepaid and included unless otherwise specified.

**6.0 PRICING AND DISCOUNT:** The State of Wisconsin quali­fies for governmental discounts and its educational institu­tions also qualify for educational discounts. Unit prices shall reflect these discounts.

**6.1** Unit prices shown on the bid/proposal or contract shall be the price per unit of sale (e.g., gal., cs., doz., ea.) as stated on the request or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price, the unit price shall govern in the bid/proposal evaluation and contract administration.

**6.2** Prices established in continuing agreements and term contracts may be lowered due to general market conditions, but prices shall not be subject to increase for ninety (90) calendar days from the date of award. Any increase proposed shall be submitted to the contracting agency thirty (30) calendar days before the proposed effective date of the price increase, and shall be limited to fully documented cost increases to the contractor which are demonstrated to be industry wide. The conditions under which price increases may be granted shall be expressed in bid/proposal documents and contracts or agreements.

**6.3** In determination of award, discounts for early payment will only be considered when all other con­ditions are equal and when payment terms allow at least fifteen (15) days, providing the discount terms are deemed favorable. All payment terms must allow the option of net thirty (30).

**7.0 UNFAIR SALES ACT:** Prices quoted to the State of Wisconsin are not governed by the Unfair Sales Act.

**8.0 ACCEPTANCE-REJECTION:** The State of Wisconsin reserves the right to accept or reject any or all bids/proposals, to waive any technicality in any bid/proposal submitted, and to accept any part of a bid/proposal as deemed to be in the best interests of the State of Wisconsin.

 Bids/proposals MUST be date and time stamped by the soliciting purchasing office on or before the date and time that the bid/proposal is due. Bids/proposals date and time stamped in another office will be rejected. Receipt of a bid/proposal by the mail system does not constitute receipt of a bid/proposal by the purchasing office.

**9.0 METHOD OF AWARD:** Award shall be made to the lowest responsible, responsive proposer unless otherwise specified.

**10.0 ORDERING:** Purchase orders or releases via purchasing cards shall be placed directly to the contractor by an authorized agency. No other purchase orders are authorized.

**11.0 PAYMENT TERMS AND INVOICING:** The State of Wisconsin normally will pay properly submitted vendor invoices within thirty (30) days of receipt providing goods and/or services have been delivered, installed (if required), and accepted as specified.

 Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order including reference to purchase order number and submittal to the correct address for processing.

 A good faith dispute creates an exception to prompt payment.

**12.0 TAXES:** The State of Wisconsin and its agencies are exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below.

 The State of Wisconsin, including all its agencies, is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on its purchases. The State of Wisconsin may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Contractors perform­ing construction activities are required to pay state use tax on the cost of materials.

**13.0 GUARANTEED DELIVERY:** Failure of the contractor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the contractor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include the administrative costs.

**14.0 ENTIRE AGREEMENT:** These Standard Terms and Conditions shall apply to any contract or order awarded as a result of this request except where special requirements are stated elsewhere in the request; in such cases, the special requirements shall apply. Further, the written contract and/or order with referenced parts and attach­ments shall constitute the entire agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the contracting authority.

**15.0 APPLICABLE LAW AND COMPLIANCE:** This contract shall be governed under the laws of the State of Wisconsin. The contractor shall at all times comply with and observe all federal and State laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct. The State of Wisconsin reserves the right to cancel this contract if the contractor fails to follow the requirements of s. 77.66, Wis. Stats., and related statutes regarding certification for collection of sales and use tax. The State of Wisconsin also reserves the right to cancel this contract with any federally debarred contractor or a contractor that is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.

**16.0 ANTITRUST ASSIGNMENT:** The contractor and the State of Wisconsin recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Wisconsin (purchaser). Therefore, the contractor hereby assigns to the State of Wisconsin any and all claims for such overcharges as to goods, materials or services purchased in connection with this contract.

**17.0 ASSIGNMENT:** No right or duty in whole or in part of the contractor under this contract may be assigned or dele­gated without the prior written consent of the State of Wisconsin.

**18.0 WORK CENTER CRITERIA:** A work center must be certi­fied under s. 16.752, Wis. Stats., and must ensure that when engaged in the production of materials, supplies or equipment or the performance of contractual services, not less than seventy-five percent (75%) of the total hours of direct labor are performed by severely handicapped individuals.

**19.0 NONDISCRIMINATION / AFFIRMATIVE ACTION:** In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee 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.

**19.1** Contracts estimated to be over fifty thousand dollars ($50,000) require the submission of a written affirmative action plan by the contractor. An exemp­tion occurs from this requirement if the contractor has a workforce of less than fifty (50) employees. Within fifteen (15) working days after the contract is awarded, the contractor must submit the plan to the contracting State agency for approval. Instructions on preparing the plan and technical assistance regarding this clause are available from the contracting State agency.

