



Department of Employee Trust Funds
4822 Madison Yards Way, 8th Floor
P. O. Box 7931
Madison, WI 53707-7931

Contract

Commodity or Service:

Contract No./Request for Bid/Proposal No:

Courier Services

ETI0033

Contract Period: March 1, 2019 – February 28, 2020, with the option of two, one-year renewals

Cost: \$795/month

1. This Contract is entered into by and between the State of Wisconsin Department of Employee Trust Funds (“ETF”) and CS Logistics, Inc. (“Contractor”) whose address and principal officer appear below. ETF is the sole point of contact for this Contract. All references to the “Department,” “ETF,” “State of Wisconsin,” or “State” in any term, condition, or specification shall have the same authority as one entity.
2. ETF agrees to direct the purchase and Contractor agrees to supply the services described in ETF’s RFB ETI0033 for Courier Services, with the release date of January 3, 2019, in accordance with the Department Terms and Conditions (listed below).
3. CS Logistics, Inc. must be responsible for all wages, Federal and State Withholding taxes, FICA and Worker’s Compensation Insurance for its employees.
4. For purposes of administering this Contract, the following documents are hereby incorporated into this Contract by reference, and the order of precedence shall be as follows:
 - (a) This Contract with CS Logistics, Inc.
 - (b) RFB ETI0033 for Courier Services, with the release date of January 3, 2019, including Department Terms and Conditions, revised 03-01-2018, and RFB ETI0033 Courier Services - Vendor Q & A, dated January 14, 2019.
 - (c) CS Logistics, Inc. response to RFB ETI0033, signed January 10, 2019; and,
 - (d) Exhibit A – Contracted Personnel - Confidentiality and Inventions Agreement – signed by each person from CS Logistics who will be working with ETF on this account, including Bryce Hass and Ifeanyi Anonah.
 - (e) Exhibit B – Clarifications agreed to by the Parties to Form C - Department Terms and Conditions.

Contract: ETI0033 – Courier Services

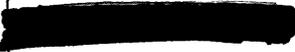
The parties agree to the terms and conditions set forth herein:

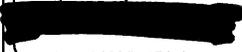
State of Wisconsin Department of Employee Trust Funds
Address: 4822 Madison Yards Way, 8 th Floor P.O. Box 7931 Madison, WI 53707-7931
By (print the name of person authorized to legally sign this document and bind the agency):

CS Logistics, Inc.
Address: 11001 West Mitchell Street Milwaukee, WI 53214
Taxpayer ID Number (for payment purposes): 39-1918636
By (print the name of person authorized to legally sign this document and bind the entity):

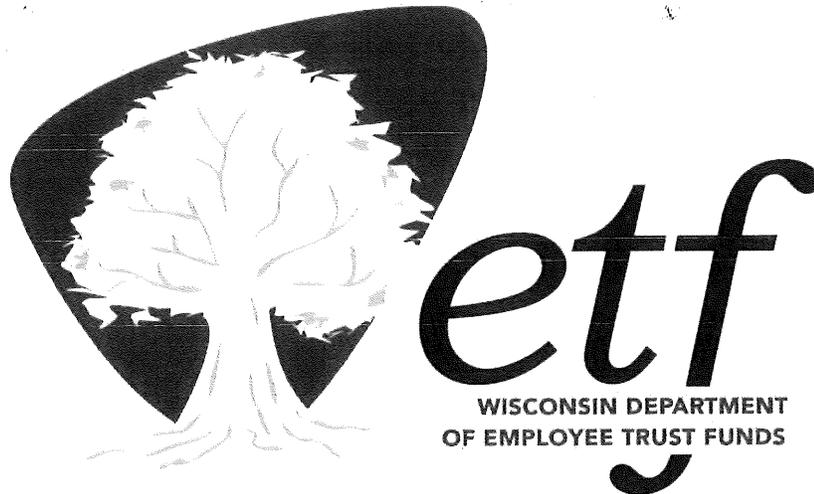
Pamela S. Henning
Title (print title of person named above):
Assistant Deputy Secretary

Steven S. Kreinz
Title (print title of person named above):
VP

Signature: DocuSigned by: 
F2159601A7C748E... Date: 2/13/2019

Signature: DocuSigned by: 
E5A67AFBB91E499... Date: 2/11/2019

**Request for Bid (RFB) ETI0033
Courier Services**



**Issued by the
State of Wisconsin
Department of Employee Trust Funds**

Release Date: January 3, 2019

TABLE OF CONTENTS

1	GENERAL INFORMATION	3
2	BID SELECTION AND AWARD PROCESS	15
3	REQUIREMENTS	17
4	CONTRACT TERMS AND CONDITIONS	19
	FORM A - BIDDERS CHECKLIST	21
	FORM B - COURIER DAILY RUN SCHEDULE	24
	FORM C - DEPARTMENT TERMS AND CONDITIONS	26
	FORM D - BIDDER REQUIRED FORM	46
	FORM E - COST WORKSHEET	51
	FORM F - DRAFT CONTRACT	52
	FORM G - SUBCONTRACTOR INFORMATION	54

TABLES

- Table 1 – Format for Submission of Clarification Questions
- Table 2 – Calendar of Events
- Table 3 – No Assumptions or Exceptions Allowed

1 GENERAL INFORMATION

1.1 INTRODUCTION

This Request for Bid (RFB) is issued by the Department of Employee Trust Funds for courier services. Other agencies may piggyback on this contract if doing so would be in their best interests. Providing consistent secure service is of the utmost importance.

The contractor will provide courier services to deliver confidential financial documents between ETF's offices at 4822 Madison Yards Way, Madison, WI, 53705-9100, and 101 East Wilson Street (DOA - 5th floor). The services are to be provided each day from Monday through Friday, except state holidays.

ETF is also asking for pricing for "Special Request" stops, which are additional stops within Madison over and above the daily run. Last, ETF is asking for an hourly rate for services that ETF may require, whether the stop is inside or outside the Madison area.

This procurement is authorized under Chapter 16 of the Wisconsin State Statutes.

The Department of Employee Trust Funds (ETF) administers the Wisconsin Retirement System (WRS), the group health insurance program for state employees and many local governments, and a variety of other public employee benefit programs. The WRS is the 9th largest pension system in the nation and ETF's largest program, providing retirement benefits for more than 620,000 current and former state and local government employees on behalf of more than 1,500 employers.

Please note that this is a request for bids and not a request for proposals. The work to be performed by the contractor is described in this RFB. Although a work plan is provided in this document, the Department and the Contractor have the flexibility to agree on changes that will enhance the process or offer greater efficiencies. The objective is for Bidders to provide adequate documentation in a succinct format that demonstrates ability and willingness to provide the services described in this document and abide by the terms and conditions herein. The least cost responsible Bidder will be awarded the Contract pending Contract signing.

1.2 CURRENT STATE AND BACKGROUND

Please refer to this schedule. The courier calls into ETF Supply and Mail Services about 5 minutes before arriving. This is so ETF Supply and Mail Services staff can meet the courier by their vehicle near the loading dock and exchange materials. This keeps the route running on schedule.

1.3 PROCURING AND CONTRACTING AGENCY

This RFB is issued by the Department of Employee Trust Funds, the sole point of contact for the State in the selection process. The terms "State," "ETF" and "Department" may be used interchangeably in this document and its attachments.

Prospective Bidders are prohibited from contacting any person other than the individual listed below regarding this RFB. Violation of this requirement may result in the Bidder being disqualified from further consideration.

<u>Express delivery</u>	<u>United States Postal Service delivery</u>
Dept. of Employee Trust Funds Kristen Schipper – Purchasing Agent RFB ETI0033 Hill Farms State Office Building (HFSOB) 8th Floor North Tower (Visitor's Entrance) 4822 Madison Yards Way Madison, WI 53705-9100	Dept. of Employee Trust Funds Kristen Schipper – Purchasing Agent RFB ETI0033 P.O. Box 7931 Madison, WI 53707-7931

Telephone: 608-261-0737

E-mail: ETF SMBProcurement@etf.wi.gov

1.4 DEFINITIONS AND ACRONYMS

Words and terms shall be given their ordinary and usual meanings. Words and terms not defined below shall have the meanings provided by Wis. Stat. § 40.02 and Wis. Admin. Code § ETF 10.01 unless otherwise clearly and unambiguously defined by the context of their usage in this RFB. Where capitalized or not in this RFB, the following definitions and acronyms shall have the meanings indicated unless otherwise noted. The meanings shall be applicable to the singular, plural, masculine, feminine, and neuter forms of the words and terms. Please see ETF's glossary at: <http://etf.wi.gov/glossary.htm> for additional definitions.