**19.2** The contractor agrees to post in conspicuous places, available for employees and applicants for employ­ment, a notice to be provided by the contracting State agency that sets forth the provisions of the State of Wisconsin's nondiscrimination law.

**19.3** Failure to comply with the conditions of this clause may result in the contractor's becoming declared an "ineligible" contractor, termination of the contract, or withholding of payment.

**20.0 PATENT INFRINGEMENT:** The contractor selling to the State of Wisconsin the articles described herein guarantees the articles were manufactured or produced in accordance with applicable federal labor laws. Further, that the sale or use of the articles described herein will not infringe any United States patent. The contractor covenants that it will at its own expense defend every suit which shall be brought against the State of Wisconsin (provided that such contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits recov­erable in any such suit.

**21.0 SAFETY REQUIREMENTS:** All materials, equipment, and supplies provided to the State of Wisconsin must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code and all applicable OSHA Standards.

**22.0 WARRANTY:** Unless otherwise specifically stated by the Proposer, equipment purchased as a result of this request shall be warranted against defects by the Proposer for one (1) year from date of receipt. The equipment manufacturer's standard warranty shall apply as a minimum and must be honored by the contractor.

**23.0 INSURANCE RESPONSIBILITY:** The contractor performing services for the State of Wisconsin shall:

**23.1** Maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in the work.

**23.2** Maintain commercial liability, bodily injury and prop­erty damage insurance against any claim(s) which might occur in carrying out this agreement/contract. Minimum coverage shall be one million dollars ($1,000,000) liability for bodily injury and property damage including products liability and completed operations. Provide motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this contract. Minimum coverage shall be one million dollars ($1,000,000) per occurrence combined single limit for automobile liability and property damage.

**23.3** The State reserves the right to require higher or lower limits where warranted.

**24.0 CANCELLATION:** The State of Wisconsin reserves the right to cancel any contract in whole or in part without penalty due to non-appropriation of funds or for failure of the contractor to comply with terms, conditions, and specifica­tions of this contract.

**25.0 VENDOR TAX DELINQUENCY:** Vendors who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.

**26.0 PUBLIC RECORDS ACCESS:** It is the intention of the State to maintain an open and public process in the solicita­tion, submission, review, and approval of procurement activities.

 Bid/proposal openings are public unless otherwise speci­fied. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract.

**27.0 PROPRIETARY INFORMATION:** Any restrictions on the use of data contained within a request, must be clearly stated in the bid/proposal itself. Proprietary information submitted in response to a request will be handled in accordance with applicable State of Wisconsin procurement regulations and the Wisconsin public records law. Proprie­tary restrictions normally are not accepted. However, when accepted, it is the vendor's responsibility to defend the determination in the event of an appeal or litigation.

**27.1** Data contained in a bid/proposal, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data, docu­mentation, and innovations become the property of the State of Wisconsin.

**27.2** Any material submitted by the vendor in response to this request that the vendor considers confidential and proprietary information and which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or material which can be kept confidential under the Wisconsin public records law, must be identified on a Designation of Confidential and Proprietary Informa­tion form (DOA-3027). Proposers/proposers may request the form if it is not part of the Request for Bid/Request for Proposal package. Bid/proposal prices cannot be held confidential.

**28.0 DISCLOSURE:** If a state public official (s. 19.42, Wis. Stats.), a member of a state public official's immediate family, or any organization in which a state public official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to this agreement, and if this agreement involves payment of more than three thousand dollars ($3,000) within a twelve (12) month period, this contract is voidable by the state unless appro­priate disclosure is made according to s. 19.45(6), Wis. Stats., before signing the contract. Disclosure must be made to the Wisconsin Government Accountability Board, P.O. Box 7984, Madison, WI 53707-7984; by fax, to 608-267-0500; or by e-mail to gab@wi.gov.

State classified and former employees and certain University of Wisconsin faculty/staff are subject to separate disclosure requirements, s. 16.417, Wis. Stats.

**29.0 RECYCLED MATERIALS:** The State of Wisconsin is required to purchase products incorporating recycled mate­rials whenever technically and economically feasible. Proposers are encouraged to bid products with recycled content which meet specifications.

**30.0 MATERIAL SAFETY DATA SHEET:** If any item(s) on an order(s) resulting from this award(s) is a hazardous chemi­cal, as defined under 29CFR 1910.1200, provide one (1) copy of a Material Safety Data Sheet for each item with the shipped container(s) and one (1) copy with the invoice(s).

**31.0 PROMOTIONAL ADVERTISING / NEWS RELEASES:** Reference to or use of the State of Wisconsin, any of its departments, agencies or other subunits, or any State offi­cial or employee for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the State of Wisconsin. Release of broadcast e-mails pertaining to this procurement shall not be made without prior written authorization of the contracting agency.

**32.0 HOLD HARMLESS:** The contractor will indemnify and save harmless the State of Wisconsin and all of its officers, agents and employees from all suits, actions, or claims of any character brought for or on account of any injuries or damages received by any persons or property resulting from the operations of the contractor, or of any of its contractors, in prosecuting work under this agreement.

1. **FOREIGN CORPORATION:** A foreign corporation (any corporation other than a Wisconsin corporation) which becomes a party to this Agreement is required to conform to all the requirements of Chapter 180, Wis. Stats., relating to a foreign corporation and must possess a certificate of authority from the Wisconsin Department of Financial Institutions, unless the corporation is transacting business in interstate commerce or is otherwise exempt from the requirement of obtaining a certificate of authority. Any foreign corporation which desires to apply for a certificate of authority should contact the Department of Financial Institutions, Division of Corporation, P. O. Box 7846, Madison, WI 53707-7846; telephone (608) 261-7577.
2. **WORK CENTER PROGRAM**: The successful Proposer shall agree to implement processes that allow the State agencies, including the University of Wisconsin System, to satisfy the State's obligation to purchase goods and services produced by work centers certified under the State Use Law, s.16.752, Wis. Stat. This shall result in requiring the successful Proposer to include products provided by work centers in its catalog for State agencies and campuses or to block the sale of comparable items to State agencies and campuses.

**35.0 FORCE MAJEURE**: Neither party shall be in default by reason of any failure in performance of this Agreement in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.

State of Wisconsin

Department of Administration

DOA-3681 (01/2001)

ss. 16, 19 and 51, Wis. Stats.

**SUPPLEMENTAL STANDARD TERMS AND CONDITIONS
For PROCUREMENTS FOR SERVICES**

**1.0 ACCEPTANCE OF BID/PROPOSAL CONTENT:** The con­tents of the bid/proposal of the successful contractor will become contractual obligations if procurement action ensues.

**2.0 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION:** By signing this bid/proposal, the Proposer certifies, and in the case of a joint bid/proposal, each party thereto certifies as to its own organi­zation, that in connection with this procurement:

**2.1** The prices in this bid/proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competi­tion, as to any matter relating to such prices with any other Proposer or with any competitor;

**2.2** Unless otherwise required by law, the prices which have been quoted in this bid/proposal have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by the Proposer prior to opening in the case of an advertised procure­ment or prior to award in the case of a negotiated procurement, directly or indirectly to any other Proposer or to any competitor; and

**2.3** No attempt has been made or will be made by the Proposer to induce any other person or Firm to submit or not to submit a bid/proposal for the purpose of restricting competition.

**2.4** Each person signing this bid/proposal certifies that: He/she is the person in the proposer's/proposer's organi­zation responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to 2.1 through 2.3 above; (or)

He/she is not the person in the proposer's/proposer's organization responsible within that organization for the decision as to the prices being offered herein, but that he/she has been authorized in writing to act as agent for the persons responsible for such decisions in certifying that such persons have not participated, and will not participate in any action contrary to 2.1 through 2.3 above, and as their agent does hereby so certify; and he/she has not participated, and will not partici­pate, in any action contrary to 2.1 through 2.3 above.

**3.0 DISCLOSURE OF INDEPENDENCE AND RELATIONSHIP:**

**3.1** Prior to award of any contract, a potential contractor shall certify in writing to the procuring agency that no relationship exists between the potential contractor and the procuring or contracting agency that interferes with fair competition or is a conflict of interest, and no relationship exists between the contractor and another person or organization that constitutes a conflict of interest with respect to a State contract. The Department of Administration may waive this provi­sion, in writing, if those activities of the potential con­tractor will not be adverse to the interests of the State.

**3.2** Contractors shall agree as part of the contract for services that during performance of the contract, the contractor will neither provide contractual services nor enter into any agreement to provide services to a person or organization that is regulated or funded by the contracting agency or has interests that are adverse to the contracting agency. The Department of Administration may waive this provision, in writing, if those activities of the contractor will not be adverse to the interests of the State.

**4.0 DUAL EMPLOYMENT:** Section 16.417, Wis. Stats., prohibits an individual who is a State of Wisconsin employee or who is retained as a contractor full-time by a State of Wisconsin agency from being retained as a contractor by the same or another State of Wisconsin agency where the individual receives more than $12,000 as compensation for the individual’s services during the same year. This prohibition does not apply to individuals who have full-time appointments for less than twelve (12) months during any period of time that is not included in the appointment. It does not include corporations or partnerships.