Bid means the document submitted in response to this RFB.

Bidder means a firm or individual submitting a Bid in response to this RFB.

Board(s) means State of Wisconsin Employee Trust Funds Board, State of Wisconsin Group Insurance Board and/or State of Wisconsin Deferred Compensation Board.

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

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

Calendar Year means the time period from January 1 to December 31.

CDT means Central Daylight Time covering a time period of mid-March to early November each calendar year.

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) Individual Personal Information; (ii) Personally Identifiable Information; (iii) Protected Health Information under HIPAA, 45 CFR 160.103; (iv) proprietary information; (v) 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; (vi) information expressly designated as confidential in writing by the State of Wisconsin; (vii) 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); or (viii) any material submitted by the Bidder in response to this RFB that the Bidder designates as confidential and proprietary information and which qualifies as a trade secret, as provided in Wis. Stat. § 19.36 (5) or material which can be kept confidential under the Wisconsin public records law.

Contract means the written agreement resulting from the successful Bid and subsequent negotiations that shall incorporate, among other things, this RFB, the successful Bid as accepted by the Department, Form C – Department Terms and Conditions, an updated and executed Form F – Draft Contract, exhibits, subsequent amendments and other documents.

Contractor means the Bidder(s) who is/are awarded the Contract(s).

CST means Central Standard Time covering all time periods not CDT.

Day means Calendar Day unless otherwise indicated.

Department means the Wisconsin Department of Employee Trust Funds.

ETF means the Wisconsin Department of Employee Trust Funds.

HIPAA means the Health Insurance Portability and Accountability Act of 1996. See Department Terms and Conditions.

Individual Personal Information or **IPI** has the meaning ascribed to it at Wis. Admin. Code ETF § 10.70 (1). See Form C – Department Terms and Conditions.

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

Personally Identifiable Information or **PII** means information that is capable of identifying a particular individual through one or more identifiers or other information or circumstances. See Form C – Department Terms and Conditions.

Protected Health Information or **PHI** has the meaning ascribed to it under 45 s. CFR 160.103. See Form C – Department Terms and Conditions.

RFB means Request for Bid.

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 **Wisconsin Statutes** or **Wis. Stat.** means Wisconsin State Statutes referenced in this RFB, viewable at: <http://www.legis.state.wi.us/rsb/stats.html>.

Statement of Work means a document that clearly specifies the project requirements, milestones, deliverables, end products, documents and reports to be provided by the vendor.

Subcontractor means a person or company hired by the Contractor to perform a specific task or provide Services as part of the Contract.

Vendor means any individual, firm, company, corporation, or other entity that may submit a Bid in response to this RFB.

1.5 CLARIFICATION OF THE SPECIFICATIONS AND REQUIREMENTS

Bidders must submit all questions concerning this RFB via e-mail (no phone calls) to ETF SMBProcurement@etf.wi.gov. The subject line of the e-mail must state "**RFB ETI0033**," and the e-mail must be received on or before the date identified in Section 1.8 Calendar of Events for "Bidder Questions and Letter of Intent to Bid Due." Bidders are expected to raise any questions they have concerning this RFB at this point in the process. Bidders are encouraged to submit any assumptions or exceptions during this process. Any assumption or exception listed must contain a rationale as to the basis. The Department will inform the Bidders which assumptions or exceptions would be acceptable.

Questions must be submitted as a Microsoft Word document (not a .pdf or scanned image) using the format specified below:

Table 1 - Format for Submission of Clarification Questions

No.	RFB SECTION	RFB PAGE	QUESTION
Q1			
Q2			

The Bidder's e-mail must include the name of the Bidder's company and the person submitting the question(s). A compilation of all questions and answers, along with any RFB updates, will be posted to the **ETF Extranet** (<https://etfonline.wi.gov/etf/internet/RFP/rfp.html>) on or about the date indicated in Section 1.8 Calendar of Events.

If a Bidder discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in this RFB, the Bidder should immediately notify the individual identified in Section 1.3 of such error and request modification or clarification of this RFB.

If it becomes necessary to provide additional clarifying data or information, or to revise any part of this RFB, supplements or revisions will be published on the **ETF Extranet** (<https://etfonline.wi.gov/etf/internet/RFP/rfp.html>) and will not be mailed. Electronic versions of this RFB and all appendices and exhibits are available on ETF's Extranet.

1.6 BIDDER CONFERENCE

There is no scheduled Bidder conference. A Bidder conference is an opportunity for Bidders to ask questions. If ETF decides to hold a Bidder conference, a notice will be

posted on the **ETF Extranet** (<https://etfonline.wi.gov/etf/internet/RFP/rfp.html>). Note: unless this notice is posted, no conference will be held.

1.7 REASONABLE ACCOMMODATIONS

ETF will provide reasonable accommodations, including the provision of informational material in an alternative format, for qualified individuals with disabilities, upon request.

1.8 CALENDAR OF EVENTS

Listed below are the important dates by which actions related to this RFB must be completed. In the event that the Department 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 this RFB via the **ETF Extranet** (<https://etfonline.wi.gov/etf/internet/RFP/rfp.html>). No other formal notification will be issued.

Table 2 - Calendar of Events

DATE	EVENT
January 3, 2019	ETF Issues RFB
January 10, 2019	Bidder Questions and Letter of Intent to Bid Due
January 14, 2019	ETF Posts Answers to Questions on ETF Extranet
January 18, 2019, 2:00 P.M. CST	Bid Due Date and Time
January 2019	ETF Notifies Bidders of Contract Award
February 1, 2019	Contract Start Date

NOTE: All dates are estimated except the dates for Bidder Questions and Bid Due Date and Time.

1.9 CONTRACT TERM

The Contract will commence February 1, 2019 and will extend for a one-year initial term. ETF retains the option, by mutual agreement of ETF and the selected Contractor, to renew for up to two (2) additional one (1) year periods, subject to the satisfactory negotiation of terms, including pricing.

Bidders must provide pricing on the Form E – Cost Worksheet for the entire length of the Contract, including any optional renewals. There will be no price increases for the length of the Contract, including optional renewal periods.

Gasoline surcharges won't be considered. A bid conditioned on a possible floating gasoline surcharge will be grounds for disqualification.

1.10 LETTER OF INTENT

By the date indicated in Section 1.8, Calendar of Events, please submit a letter of intent via e-mail indicating that a Bidder intends to submit a response to this RFB. In the letter, identify the Bidder's organization and give the name, location, telephone number, and e-mail address of one or more persons authorized to act on the Bidder's behalf. Submit the letter of intent to the email address listed in Section 1.3. The letter of intent does not obligate the Bidder to submit a Bid and is not mandatory.

1.11 NO OBLIGATION TO CONTRACT

ETF reserves the right to cancel this RFB for any reason prior to award and prior to signing a contract. ETF does not guarantee to purchase any specific dollar amount. Bids that stipulate that ETF shall guarantee a specific quantity or dollar amount will be disqualified.

1.12 ESUPPLIER REGISTRATION

The Wisconsin Department of Administration's eSupplier Portal is available to all businesses and organizations that want to do business with the State. The eSupplier Portal allows vendors to see details about pending invoices and payments, allows vendors to receive automatic, future official notices of solicitations, and, in some cases, allows vendors to respond to State solicitations. Note: the eSupplier Portal is not being used for this solicitation for Bid responses.

For more information on the eSupplier Portal, go to:

https://esupplier.wi.gov/psp/esupplier/SUPPLIER/ERP/h/?tab=WI_BIDDER

1.13 RETENTION OF RIGHTS

All Bids become the property of ETF upon receipt. All rights, title and interest in all materials and ideas prepared by the Bidder for the Bid as sent to ETF shall be the exclusive property of ETF and may be used by the State of Wisconsin at its discretion. For Bidders who withdraw or are disqualified, the department may agree to return extra copies of submissions upon request and at the Bidder's expense. If copies are returned, a record of the submission will remain on the department's record.

1.14 GENERAL INSTRUCTIONS

The selection of a Contractor will be based on several factors, which may include the information submitted in the Bids, reference checks, and responses to requests for additional information or clarification.

Failure to respond to each of the requirements of this RFB and demonstrate ability to meet specifications may be the basis for rejecting a Bid.

1.15 INCURRING COSTS

The State of Wisconsin and ETF are not liable for any costs incurred by Bidders replying to this RFB, or during the selection process.

1.16 SUBMITTING THE BID

Bidders must submit the following, including all materials required for acceptance of their bid:

- One (1) original hard copy of the bid, clearly labeled "ORIGINAL;"
- One (1) USB flash drive clearly labeled with the Bidder Name and the RFB number, which includes the following:
 - One (1) single file in Microsoft Word/Microsoft Excel, and/or Adobe Acrobat 9.0 (or above) format. The Department requires that all files have optical character recognition (OCR) capability (not a scanned image). OCR is the conversion of all images typed, handwritten or printed text into machine-encoded text. The file must be labeled "[Name] BID." The file must have the same pagination as the original hard copy Bid.
 - One (1) single file in Microsoft Word/Microsoft Excel, and/or Adobe Acrobat 9.0 (or above) format EXCLUDING or REDACTING all confidential and proprietary information/documents. This file must be labeled "[Name] REDACTED BID." This is the file that will be used for responding to open records requests. Note that no matter what the method the Bidder uses to redact documents, the Department is not responsible for checking that the redactions match the Bidder's Designation of Confidential and Proprietary Information in Form D. Bidders should be aware that the Department may need to electronically send the redacted materials to members of the public and other requesters when responding appropriately to open records requests. The Department is not responsible for checking that redactions, when viewed on-screen via electronic file, cannot be thwarted. The Department is not responsible for responding to open records requests via printed hard copy, even if redactions are only effective on printed hard copy. The Department may post redacted Bids on the Department's public website in exactly the same file format the Bidder provides, and the Department is not responsible if the redacted file is copied and pasted, uploaded, e-mailed, or transferred via any electronic means, and somehow loses its redactions in that process. The redacted file must have the same pagination as the Bidder's original hard copy Bid.
 - Redact only material the Bidder authored. For example, do not redact the question the Bidder is responding to, only the answer.
 - Do not redact page numbers. Page numbers should remain visible at all times, even if the whole page is being redacted.

IMPORTANT:

- **Do not lock or password protect the USB drive.**
- **Clearly mark the exterior of the USB flash drive with Bidder's name and the RFB number.**
- **Flash drives must be free of all malware, ransomware, viruses, spyware, worms, Trojans, or anything that is designed to perform malicious operations on a computer.**

Bidders must submit the bid to the address listed in Section 1.3 by the due date and time listed in Section 1.8.

All bids must be time-stamped as accepted by ETF by the stated time. Bids not so stamped in by ETF on or prior to the stated due date and time will not be accepted and shall be considered late. Receipt of a bid by the State of Wisconsin mail system does not constitute receipt of a bid by ETF, for the purposes of this RFB.

Bids submitted via fax or e-mail will not be accepted.

The bid must be packaged, sealed and show the following information on the outside of the package:

- "[Bidder's Company Name and Address]"
- Title: ETI0033 Courier Services
- Bid Due Date: **January 18, 2019, 2:00 P.M. CST**

1.17 BID ORGANIZATION AND FORMAT

Bidders responding to this RFB must comply with the following format requirements. ETF reserves the right to exclude any bids from consideration that do not follow the required format as instructed below.

Bids 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, which includes flash drives and/or web links.

Bidders responding to this RFB must comply with the format requirements specified below and include the information requested in each tab.

FRONT COVER

Front Cover Requirements

Include at a minimum the following information:

- Bidder's Company Name
- Title: Courier Services
- Bid Due Date

TABLE OF CONTENTS

Table of Contents Requirements

Include at a minimum the following information:

- Listing of each TAB number
- Listing of each TAB description
- Listing of each TAB page number

TAB 1

General Information and Required Forms

Provide the following in the following order:

- TRANSMITTAL LETTER: A signed transmittal letter must accompany the bid. The transmittal letter must be written on the Bidder's official business stationery and signed by an official that is authorized to legally bind the Bidder. Include in the letter:
 - I. Name, signature and title of Bidder's authorized representative;
 - II. Name and address of company;
 - III. Telephone number and e-mail address of representatives who will be providing services under this RFB;
 - IV. RFB number and title: ETI0033 Courier Services;
 - V. Number of employees (if less than 50); and,
 - VI. Executive Summary.
- Form A – Bidders Checklist
- Form B – Courier Daily Run Schedule
- Form C – Department Terms and Conditions
- Form D – Bidder Required Form (DOA-3832)

Note: Although these clients shall serve as the primary references for purposes of this RFB, ETF specifically reserves the right to contact any past clients for information about the Bidder's performance under past and present contracts.

Provide references that can validate that the Bidder has two (2) or more years of experience providing courier services.

If any subcontractors will be involved with this project, make sure the references provided are also involved in a similar arrangement and can speak to the quality of work for BOTH the Bidder and any subcontractors named on Form G.

- Form E – Cost Worksheet.
- Form F – Draft Contract
- Form G – Subcontractor Form

If it is the intention of the Bidder to subcontract any requirements under this RFB, complete Form G. Also make sure the references provided on Form D are in a similar arrangement with the Bidder and named subcontractor(s) and can speak to the quality of work for both entities.

- Current Form W-9 Request for Taxpayer Identification Number and Certification (from the Department of the Treasury, Internal Revenue Service: <https://www.irs.gov/pub/irs-pdf/fw9.pdf>)

TAB 2 Assumptions and Exceptions

If the Bidder has no assumptions or exceptions to any term, condition, RFB exhibit or form, provide a statement to that effect in Tab 2.

If the Bidder has assumptions and/or exceptions to any RFB term, condition, or form, then follow these instructions:

Instructions:

- Regardless of any proposed assumption or exception, the bid as presented must reflect all requirements under the Contract.
- If the Bidder cannot agree to a term or condition as written, the Bidder must make its specific required revision to the language of the provision by striking out words or inserting required language to the text of the provision. Any new text and deletions of original text must be clearly color coded or highlighted, which requires the Bidder's response be printed in color. Bidder shall avoid complete deletion and substitution of entire provisions, unless the deleted provision is rejected in its entirety and substituted with substantively changed provisions. Wholesale substitutions of provisions shall not be made in lieu of strategic edits required to reflect Bidder-required modifications.
- Immediately after a proposed revision, the Bidder shall add a concise explanation concerning the reason or rationale for the required revision. Such explanations shall be separate and distinct from the marked-up text and shall be bracketed, formatted in italics and preceded with the term "[Explanation:]."
- All provisions on which no changes are noted shall be assumed accepted by the Bidder as written and shall not be subject to further negotiation or change of any kind unless otherwise proposed by the Department.
- Submission of any standard Bidder contracts as a substitute for language in the terms and conditions is not a sufficient response to this requirement and may result in rejection of the bid. An objection to terms or conditions without including proposed alternative language will be deemed to be an acceptance of the language as applicable.

- The Department reserves the right to negotiate contractual terms and conditions when it is in the best interest of the State of Wisconsin to do so.
- Exceptions to the Contract terms and conditions may be considered during Contract negotiations if it is beneficial to the Department.
- The Department may or may not consider any of the Bidder's suggested revisions. The Department reserves the right to reject any proposed assumptions or exceptions.
- Clearly label each assumption and exception with one of the following labels:
 - Section 3 Requirements - Assumption
 - Section 3 Requirements - Exception
 - Form C Department Terms and Conditions - Assumption
 - Form C Department Terms and Conditions – Exception
 - Form F Draft Contract – Assumption or Exception

Supplemental Information – IMPORTANT

The Department will not allow any assumptions or exceptions by the Bidder to any of the following items listed in Table 3. Any Bid with an assumption or exception to any of the items listed in Table 3 may be rejected.

Table 3 - No Assumptions or Exceptions Allowed

No.	Document	Item/Section
1	Form C	3.0 Legal Relations
2	Form C	6.0 Audit Provision
3	Form C	12.0 Liquidated Damages
4	Form C	13.0 Contract Dispute Resolution
5	Form C	14.0 Controlling Law
6	Form C	16.0 Termination of the Contract
7	Form C	17.0 Termination for Cause
8	Form C	18.0 Remedies of the Department

9	Form C	22.0 Confidential Information and HIPAA Business Associate Agreement
10	Form C	23.0 Indemnification
11	Form C	25.0 Right to Publish or Disclose
12	Form C	28.0 Data Security and Privacy Agreement
13	Form C	39.0 Assignment

TAB 3**Response to Section 3**

Provide a point-by-point response and each-and-every piece of information called for in Section 3. Tab 3 must exactly follow the same numbering system as 3, use the same headings, and address each point in Section 3. Format the original ETF-authored text so that it looks different from the response. For example, put the ETF-authored text in bold.

1.18 MULTIPLE BIDS

Multiple bids from a Bidder are not permissible.