**5.0 EMPLOYMENT:** The contractor will not engage the services of any person or persons now employed by the State of Wisconsin, including any department, commission or board thereof, to provide services relating to this agreement without the written consent of the employing agency of such person or persons and of the contracting agency.

**6.0 CONFLICT OF INTEREST:** Private and non‑profit corpora­tions are bound by ss. 180.0831, 180.1911(1), and 181.0831 Wis. Stats., regarding conflicts of interests by directors in the conduct of State contracts.

**7.0 RECORDKEEPING AND RECORD RETENTION:** The contractor shall establish and maintain adequate records of all expenditures incurred under the contract. All records must be kept in accordance with generally accepted accounting procedures. All procedures must be in accordance with federal, State and local ordinances.

The contracting agency shall have the right to audit, review, examine, copy, and transcribe any pertinent records or documents relating to any contract resulting from this bid/proposal held by the contractor. The contractor will retain all documents applicable to the contract for a period of not less than three (3) years after final payment is made.

**8.0 INDEPENDENT CAPACITY OF CONTRACTOR:** The parties hereto agree that the contractor, its officers, agents, and employees, in the performance of this agreement shall act in the capacity of an independent contractor and not as an officer, employee, or agent of the State. The contractor agrees to take such steps as may be necessary to ensure that each subcontractor of the contractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State.

Appendix E
Vendor Information and References

**Mandatory**

**This appendix must be completed with the proposal.**

**STATE OF WISCONSIN**

**DOA-3477 (R05/98) Vendor INFORMATION**

|  |  |  |
| --- | --- | --- |
| 1. | BIDDING / PROPOSING FIRM NAME  |  |
|  | FEIN |  |  |  |
|  | Phone | ( ) | Toll Free Phone | ( ) |
|  | FAX | ( ) | E-mail Address |  |
|  | Address |  |
|  | City |  | State |  | Zip + 4 |  |
|  |  |
| 2. | Name the person to contact for questions concerning this bid / proposal. |
|  | Name |  | Title |  |
|  | Phone | ( ) | Toll Free Phone | ( ) |
|  | FAX | ( ) | E-mail Address |  |
|  | Address |  |
|  | City |  | State |  | Zip + 4 |  |
|  |  |
| 3. | Any vendor awarded over $50,000 on this contract must submit affirmative action information to the department. Please name the Personnel / Human Resource and Development or other person responsible for affirmative action in the Firm to contact about this plan. |
|  | Name |  | Title |  |
|  | Phone | ( ) | Toll Free Phone | ( ) |
|  | FAX | ( ) | E-mail Address |  |
|  | Address |  |
|  | City |  | State |  | Zip + 4 |  |
|  |  |

|  |  |
| --- | --- |
| 4. | Mailing address to which state purchase orders are mailed and person the department may contact concerning orders and billings. |
|  | Name |  | Title |  |
|  | Phone | ( ) | Toll Free Phone | ( ) |
|  | FAX | ( ) | E-mail Address |  |
|  | Address |  |
|  | City |  | State |  | Zip + 4 |  |
|  |  |
| 5. | CEO / President Name |  |

|  |  |  |
| --- | --- | --- |
| State of WisconsinDOA-3478 (R12/96) | **vendor Reference** |  |
| FOR VENDOR: |  |
|  |
|  |
| Firm Name |  |
|  |
| Address (include Zip + 4) |  |
|  |
| Contact Person |  | Phone No. |  |
|  |
| Product(s) and/or Service(s) Used  |  |
|  |  |
|  |
| Firm Name |  |
|  |
| Address (include Zip + 4) |  |
|  |
| Contact Person |  | Phone No. |  |
|  |
| Product(s) and/or Service(s) Used  |  |
|  |  |
|  |
| Firm Name |  |  |  |
|  |
| Address (include Zip + 4) |  |
|  |
| Contact Person |  | Phone No |  |
|  |
| Product(s) and/or Service(s) Used  |  |
|  |  |
|  |  |
|  |
| Firm Name |  |
|  |
| Address (include Zip + 4) |  |
|  |
| Contact Person |  | Phone No. |  |
|  |
| Product(s) and/or Service(s) Used  |  |
|  |  |
|  |  |

Appendix F
Cost Proposal

**This appendix must be completed with the proposal.**

##### Firm Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_

##### Authorized Person: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Phone: \_\_\_\_\_\_\_\_\_\_

#####  (Print or type)

#####  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

#####  (Signature of authorized person)

The Vendor's response must detail all proposed costs described in the RFP, as well as any additional services the Vendor may elect to offer. If assumptions are necessary, please fully explain the assumptions used. After considering the proposals and prior to awarding a contract, ETF reserves the right to negotiate a discounted final cost. **Failure to provide a sealed cost proposal using the exact form provided in Appendix F may result in your proposal being disqualified and rejected**. **No mention of the cost proposal may be made in any other part of the response to this RFP.** Proposers should provide the hourly rates and should note anticipated annual increases, if any, plus the reason for such anticipated annual increases. Unless the Vendor outlines such increases in the cost proposal via Appendix F and the reason for them, the initial price will hold for the duration of the contract, including renewals.