1.19 WITHDRAWAL OF BID

Bids shall be irrevocable until the Contract is awarded unless the Bid is withdrawn by notifying ETF in writing prior to the date and time listed in Section 1.8 Calendar of Events for the Bid Due Date and Time. To accomplish this, the written request must be signed by an authorized representative of the Bidder and submitted to the contact listed in Section 1.3. If a previously submitted bid is withdrawn before the Bid Due Date and Time, the Bidder may submit another Bid at any time up to the Bid Due Date and Time.

1.20 CONTACTING BIDDER REFERENCES AND CONDUCTING SITE VISITS

By submitting a Bid in response to this RFB, the Bidder grants rights to the Department to contact or arrange a visit with any or all of the Bidder's clients and/or references.

2 BID SELECTION AND AWARD PROCESS

2.1 PRELIMINARY EVALUATION

Bids will initially be reviewed to determine if mandatory requirements are met. Failure to meet mandatory requirements, or failure to follow the required instructions for completing and submitting a Bid as specifically outlined in this RFB may result in rejection of the Bid.

2.2 CLARIFICATION PROCESS

ETF may request that Bidders clarify ambiguities or other information presented in the Bid. Clarification requests will include appropriate references to this RFB and/or the Bid. Clarification responses shall be in writing and shall address only the information requested. Responses shall be submitted to ETF within the time required.

2.3 CONTRACT AWARD

The least cost responsible Bidder(s) that meet(s) all the mandatory requirements will be awarded a Contract. Reference checks will be an important tool to verify that mandatory requirements are met.

The "Net Fixed Cost per Month Invoiced Monthly" will be the cost basis for award. The "Net Fixed Cost per Month Invoiced Monthly" includes the daily run but not "Special Request" stops.

Bids that do not comply with instructions or are unable to comply with mandatory requirements contained within this RFB may be rejected by ETF.

A committee comprised of State personnel will verify that Bidders meet all requirements specified in this RFB. ETF may request reports on a Bidder's financial stability, and if financial stability is not substantiated, the Bidder's Bid may be rejected. ETF may request demonstrations of the Bidder's proposed products(s) and/or service(s), and review results of past awards to the Bidder by the State.

"Responsible" is determined at the time Bids are evaluated, using criteria which may include an assessment of whether the Bidder will be able to meet the specifications of this RFB.

ETF retains the right to accept or reject any or all Bids, or accept or reject any part of a Bid deemed to be in the best interest of the State. The State shall be the sole judge as to a Bid's compliance with the instructions contained in this RFB.

Bids from certified Minority Business Enterprises may be provided up to a five percent (5%) bid preference in accordance with Wis. Stats. s. 16.75(3m).

2.4 RIGHT TO REJECT BIDS

This RFB does not commit ETF to awarding a Contract or pay any costs incurred in the preparation of a Bid in response to this RFB. ETF reserves the right to reject any and all Bids. ETF may negotiate the terms of the Contract, including the award amount, with the least cost responsible Bidder prior to entering into a Contract.

2.5 NEGOTIATION

ETF reserves the right to conduct Bidder discussions, request more competitive pricing, clarify Bids, and contact references from the finalists, should it be in ETF's best interest to do so. ETF is the sole determinant of its best interests.

2.6 NOTIFICATION OF AWARD

All Bidders who respond to this RFB will be notified of ETF's award of this Contract, as a result of this RFB. If Contract negotiations cannot be concluded successfully with the awarded Bidder(s), ETF may negotiate a Contract with the next least cost responsible Bidder(s) and so on until ETF completes successful negotiations. ETF also reserves the right not to award a Contract.

2.7 APPEALS PROCESS

The appeals procedure applies to only those requests for bids for services that are over \$50,000. Notices of intent to protest and protests must be made in writing. The appeal must state the RFB number, detailed factual grounds for the objection to the RFB award, and must identify any Wisconsin Statutes and/or Wisconsin Administrative Codes that are alleged to have been violated. Protestors can only submit one appeal per award.

The written notice of intent to protest the intent to award a contract must be filed with:

Robert J. Conlin, Secretary
Department of Employee Trust Funds
P.O. Box 7931
Madison, WI 53703-7931

This notice must be received in the ETF office no later than five (5) Business Days after the notice of intent to award is issued. Fax and e-mail documents will not be accepted. The written protest must be received within ten (10) Business Days after the notice of intent to award is issued.

The decision of the head of the procuring agency may be appealed to the Secretary of the Department of Administration within five (5) working days of issuance, with a copy of such appeal filed with the procuring agency. The appeal must allege the violation of a statute or a provision of a Wisconsin Administrative Code.

3 REQUIREMENTS

The Bidder's services must be able to be performed according to the requirements contained in this RFB. All resources necessary to meet the requirements are to be provided by the Bidder and included in the price indicated by Bidder on the Form E – Cost Worksheet. The Bidder must provide enough detail in its response to allow the Department to understand how the Bidder will comply with each requirement. The Bidder's response to each item in 3 is mandatory and shall include (in Bid TAB 3) the following items, organized as indicated below:

3.1 MANDATORY REQUIREMENTS

Failure to comply with one or more of these mandatory requirements may disqualify a Bid. A response to each item is a mandatory requirement, and failure to respond with either “agree” or “disagree” to everything listed may result in a Bid being rejected.

If a Bidder cannot agree to each item listed, the Bidder must so specify and provide a reason or justification in Bid TAB 2 – Assumptions and Exceptions – of the Bid response. ETF may consider the issue if it is addressed in Bid TAB 2. Even if addressed in Bid TAB 2, a “disagree” to a mandatory requirement may still result in a Bid being rejected.

1. The Contractor's delivery staff must be able to lift boxes that weigh between twenty (20) and thirty (30) pounds. The Contractor's delivery staff is expected to pick up and deliver approximately four-five (4-5) oversized office envelopes from each site. On occasion there may be two-three (2-3) banker's boxes, record storage boxes or ten (10) ream paper boxes.
2. The Contractor must be able to carry one or more locked bags or containers. These may contain checks. Packages shall always be kept secure. Courier vehicle must always be locked.
3. The Contractor must agree to be responsible for any contents lost in transit and assist with investigations related to any contents lost in transit.
4. The Contractor must provide drivers who have a valid Wisconsin driver's license and maintain comprehensive automobile collision and liability insurance. (ETF will consider vendors who use alternative forms of transportation. Liability insurance is required even if a motor vehicle is not used for delivery). All vehicles must have company identification.
5. The Contractor must ensure sufficient staff to meet and maintain the Form B – Courier Daily Run Schedule. If a driver happens to arrive early for a scheduled pick-up or if the items to be picked up are not ready at the scheduled pick-up time, the driver shall be required to wait for ten (10) minutes after the scheduled pick-up time at no additional charge.
6. The Contractor must be on time 95% of the time. ETF may or may not make allowances for weather, traffic, or other delays – at ETF's discretion. ETF may at its discretion require the courier to come up the elevator to deliver or may agree to meet the courier near the building's dock or another location that is mutually convenient.

7. The Contractor must not work when ETF is closed. Holidays and closures are posted on ETF's website. No pick-ups or deliveries will occur during holidays, closures, or weekends. ETF offices are closed on these holidays:

- New Year's Day (*January 1*)
- Martin Luther King Jr.'s Birthday (*3rd Monday in January*)
- Memorial Day (*Last Monday in May*)
- Independence Day (*July 4*)
- Labor Day (*1st Monday in September*)
- Thanksgiving Day (*4th Thursday in November*)
- Christmas Eve Day (*December 24*)
- Christmas Day (*December 25*)
- New Year's Eve Day (*December 31*)

8. Confidentiality

The Contractor understands and acknowledges that the records the Contractor will transport are strictly confidential under various provisions of law, including Wis. Stats. § 40.07. Contractor further understands and agrees that any employee or agent of the Contractor who violates the confidentiality provisions is subject to penalties, including monetary fines.

The Contractor agrees to limit access to the records to those members of Contractor's staff who are needed to transport the records as required by the contract.

The Contractor understands and agrees that at no time during the performance of its duties under this bid will any records be left unattended unless locked in the Contractor's vehicle.

The Contractor will not make copies of or retain copies of any records.

Contractor agrees and understands that all material scheduled to be picked up will be delivered the same day by no later than 2:15 PM, and no later than 4:00 PM for any special trips. Under no circumstances will any material be left in the mode of transport overnight, even if locked and secured.

9. The Contractor must be responsible for all wages, Federal and State Withholding taxes, FICA and Worker's Compensation Insurance for Contractor's employees.

10. The Contractor must accommodate additional and non-scheduled pick-ups and deliveries in the Madison Metro area.

11. The Contractor must agree to these payment terms. If the Contractor fails, on any given day, to perform its duties under the bid, ETF will bill the Contractor for actual costs incurred in securing delivery of the courier mail, or at its discretion, withhold the actual costs to cover from the monthly payment. In the event that a driver will not be able to make a scheduled stop (pick-up or delivery) within fifteen (15) minutes of the scheduled pick-up time or delivery time, an alert shall be phoned to the appropriate State staff to avoid liquidated damages. **Liquidated damages will consist of an invoice credit**

equal to the cost of the contracted delivery that was late or missed. Once the award is made, the Contractor shall be provided with the appropriate staff and phone numbers for each scheduled stop.

12. Staff Identification: All Contractor's staff, while working on State property, shall wear a clearly displayed photo identification badge (provided by the Contractor at the Contractor's cost) showing they work for the Contractor.

3.2 REQUIRED RESPONSES

1. Describe the Bidder's business including:

- number of staff, including independent contractors and employees
- number of offices and locations
- the location(s) of the office(s) from which the work on this project is to be performed
- primary business
- other business or services
- type of organization (franchise, corporation, partnership, etc.)
- number and type of clients
- experience and capabilities in providing services similar to this bid, and
- what Bidder believes are its strengths regarding Bidder's client services and what distinguishes Bidder's company from its competitors.

2. Name the Bidder's staff person who will act as ETF's main contact and relationship manager. This person must be available for meetings with ETF staff.

3. List any acquisitions, and/or mergers or other material developments (changes in ownership, personnel, business, etc.) pending now or that occurred in the past five years for Bidder. List what other companies your company is affiliated with as a parent or subsidiary. Describe in detail.

4. Describe any and all contracts currently held with State of Wisconsin agencies, local units of government (in Wisconsin) and related public authorities or entities. The response must identify the entity and describe the services provided.

5. Detail any judgment, criminal conviction, investigation or litigation pending against Bidder. Include a list of any litigation alleging breach of contract, fraud, breach of fiduciary duty or other willful or negligent misconduct of the Bidder during the past five (5) years. ETF reserves the right to reject a response based on this information.

4 CONTRACT TERMS AND CONDITIONS

The Department will execute a Contract with the awarded Contractor(s). A Draft Contract is attached (Form F) as an example. The Contract and any subsequent renewal(s) will

incorporate all terms and conditions in this RFB, Form C – Department Terms and Conditions, and Contractor's Bid.

4.1 PAYMENT TERMS

- Invoices must be itemized by Cost Worksheet categories of expenses actually incurred.
- Invoices shall include the ETF purchase order number.
- Invoices will be submitted electronically via e-mail.
- Payment will only be made through Automated Clearing House (ACH) unless alternative arrangements are mutually agreed upon.
- Invoices shall be submitted timely and no later than 1 year after completion of deliverables.
- ETF anticipates invoices will be received monthly.
- Payment will be made to the Contractor within thirty (30) Calendar Days of receipt of a proper and approved invoice

FORM A - BIDDERS CHECKLIST

Instructions:

1. This form shall be completed by the vendor by marking the check-boxes below. By marking these boxes, the bidder acknowledges compliance with these items. Not checking a box may be cause for rejection of a bid.
2. Print company name.
3. Print the name of the representative signing this form (must be authorized to legally bind the company).
4. Provide the signature of the individual authorized to sign this form (to legally bind the company).
5. Date the form.
6. Submit this form as part of your bid (TAB 1).

<p>Front Cover: Create a front cover for your bid with your company's name, the bid title, and the bid due date.</p>	<input type="checkbox"/> I have completed this task.
<p>Table of Contents: Create a table of contents for your bid that lists each Tab number, a description of what is in the Tab number, and the page each Tab number starts on.</p>	<input type="checkbox"/> I have completed this task.
<p>Transmittal Letter: A signed transmittal letter must accompany the bid. 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:</p> <ul style="list-style-type: none"> I. Name, signature and title of bidder's authorized representative; II. Name and address of company; III. Telephone number and e-mail address of representatives who will be providing services under this RFB; IV. RFB number and title: RFB ETI0033 Courier Services; V. Number of employees (if less than 50); and, VI. Executive Summary. 	<input type="checkbox"/> I have created, signed, and put my transmittal letter in Tab 1.
<p>Form A: Bidders Checklist</p>	<input type="checkbox"/> I have read, completed, signed, and put my Form A in Tab 1, behind the transmittal letter.
<p>Form B: Courier Daily Run Schedule</p>	<input type="checkbox"/> I have read, understood, and put my Form B in Tab 1, behind Form A. I explained in Tab 2 any assumptions or exceptions I have to anything in Form B.
<p>Form C: Department Terms and Conditions</p>	<input type="checkbox"/> I have read and understand. I explained in Tab 2 any assumptions or exceptions I have to any part of Form C, noting that assumptions or exceptions to any term or condition listed in Table 3 may result in disqualification. I put Form C in Tab 1, behind Form B.

<p>Form D: Bidder Form Vendor must have two or more years of experience providing courier services. The references listed here must validate this experience. Each reference must identify the vendor and any subcontractor(s) who assisted the vendor in performing work for that reference. Note: Although these clients shall serve as the primary references for purposes of this RFB, the Department specifically reserves the right to contact any clients or past clients for information about the company's performance under past and present contracts.</p>	<p><input type="checkbox"/> I have read, completed, signed, and put my Form D in Tab 1, behind Form C. If I listed any subcontractors on Form G, I provided references for them on Form D.</p>
<p>Form E: Cost Worksheet Failure to provide a cost using the exact form provided in Form E may result in your bid being disqualified and rejected.</p>	<p><input type="checkbox"/> I have read, completed, signed, and put my Form E in Tab 1, behind Form D.</p>
<p>Form F: Draft Contract</p>	<p><input type="checkbox"/> I have read and put Form F in Tab 1, behind Form E. If I have any objections to executing this form as a binding contract, I have included them in Tab 2 assumptions and exceptions.</p>
<p>Form G: Subcontractor Form</p>	<p><input type="checkbox"/> I have read, completed, signed, and put Form G in Tab 1, behind Form F.</p>
<p>Current W-9 (use online IRS Form)</p>	<p><input type="checkbox"/> I have read, completed, signed, and put my W-9 in Tab 1, behind Form G.</p>
<p>Assumptions and Exceptions: All assumptions and exceptions must be included in Tab 2. Assumptions and exceptions may be considered during contract negotiations if it is beneficial to the Department. ETF may reject bids with assumptions or exceptions related to terms and conditions listed in Table 3. Clearly label each assumption and exception with one of the following:</p> <ul style="list-style-type: none"> ■ Section 3 Requirements - Assumption ■ Section 3 Requirements - Exception ■ Form C Department Terms and Conditions - Assumption ■ Form C Department Terms and Conditions – Exception ■ Form F Draft Contract – Assumption or Exception 	<p><input type="checkbox"/> I have completed this task.</p>
<p>Response to Section 3 Provide a point-by-point response and each-and-every piece of information called for in Section 3. Tab 3 must exactly follow the same numbering system as 3, use the same headings, and address each point in Section 3. Format the original ETF-authored text so that it looks different from the response. For example, put the ETF-authored text in bold.</p>	<p><input type="checkbox"/> I have completed this task.</p>

Company Name: _____	
Printed Name of Authorized Representative	
Signature of Authorized Representative	Date