Hourly Rates for Key Staff/Supplemental Services

|  |  |  |
| --- | --- | --- |
| **Category** | **Name(s)** | **Hourly Rate** |
| Attorney |  |  |
| Actuary |  |  |
| Paralegal |  |  |
| **TOTAL & COST BASIS FOR AWARD** |  |  |

APPENDIX G
Business Associate Agreement

**State of Wisconsin**

**Department of Employee Trust Funds**

This Business Associate Agreement (“Agreement”) is by and between Vendor, Inc. (“BUSINESS ASSOCIATE”) and the Wisconsin Department of Employee Trust Funds (“ETF”), which is acting on behalf of the State of Wisconsin.

**RECITALS**

**WHEREAS**, ETF and BUSINESS ASSOCIATE have executed a contract, pursuant to which BUSINESS ASSOCIATE provides legal services, (“Underlying Contract”), and in connection with those services, ETF discloses or allows the disclosure to BUSINESS ASSOCIATE of certain information that is protected by the Health Insurance Portability and Accountability Act of 1996, (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act of 2009 as passed as part of the American Recovery and Reinvestment Act of 2009 (“HITECH”), and their implementing regulations, Title 45, Parts 160 through 164 of the Code of Federal Regulations;

**WHEREAS**, with respect to BUSINESS ASSOCIATE’s activities pursuant to the Underlying Contract, BUSINESS ASSOCIATE is ETF’s “Business Associate” as that term is defined by HIPAA;

**WHEREAS**, it is the intent of this Agreement to comply with the federal regulations implementing HIPAA and HITECH concerning the privacy and security rules in 45 C.F.R. Parts 160 to 164, inclusive; and

**WHEREAS**, ETF and BUSINESS ASSOCIATE agree to incorporate the terms of this Agreement into the Underlying Contract and agree to incorporate this Agreement into any associated addenda and contract extensions, in order to comply with HIPAA and HITECH.

**NOW, THEREFORE**, in consideration of these premises and the mutual promises and agreements in this Business Associate Agreement, ETF and BUSINESS ASSOCIATE agree to the following:

**Part 1 - OBLIGATIONS OF BUSINESS ASSOCIATE**

1. **Uses and Disclosures.** BUSINESS ASSOCIATE may use or disclose Protected Health Information (“PHI”) it creates for or receives from ETF or any other Business Associate of ETF for only the following, limited purposes:
	1. Permitted Uses and Disclosures of PHI. BUSINESS ASSOCIATE is permitted to use and disclose PHI:
		1. To provide legal services according to the Underlying Contract.
		2. Subject to the limitations on Uses and Disclosures outlined in this Business Associate Agreement, BUSINESS ASSOCIATE is authorized to use and disclose PHI as necessary for BUSINESS ASSOCIATE’s proper management and administration, to carry out BUSINESS ASSOCIATE’s legal responsibilities, and as otherwise required by law.
	2. Prohibition on Unauthorized Use or Disclosure. BUSINESS ASSOCIATE will not use or disclose PHI it creates for or receives from ETF or from another Business Associate of ETF, except as authorized or required by this Agreement or as required by law or as otherwise authorized in writing by ETF, including marketing and solicitation of business outside the Underlying Contract and disclosure of such information to a Third Party.
	3. Regulations and Laws. BUSINESS ASSOCIATE will comply with:
		1. 45 C.F.R. Parts 160 to 164, inclusive, as applicable to a “Business Associate” of a “Covered Entity” and any other regulations adopted pursuant to HIPAA and HITECH; and
		2. Applicable Wisconsin Law not preempted by 45 C.F.R §§ 160.201 to 160.203, inclusive, or any other federal law.
2. **Information Safeguards.** BUSINESS ASSOCIATE will develop, implement, maintain and use reasonable and appropriate administrative, technical and physical safeguards to preserve the integrity and confidentiality of PHI under the control of BUSINESS ASSOCIATE, and to prevent intentional or unintentional non-permitted or violating use or disclosure of PHI. BUSINESS ASSOCIATE will document and keep these safeguards current and furnish documentation of the safeguards to ETF upon request. These safeguards will comply with HIPAA, HITECH and their implementing regulations.
3. **Reporting of Breach, Improper Use or Disclosure.** BUSINESS ASSOCIATE will report to ETF the discovery of any breach, use or disclosure of PHI, not allowed by this Agreement or in violation of 45 C.F.R. Part 164 or HITECH. A breach, improper use or disclosure (“Security Violation”) is considered to be discovered as of the first day on which such Security Violation is known to BUSINESS ASSOCIATE, or, by exercising reasonable diligence, would have been known to BUSINESS ASSOCIATE.
	1. Within one business day of the discovery, BUSINESS ASSOCIATE shall notify ETF’s Privacy Officer about the Security Violation and all facts that are known to the BUSINESS ASSOCIATE about the Security Violation at that time.
	2. Within four business days of the discovery, BUSINESS ASSOCIATE shall conduct a thorough investigation and report to ETF in writing the following information:
		1. The name and contact information of each individual whose PHI has been or is reasonably believed to have been accessed, acquired or disclosed during the Security Violation.
		2. A description of what happened, including the date of the Security Violation, if known, and the date of the discovery of the Security Violation.
		3. A description of the types of PHI that were involved in the Security Violation (e.g., full name, date of birth, Social Security number, account number).
		4. The actions BUSINESS ASSOCIATE has undertaken or will undertake to mitigate any harmful effect of the Security Violation.
	3. At ETF’s option, BUSINESS ASSOCIATE will be responsible for notifying individuals of the Security Violation when ETF requires notification and to pay any cost of such notifications, as well as any costs associated with the Security Violation, including, without limitation, credit monitoring services.
		1. BUSINESS ASSOCIATE must obtain ETF’s approval of the time, manner and content of any such notifications, provide ETF with copies of the notifications, and provide the notifications within sixty (60) days after discovery of the breach, improper use or disclosure.
		2. BUSINESS ASSOCIATE shall have the burden of demonstrating to ETF that all notifications were made as required, including any evidence demonstrating the necessity of any delay beyond the sixty 60 day notification to affected individuals after the discovery of the Security Violation by ETF or BUSINESS ASSOCIATE.