FORM B - COURIER DAILY RUN SCHEDULE

Time	10 AM DOA	10:30 AM ETF	1:15 PM DOA	1:45 PM ETF	2:15 PM DOA
<p>10:00 a.m. DOA Morning Pickup</p> <p>10:30 a.m. Arrive at ETF</p> <p>1:15 p.m. DOA Drop- off and Pick-up</p> <p>Arrive at ETF at 1:45 p.m. (or earlier if possible)</p> <p>Return to DOA by 2:15 p.m. if have items to deliver</p>	<p>DOA Bldg. 101 E Wilson St. 5th Floor, Rm 517A</p> <p>Pick up materials for ETF at DOA building as noted below.</p> <p>DOA Finance</p> <p>Pick up materials on the 5th floor in room 517A. In the room you will find a mail station with slots for each state agency.</p> <p>DOA Central Payroll</p> <p>Pick up materials on the 5th floor in room 517A</p> <p>Office of State Treasurer</p> <p>Pick up inter-departmental envelopes on 5th floor in letter tray. Pick up any deliveries for ETF in letter slot marked ETF515.</p>	<p>ETF – Building Dock 4822 Madison Yards Way Madison, WI 53705-9100</p> <p>Drop off materials to ETF staff at 4822 Madison Yards Way Dock. Pick up materials from ETF staff to drop off at DOA.</p>	<p>DOA Bldg. 101 E Wilson St. 5th Floor, Rm 517A</p> <p>Drop off items in the bin marked "State Controller Drop Off."</p> <p>Pick up materials as noted below.</p> <p>DOA Finance</p> <p>Pick up materials on the 5th floor in room 517A. In the room you will find a mail station with slots for each state agency.</p> <p>DOA Central Payroll</p> <p>Pick up materials on the 5th floor in room 517A</p> <p>Office of State Treasurer</p> <p>Pick up inter- departmental envelopes on 5th floor in letter tray. Pick up any</p>	<p>ETF – Building Dock 4822 Madison Yards Way Madison, WI 53705-9100</p> <p>Drop off materials to ETF staff at 4822 Madison Yards Way Dock. Pick up materials from ETF staff to drop off at DOA.</p>	<p>DOA Bldg. 101 E Wilson St. 5th Floor Rm 517A</p> <p>DOA Finance</p> <p>Drop off the "Finance" deliveries in the bin marked "State Controller Drop Off"</p> <p>DOA Central Payroll</p> <p>Drop off deliveries in the bin marked "State Controller Drop Off."</p> <p>Office of State Treasurer</p> <p>Drop off inter-d envelopes in bin marked "State Controller Drop Off."</p> <p>End of Run -- <u>Do not keep any materials in possession overnight.</u></p>

Time	First Stop	Tasks	Run Stops	Tasks	Last Stop
<p>“Special Request” Stops -Not part of the “Fixed Cost per Month Invoiced Monthly” -Addresses are subject to change</p>	<p>ETF – Building Dock 4822 Madison Yards Way Madison, WI 53705-9100</p>	<p>Pick up materials to be delivered to drops listed under Run Stops, when requested.</p>	<p>DOA Print - Computer Center 2310 Darwin Road Madison, WI 53704-3108</p> <p>DOA InfoTech DOA Bldg. 101 E Wilson St 4th Floor Receptionist Desk</p>	<p>DOA Print-Computer Center – drop off materials marked for delivery.</p> <p>DOA InfoTech. Drop off only. Take materials to receptionist desk on 4th Floor.</p>	<p>Bring any deliveries picked up to ETF.</p>

FORM C - DEPARTMENT TERMS AND CONDITIONS

Rev. Date: 03-01-2018

- 1.0 ENTIRE AGREEMENT:** The following terms and conditions are hereby made a part of the underlying contract. These Department Terms and Conditions, the underlying contract, its exhibits, subsequent amendments and other documents incorporated by order of precedence in the contract encompass the entire contract ("Contract") and contain the entire understanding between the Wisconsin Department of Employee Trust Funds ("Department") and the contractor named in the Contract ("Contractor") on the subject matter hereof, and no representations, inducements, promises, or agreements, oral or otherwise, not embodied herein shall be of any force or effect. The Contract supersedes any other oral or written agreement entered into between the Department and the Contractor on the subject matter hereof. The terms "State," "ETF," and "Department" may be used interchangeably herein.

The Contract may be amended at any time by written mutual agreement of the Department and Contractor, but any such amendment shall be without prejudice to any claim arising prior to the date of the change. No one, except duly authorized officers or agents of the Contractor and the Department, shall alter or amend the Contract. No change in the Contract shall be valid unless evidenced by an amendment that is signed by such officers of the Contractor and the Department.

- 2.0 COMPLIANCE WITH THE CONTRACT AND APPLICABLE LAW:** In the event of a conflict between the Contract and any applicable federal or state statute, administrative rule, or regulation; the statute, rule, or regulation will control.

In connection with the performance of work under the Contract, the Contractor agrees not to discriminate against employees or applicants for employment because of age, race, religion, creed, color, handicap, physical condition, developmental disability as defined in Wis. Stat. § 51.01 (5); marital status, sex, sexual orientation as defined in s.111.32(13m), Wis. Stats., national origin, ancestry, arrest record, conviction record; or membership in the national guard, state defense force, or any reserve component of the military forces of the United States or the state of Wisconsin (the "State"). 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. 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.

Contracts estimated to be over fifty thousand dollars (\$50,000) require the submission of a written affirmative action plan by the Contractor. Contractors with an annual work force of less than fifty (50) employees are exempt from this requirement. Contractor shall provide the plan to the Department within fifteen (15) business days of the Department's request for such plan after the award of the Contract.

The Contractor shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA) of 1990. Evidence of compliance with ADA shall be made available to the Department upon request.

The Contractor acknowledges that Wis. Stat. § 40.07 specifically exempts information related to individuals in the records of the Department of Employee Trust Funds from the Wisconsin Public Records Law. Contractor shall treat any such records provided to or accessed by Contractor as non-public records as set forth in Wis. Stat. § 40.07.

Contractor will comply with the provisions of Wis. Stat. § 134.98 **Notice of Unauthorized Acquisition of Personal Information.**

- 3.0 LEGAL RELATIONS:** 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 the Contract and which in any manner affect the work or its conduct. This includes but is not limited to laws regarding compensation, hours of work, conditions of employment and equal opportunities for employment.

In carrying out any provisions of the Contract or in exercising any power or authority granted to the Contractor thereby, there shall be no liability upon the Department, it being understood that in such matters that the Department acts as an agent of the State.

The Contractor accepts full liability and agrees to hold harmless the State, the Department's governing boards, the Department, its employees, agents and contractors for any act or omission of the Contractor, or any of its employees, in connection with the Contract.

No employee of the Contractor may represent himself or herself as an employee of the Department or the State.

- 4.0 CONTRACTOR:** The Contractor will be the sole point of contact with regard to contractual matters, including the performance of services specified in the Contract (the "Services") and the payment of any and all charges resulting from contractual obligations.

None of the Services to be provided by the Contractor shall be subcontracted or delegated to any other organization, subdivision, association, individual, corporation, partnership or group of individuals, or other such entity without prior written notification to, and approval of, the Department.

After execution of the Contract, the Department will provide Contractor with the name of the Department's designated contact person and commit to a timely approval process for Contractor's notification of a change in subcontractor(s) and/or delegated Services.

The Contractor shall be solely responsible for its actions and those of its agents, employees or subcontractors under the Contract. The Contractor will be responsible for Contract performance when subcontractors are used. Subcontractors must abide by all terms and conditions of the Contract.

Neither the Contractor nor any of the foregoing parties has the authority to act or speak on behalf of the State.

The Contractor will be responsible for payment of any losses by its subcontractors or agents.

Any notice required or permitted to be given shall be deemed to have been given on the date of delivery or three (3) business days after mailing by the United States Postal Service, certified or registered mail-receipt requested. In the event the Contractor moves or updates contact information, the Contractor shall inform the Department of such changes in writing within ten (10) business days. The Department shall not be held responsible for payments delayed due to the Contractor's failure to provide such notice.

- 5.0 CONTRACTOR PERFORMANCE:** Work under the Contract shall be performed in a timely, professional and diligent matter by qualified and efficient personnel and in conformity with the strictest quality standards mandated or recommended by all generally-recognized organizations establishing quality standards for the work of the type specified in the Contract. The Contractor shall be solely responsible for controlling the manner and means by which it and its employees or its subcontractors perform the Services, and the Contractor shall observe, abide by, and perform all of its obligations in accordance with all legal and Contract requirements.

Without limiting the foregoing, the Contractor shall control the manner and means of the Services so as to perform the work in a reasonably safe manner and comply fully with all applicable codes, regulations and requirements imposed or enforced by any government agencies. Notwithstanding the foregoing, any stricter standard provided in plans, specifications or other documents incorporated as part of the Contract shall govern.

The Contractor shall provide the Services with all due skill, care, and diligence, in accordance with accepted industry practices and legal requirements, and to the Department's satisfaction; the Department's decision in that regard shall be final and conclusive.

All Contractor's Services under the Contract shall be performed in material compliance with the applicable federal and state laws and regulations in effect at the time of performance, except when imposition of a newly enacted or revised law or regulation would result in an unconstitutional impairment of the Contract.

The Contractor will make commercially reasonable efforts to ensure that Contractor's professional and managerial staff maintain a working knowledge and understanding of all federal and state laws, regulations, and administrative code appropriate for the performance of their respective duties, as well as contemplated changes in such law which affect or may affect the Services delivered under the Contract.

The Contractor shall maintain a written contingency plan describing in detail how it will continue operations and Services under the Contract in certain events including, but not limited to, strike and disaster, and shall submit it to the Department upon request.