**D. Duty to Mitigate Harmful Effects of Unauthorized Acquisition.** BUSINESS ASSOCIATE will mitigate, as required by HIPAA, HITECH, state law and this Agreement, to the extent practicable, any harmful effect that is known to BUSINESS ASSOCIATE of a breach, improper use or unauthorized disclosure reported pursuant to subsection C.

1. **Minimum Necessary.** BUSINESS ASSOCIATE will make reasonable efforts to use, disclose, or request only the minimum amount of PHI necessary to accomplish the intended purpose and shall comply with regulations issued pursuant to HIPAA and HITECH. Internal disclosure of PHI to employees of BUSINESS ASSOCIATE shall be limited only to those employees who need the information and only to the extent necessary to perform their responsibilities according to the Underlying Contract and this Agreement.

1. **Disclosure to Subcontractors and Agents**. BUSINESS ASSOCIATE shall require any of its agents or subcontractors to provide reasonable assurance, evidenced by written contract, that the agent or subcontractor will comply with the same privacy and security obligations as BUSINESS ASSOCIATE with respect to such PHI. Before entering into such a contract with an agent or subcontractor, BUSINESS ASSOCIATE shall obtain ETF’s written approval of the contract.
2. **Access, Amendment and Disclosure Accounting.**
3. Access. At the direction of ETF, BUSINESS ASSOCIATE agrees to provide access to any PHI held by BUSINESS ASSOCIATE, in the time and manner designated by ETF, so that ETF may meet its access obligations under HIPAA and HITECH. All fees related to this access, as determined by BUSINESS ASSOCIATE, are the responsibility of the individual requesting the access.
4. Amendment. At the direction of ETF, BUSINESS ASSOCIATE agrees to amend or correct PHI held by BUSINESS ASSOCIATE, in the time and manner designated by ETF, so that ETF may meet its amendment obligations pursuant to HIPAA and HITECH. All fees related to this amendment, as determined by BUSINESS ASSOCIATE, are the responsibility of the individual requesting the access.
5. Documentation of Disclosures. BUSINESS ASSOCIATE agrees to document disclosures of PHI and information related to disclosures so that ETF may meet its obligations under HIPAA and HITECH.
6. Accounting of Certain Disclosures. BUSINESS ASSOCIATE shall maintain a process to provide ETF an accounting of disclosures of PHI for as long as BUSINESS ASSOCIATE maintains PHI received from or on behalf of ETF. BUSINESS ASSOCIATE agrees to provide to ETF or to an individual, in a time and manner designated by ETF, information collected in accordance with Subsection 3 above, to permit ETF to properly respond to a request by an individual for an accounting of disclosures pursuant to HIPAA and HITECH.
	1. Each accounting will provide:
		1. The date of each disclosure;
		2. The name and address of the organization or person who received the PHI;
		3. A brief description of the PHI disclosed; and
		4. For disclosures other than those made at the request of the subject, the purpose for which the PHI was disclosed and a copy of the request or authorization for disclosure.
	2. For repetitive disclosures that BUSINESS ASSOCIATE makes to the same person or entity, including ETF, for a single purpose, BUSINESS ASSOCIATE may provide:
		1. The disclosure information for the first of these repetitive disclosures;
		2. The frequency or number of these repetitive disclosures; and
		3. The date of the last of these repetitive disclosures.
	3. BUSINESS ASSOCIATE will make a log of this disclosure information available to ETF within five (5) business days of ETF’s request.
	4. BUSINESS ASSOCIATE need not record disclosure information or otherwise account for disclosures of PHI if:
		1. The disclosures are allowed under this Agreement or are expressly authorized by ETF in another written document; and
		2. The disclosures are for one of the following purposes:
			1. Treatment, Payment or Health Care Operations that are not made through an Electronic Health Record;
			2. In response to a request from the Individual who is the subject of the disclosed PHI, or to that Individual’s Personal Representative;
			3. Made to persons involved in the health care or payment for the health care of the Individual who is the subject of the disclosed PHI;
			4. For notification for disaster relief purposes;
			5. For national security or intelligence purposes;
			6. As part of a Limited Data Set; or
			7. To law enforcement officials or correctional institutions regarding inmates.
7. Disclosure Tracking Periods. Except as otherwise provided in this paragraph, BUSINESS ASSOCIATE must have available to ETF the disclosure information required by this section, but in no case will BUSINESS ASSOCIATE be required to have available information from:

(a) More than six (6) years before ETF’s request for the disclosure information; or

(b) Any period during which BUSINESS ASSOCIATE did not provide services to ETF.

1. **Accounting to ETF and Government Agencies.** BUSINESS ASSOCIATE will make its internal practices, books, and records relating to its use and disclosure of PHI available to ETF to provide to the U.S. Department of Health and Human Services (HHS) in a time and manner designated by HHS for the purpose of determining ETF’s compliance with HIPAA and HITECH. BUSINESS ASSOCIATE shall promptly notify ETF of any inquiries made to it by HHS concerning ETF’s compliance with HIPAA.

**PART 2 – ETF OBLIGATIONS**

1. **Changes in Permissions to Use and Disclose PHI.** ETF shall promptly notify BUSINESS ASSOCIATE of any change in, or revocation of, permission by an individual to use or disclose PHI, to the extent that such change may affect BUSINESS ASSOCIATE’s use or disclosure of such PHI.
2. **Changes in ETF’s Notice of Privacy Practices.** ETF shall provide BUSINESS ASSOCIATE with a copy of ETF’s Notice of Privacy Practices and shall notify BUSINESS ASSOCIATE of any change made to the Notice of Privacy Practices, to the extent that such change may affect BUSINESS ASSOCIATE’s efforts to comply with this Agreement.
3. **Changes in Wisconsin Law.** ETF shall notify BUSINESS ASSOCIATE of any relevant change in Wisconsin law, to the extent that such change may affect BUSINESS ASSOCIATE’s efforts to comply with this Agreement.

**PART 3 - TERM, TERMINATION AND AMENDMENT**

1. **Term.** This Agreement becomes effective on the effective date of the Underlying Contract. The Agreement is co-extensive with the term of the Underlying Contract, including any extensions made to the original Underlying Contract.
2. **Reasonable Steps to Cure Breach and Termination for Breach.** ETF may provide BUSINESS ASSOCIATE with an opportunity to cure the material breach. If these efforts to cure the material breach are unsuccessful, as determined by ETF in its sole discretion, ETF may terminate the Underlying Contract and this Agreement, as soon as administratively feasible.
3. **Effect of Termination: Return or Destruction of PHI.** Upon termination, cancellation, expiration, or other conclusion of the Underlying Contract, BUSINESS ASSOCIATE shall:
4. Return to ETF or, if return is not feasible, destroy all PHI in whatever form or medium that BUSINESS ASSOCIATE received from or created on behalf of ETF. This provision shall also apply to all PHI that is in the possession of subcontractors or agents of BUSINESS ASSOCIATE. In such case, BUSINESS ASSOCIATE shall retain no copies of such information, including any compilations derived from and allowing identification of PHI. BUSINESS ASSOCIATE shall complete such return or destruction as promptly as possible, but not more than thirty (30) days after the effective date of the conclusion of this Agreement. Within such thirty (30) day period, BUSINESS ASSOCIATE shall certify on oath in writing to ETF that such return or destruction has been completed.
5. If BUSINESS ASSOCIATE destroys PHI, destruction shall be done with the use of technology or methodology that renders the PHI unusable, unreadable, or undecipherable to unauthorized individuals as specified by HHS in HHS guidance for the destruction of Protected Health Information. Acceptable methods for destroying PHI include: (i) paper, film, or other hard copy media shredded or destroyed in order that Personal Information cannot be read or reconstructed; and (ii) electronic media cleared, purged or destroyed consistent with the standards of the National Institute of Standards and Technology (NIST). HHS specifically excluded redaction as a method of destruction of Protected Health Information, unless the information is properly redacted so as to be fully de-identified.
6. If BUSINESS ASSOCIATE believes that the return or destruction of PHI is not feasible, BUSINESS ASSOCIATE shall provide written notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction is not feasible, BUSINESS ASSOCIATE shall extend the protections of this Agreement to PHI received from or created on behalf of ETF, and limit further uses and disclosures of such PHI, for so long as BUSINESS ASSOCIATE maintains the PHI.