- 6.0 AUDIT PROVISION:** The Contractor and its authorized subcontractors are subject to audits by the State, the Legislative Audit Bureau (LAB), an independent Certified Public Accountant (CPA), or other representatives as authorized by the State. The Contractor will cooperate with such efforts and provide all requested information permitted under the law.
- 6.1 SOC Report:** If the Department requires Contractor to provide a SOC Audit, Contractor will furnish the Department with an annual copy of an Independent Service Auditor's Report on Management's Description of the Service Organization's System and the Suitability of the Design and Operating Effectiveness of Controls (SOC 1, Type 2), which will be provided to the Department by May 1 following each plan year. This independent audit of the Contractor's controls must be completed in accordance with the American Institute of Certified Public Accountants' Statements on Standards for Attestation Engagements (SSAE) No. 18 (SOC 1, Type 2). The SSAE 18 (SOC 1, Type 2) annual audit will include all programs under the Contract and will be conducted at the Contractor's expense. If the Contractor's SSAE 18 (SOC 1, Type 2) audit covers less than the twelve (12) months of a calendar year, the Contractor will provide a bridge letter to the Department, stating whether processes and controls have changed since the SSAE 18 (SOC 1, Type 2) audit.
- 6.2 Contract Compliance Audit:** The Department may schedule and arrange for an independent certified public accountant to perform agreed upon procedures or consulting work related to the Contractor's compliance with the Contract on a periodic basis, as determined by the Department. The audit scope will be determined by the Department and may include recordkeeping, participant account activity, claims processing, administrative performance standards, and any other relevant areas to the programs under the Contract. The timeline of the audit will be mutually agreed upon by the Department and the Contractor. A minimum ten (10) business day notice is required.
- 6.3 Open Access:** All Contractor books, records, ledgers, data, and journals relating to the programs under the Contract will be open for inspection and audit by the Department, its designees, or the State of Wisconsin Legislative Audit Bureau, at any time during normal working hours. A minimum ten (10) business day notice will be provided. Records or data requested shall be provided electronically in a format mutually agreed upon by the Department and Contractor. The Department shall have access to interview any employee and authorized agent of the Contractor involved with the Contract in conjunction with any audit, review, or investigation deemed necessary by the Department or the State.
- 6.4 LAB Audit:** The Department is audited by the State of Wisconsin Legislative Audit Bureau annually, as required by Wisconsin Statute 13.94 (1) (dd). The Contractor agrees to provide necessary information related to any such audit for all programs under the Contract, as requested by the Department or auditor.
- 7.0 CRIMINAL BACKGROUND VERIFICATION:** The Department follows the provisions in the Wisconsin Human Resources Handbook Chapter 246, Securing Applicant Background Checks (see https://dpm.wi.gov/Hand%20Book%20Chapters/WHRH_Ch_246.pdf). The Contractor 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 Contractor's background check procedures should be provided to the Department regarding the measures used by the Contractor to protect the security and privacy of program data and participant information. A copy of the results of the criminal background checks the Contractor conducted must be made available

to the Department upon request. The Department reserves the right to conduct its own criminal background checks on any or all employees or subcontractors of and referred by the Contractor for the delivery or provision of Services.

- 8.0 COMPLIANCE WITH ON-SITE PARTY RULES AND REGULATIONS:** Contractor and the Department agree that their employees, while working at or visiting the premises of the other party, shall comply with all internal rules and regulations of the other party, including security procedures, and all applicable federal, state, and local laws and regulations applicable to the location where said employees are working or visiting.

The Department is responsible for allocating building and equipment access, as well as any other necessary services available from the Department that may be used by the Contractor. Any use of the Department facilities, equipment, internet access, and/or services shall only be to assist Contractor in providing the Services, as authorized by the Department. The Contractor will provide its own personal computers, which must comply with the Department security policies before connection to the Department's local computer network.

- 9.0 SECURITY OF PREMISES, EQUIPMENT, DATA AND PERSONNEL:** The Department shall have the right, acting by itself or through its authorized representatives, to enter the premises of the Contractor at mutually agreeable times to inspect and copy the records of the Contractor and the Contractor's compliance with this section. In the course of performing Services under the Contract, the Contractor may have access to the personnel, premises, equipment, and other property, including data files, information, or materials (collectively referred to as "data") belonging to the Department.

The Contractor shall be responsible for damage to the Department's equipment, workplace, and its contents, or for the loss of data, when such damage or loss is caused by the Contractor, contracted personnel, or subcontractors, and shall reimburse the Department accordingly upon demand. This remedy shall be in addition to any other remedies available to the Department by law or in equity.

- 10.0 BREACH NOT WAIVER:** A failure to exercise any right, or a delay in exercising any right, power or remedy hereunder on the part of either party shall not operate as a waiver thereof. Any express waiver shall be in writing and shall not affect any event or default other than the event or default specified in such waiver. A waiver of any covenant, term or condition contained herein or in the Contract shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The making of any payment to the Contractor under the Contract shall not constitute a waiver of default, evidence of proper Contractor performance, or acceptance of any defective item or Services furnished by the Contractor.

- 11.0 SEVERABILITY:** The provisions of the Contract shall be deemed severable and the unenforceability of any one or more provisions shall not affect the enforceability of any of the other provisions. If any provision of the Contract, for any reason, is declared to be invalid, unenforceable, or illegal, the parties shall substitute an enforceable provision that, to the maximum extent possible in accordance with applicable law, preserves the original intentions and economic positions of the parties.

- 12.0 LIQUIDATED DAMAGES:** The Contractor and Department acknowledge that it can be difficult to ascertain actual damages when a Contractor fails to carry out its responsibilities under the Contract. Because of that, the Contractor and Department will negotiate liquidated damages, as required by the Department, for the Contract. The Contractor agrees that the Department 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) calendar days after the Contractor's failure to perform in accordance with the terms and conditions of the Contract.

Notwithstanding the foregoing language, when necessary, the Department will identify in the Contract, specific financial penalties for failure of the Contractor to meet performance standards and guarantees. If the Contract was established through the Department's Request for Bid (RFB) or Request for Proposals (RFP) procurement process, such performance standards and guarantees may have been set forth in the RFB/RFP.

- 13.0 CONTRACT DISPUTE RESOLUTION:** In the event of any dispute or disagreement between the parties under the Contract, whether with respect to the interpretation of any provision of the Contract, or with respect to the performance of either party thereto, except for breach 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 an adjustment to such provision.

Contractor shall continue without delay to carry out all its responsibilities under the Contract, which are not affected by the dispute. Should Contractor fail to perform its responsibilities under the Contract that are not affected by the dispute without delay, any and all additional costs incurred by the Contractor and the Department as a result of such failure to proceed shall be borne by the Contractor and the Contractor shall not make any claim against the Department for such costs. The Department's non-payment of fees in breach of the Contract that are overdue by sixty (60) calendar days is a dispute that will always be considered to affect Contractor's responsibilities.

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 Department, 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.

The party believing itself aggrieved (the "Invoking Party") shall call for progressive management involvement in the dispute negotiation by delivering written notice to the other party. Such notice shall be without prejudice to the Invoking Party's right to any other remedy permitted by the Contract. After such notice, the parties shall use all reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between authorized negotiators for the parties at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute:

Level	Contractor	The Department	Allotted Time
First	Level 1 entity	Level 1 entity	10 Business Days
Second	Level 2 entity	Level 2 entity	20 Business Days
Third	Level 3 entity	Level 3 entity	30 Business Days

The allotted time for the First Level negotiations shall begin on the date the Invoking Party's notice is received by the other party. Subsequent allotted time is days from the date that the Invoking Party's notice was originally received by the other party. If the Third Level parties cannot resolve the issue within thirty (30) business days of the Invoking Party's original notice, then the issue shall be designated as a dispute at the discretion of the Invoking Party and, if so, shall be resolved in accordance with the section below. The time periods herein are in addition to those periods for a party to cure provided elsewhere in the Contract, and do not apply to claims for equitable relief (e.g., injunction to prevent disclosure of Confidential Information). The Department may withhold payments on disputed items pending resolution of the dispute.