**D. Agreement to Amend the Business Associate Agreement.** The parties to this Agreement and the Underlying Contract acknowledge that amendment to this Agreement may be required to provide for procedures to ensure compliance with new developments in HIPAA and HITECH laws.

1. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, HITECH and their implementing regulations.

2. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, HITECH and applicable federal regulations.

3. If this Agreement is not amended by the effective date of any final regulation or amendment to final regulations with respect to HIPAA and HITECH, this Agreement will automatically be amended on such effective date such that the obligations they impose on BUSINESS ASSOCIATE remain in compliance with the regulations then in effect.

**PART 4 – GENERAL PROVISIONS**

1. **Conflict.** The provisions of this Agreement override and control any conflicting provision of the Underlying Contract regarding the applicability and interpretation of HIPAA or HITECH as it applies to the Vendor as a Business Associate of ETF. All non-conflicting provisions of the Underlying Contract remain in full force and effect.
2. **Documentation.** All documentation that is required by this Agreement or by 45 C.F.R. Part 164 will be retained by BUSINESS ASSOCIATE for six (6) years from the date of creation or when it was last in effect, whichever is longer.
3. **Survival.** The parties’ obligations and rights, with respect to BUSINESS ASSOCIATE’s engagement to provide services, will be unaffected by the termination of the Underlying Contract and this Agreement

Appendix H – sample doa-3049

Contract by Authorized Board

|  |  |
| --- | --- |
| **Commodity or Service:** Federal Tax Counsel to the State of Wisconsin Employee Trust Funds Board for the Wisconsin Retirement System and Related Programs | **Contract No./Request for Bid/Proposal No:** RFP ETE0017 |
|  | **Authorized Board:** Employee Trust Funds Board |
| **Contract Period:** July 1, 2015 through June 30, 2016, plus an option to renew for five (5) additional one-year (1) periods  |

1. This Contract is entered into by and between the State of Wisconsin, Employee Trust Funds Board hereinafter referred to as the “Board” and the State of Wisconsin, Department of Employee Trust Funds hereinafter referred to as the “Department”, and XXXXX hereinafter referred to as the “Contractor”, whose address and principal officer appears on page X. The Department is the sole point of contact for this Contract.
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 State of Wisconsin standard terms and conditions of the request for ETE0017 bid or proposal cited above, and in accordance with the Contractor's ETE0017 bid or proposal dated hereby incorporated into this Contract by reference.
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. 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 fifty thousand dollars ($50,000) require the submission of a written affirmative action plan. Contractors with an annual work force of less than fifty (50) employees are exempted from this requirement. Within fifteen (15) business 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 Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707-7931, 608.261.7951, or via e-mail at [ETFProcurement@etf.wi.gov](file:///%5C%5Cetf-fnps01%5Cworkareas%5Cusers%5CACCTG%5CBLACKR%5CContracts%5C2014%5CETFProcurement%40etf.wi.gov).
5. For purposes of administering this Contract, the Order of Precedence is:
A) This Contract with XXXXX and
B) the RFP dated , and;

C)Contractor’s bid dated XXXX.

Contract Number & Service:

ETE0017 Federal Tax Counsel to the State of Wisconsin Employee Trust Funds Board for the Wisconsin Retirement System and Related Programs

|  |  |  |
| --- | --- | --- |
| **State of Wisconsin** |   | **Contractor to Complete** |
| **Department of Employee Trust Funds** |
| By Authorized Board or Designee *(Name)*  | Legal Company Name |
|  |  |
| Signature | Trade Name |
|  |  |
| Title | Taxpayer Identification Number |
|  |  |
| Phone | Company Address *(City, State, Zip)* |
|  |
| Date *(MM/DD/CCYY)* | By *(Name)* |
|  |  |
|  | Signature |
|  |  |
|  |  | Title |
|  |  |   |
|  |  | Phone |
|  |  |  |
|  |  | Date *(MM/DD/CCYY)* |
|  |  |       |