- 14.0 CONTROLLING LAW:** All questions as to the execution, validity, interpretation, construction and performance of the Contract shall be construed in accordance with the laws of the State of Wisconsin, without regard to any conflicts of laws or choice of law principles. Any court proceeding arising or related to the Contract or a party's obligations under the Contract shall be exclusively brought and exclusively maintained in the State of Wisconsin, Dane County Circuit Court, or in the District Court of the United States Western District (if jurisdiction is proper in federal court), or upon appeal to the appellate courts of corresponding jurisdiction, and Contractor hereby consents to the exclusive jurisdiction and exclusive venue therein and waives any right to object to such jurisdiction or venue. To the extent that in any jurisdiction Contractor may now or hereafter be entitled to claim for itself or its assets immunity from suit, execution, attachment (before or after judgment) or other legal process, Contractor, to the extent it may effectively do so, irrevocably agrees not to claim, and it hereby waives, the same.
- 15.0 RIGHT TO SUSPEND OPERATIONS:** If, at any time during the period of the Contract, the Department determines that the best interest of the Department or its governing boards would be best served by the Contractor temporarily holding of all Services, the Department will promptly notify the Contractor. Upon receipt of such notice, the Contractor shall suspend all Services.

- 16.0 TERMINATION OF THE CONTRACT:** The Department may terminate the Contract at any time at its sole discretion by delivering one-hundred eighty (180) calendar days written notice to the Contractor.

Upon termination, the Department'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 the Department.

If the Contractor terminates the Contract, the Contractor shall refund all payments made under the Contract by the Department to the Contractor for work not completed or not accepted by the Department. Such termination shall require written notice to that effect to be delivered by the Contractor to the Department not less than one-hundred eighty (180) calendar days prior to said termination.

Upon any termination of the Contract, the Contractor shall perform the Services specified in a transition plan if so requested by the Department; provided, however, that except as expressly set forth otherwise herein, the Contractor shall not be obligated to perform such Services unless all amounts due to the Contractor under the Contract, including payment for the transition Services, have been paid. Failure of the Contractor to comply with a transition plan upon the Department's request and upon payment shall constitute a separate breach for which the Contractor shall be liable.

Upon the expiration or termination of the Contract for any reason, each party shall be released from all obligations to the other arising after the expiration date or termination date, except for those that by their terms survive such termination or expiration.

- 17.0 TERMINATION FOR CAUSE:** If the Contractor fails to perform any material requirement of the Contract, breaches any material requirement of the Contract, or if the Contractor's full and satisfactory performance of the Contract is substantially endangered, the Department may terminate the Contract. Before terminating the Contract, the Department shall give written notice of its intent to terminate to Contractor after a thirty (30) calendar day written notice and cure period.

The Department reserves the right to cancel the Contract in whole or in part without penalty in the event one (1) or more of the following occurs:

1. If the Contractor intentionally furnished any statement, representation, warranty, or certification, in connection with the Contract which is materially false, incorrect, or incomplete;
2. If applicable, if the Contractor fails to follow the sales and use tax certification requirements of Wis. Stat. § 77.66;
3. If the Contractor incurs a delinquent Wisconsin tax liability;
4. If the Contractor fails to submit a non-discrimination or affirmative action plan per the requirements of Wis. Stat. § 16.765 and Wisconsin's Fair Employment Law, subch. II, Chapter 111 of the Wisconsin Statutes as required herein;
5. If the Contractor is presently identified on the list of parties excluded from State of Wisconsin procurement and non-procurement contracts;
6. If the Contractor becomes a state or federal debarred Contractor, or becomes excluded from State contracts;
7. If the Contractor fails to maintain and keep in force all required insurance, permits and licenses as required per the Contract;
8. If the Contractor fails to maintain the confidentiality of the Department's information that is considered to be Confidential Information or Protected Health Information;
9. If the Contractor files a petition in bankruptcy, become insolvent, or otherwise takes action to dissolve as a legal entity;
10. If at any time the Contractor's performance threatens the health or safety of a State employee, citizen, or customer;
11. If the Contractor violates any requirements in Section 22.0 below regarding Confidential Information; or
12. If the Department or State fails to appropriate funds for the project described in the Contract.

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

- 18.0 REMEDIES OF THE DEPARTMENT:** The Department 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 Department may issue a written notice of default providing for at least a seven (7) business day period in which the Contractor shall have an opportunity to cure, provided that cure is possible, feasible, and approved in writing by the Department. 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 Department 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 the Contract after receiving reasonable notice from the Department to do so, the Contractor shall reimburse the Department 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 the Contract, or services from other sources as necessary to fulfill the Contract, the Contractor shall be responsible for the additional cost of such services, including purchase price and administrative fees. This remedy shall be in addition to any other legal remedies available to the Department.

- 19.0 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 Department to facilitate the orderly transition of the work under the Contract to the Department 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 in the Contract.
- 20.0 ADDITIONAL INSURANCE RESPONSIBILITY:** The Contractor shall exercise due diligence in providing the Services under the Contract. In order to protect the Department's governing boards and any Department employee against liability, cost, or expenses (including reasonable attorney fees), which may be incurred or sustained as a result of Contractor's errors or other failure to comply with the terms of the Contract, the Contractor shall maintain errors and omissions insurance including coverage for network and privacy risks, breach of privacy and wrongful disclosure of information in an amount acceptable to the Department with a minimum of \$1,000,000 per claim and \$5,000,000 aggregate in force during the Contract period and for a period of three (3) years thereafter for Services completed. Contractor shall furnish the Department with a certificate of insurance for such amount. Further, this certificate shall designate the State of Wisconsin Department of Employee Trust Funds and its affiliated boards as additional insured parties. The Department reserves the right to require higher or lower limits where warranted.
- 21.0 OWNERSHIP OF MATERIALS:** Except as otherwise provided in subsection (t) of Section 22, all information, data, reports and other materials as are existing and available from the Department and which the Department determines to be necessary to carry out the scope of Services under the Contract shall be furnished to the Contractor and shall be returned to the Department upon completion of the Contract. The Contractor shall not use such materials for any purpose other than carrying out the work described in the Contract.

The Department will be furnished without additional charge all data, models, information, reports, and other materials associated with and generated under the Contract by the Contractor.

The Department shall solely own all customized software, documents, and other materials developed under the Contract. Use of such software, documents, and materials by the Contractor shall only be with the prior written approval of the Department.

The Contract shall in no way affect or limit the Department's rights to use, disclose or duplicate, for any purpose whatsoever, all information and data pertaining to the Department, employees or members and generated by the claims administration and other Services provided by Contractor under the Contract.

All files (paper or electronic) containing any Wisconsin plan member, claimant or employee information and all records created and maintained in the course of the work specified by the Contract are the sole and exclusive property of the Department. Contractor may maintain copies of such files during the term of the Contract as may be necessary or

appropriate for its performance of the Contract. Moreover, Contractor may maintain copies of such files after the term of the Contract (i) for one hundred twenty (120) days after termination, after which all such files shall be transferred to the Department or destroyed by Contractor, except for any files as to which a claim has been made, and (ii) for an unlimited period of time after termination for Contractor's use for statistical purposes, if Contractor first deletes all information in the records from which the identity of a claimant or employee could be determined and certifies to the Department that all personal identifiers have been removed from the retained files.

22.0 CONFIDENTIAL INFORMATION AND HIPAA BUSINESS ASSOCIATE AGREEMENT: This Section is intended to cover handling of Confidential Information under State and federal law, and specifically to comply with the requirements of the Health Insurance Portability and Accountability Act (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH), the Genetic Information Nondiscrimination Act (GINA), and the federal implementing regulations for those statutes requiring a written agreement with business associates.

(a) **DEFINITIONS:** As used herein, unless the context otherwise requires:

- (1) Business Associate. "Business Associate" has the meaning ascribed to it at 45 CFR 160.103 and refers to the Contractor.
- (2) Confidential Information. "Confidential Information" has the meaning set forth below in Section 28.0.
- (3) Covered Entity. "Covered Entity" has the meaning ascribed to it at 45 CFR 160.103 and refers to the Department of Employee Trust Funds.
- (4) HIPAA Rules. "HIPAA Rules" mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- (5) Individual Personal Information. "Individual Personal Information" has the meaning ascribed to it at Wis. Admin. Code ETF § 10.70 (1).
- (6) Medical Record. "Medical Record" has the meaning ascribed to it at Wis. Admin. Code ETF 10.01 (3m).
- (7) Protected Health Information. "Protected Health Information" has the meaning ascribed to it under 45 s. CFR 160.103.

(b) **PROVISION OF CONFIDENTIAL INFORMATION FOR CONTRACTED SERVICES:** The Department, a different business associate of the Department or a contractor performing services for the Department may provide Confidential Information to the Contractor under the Contract as the Department determines is necessary for the proper administration of the Contract, as provided by Wis. Stat. § 40.07 (1m) (d) and (3).

(c) **DUTY TO SAFEGUARD CONFIDENTIAL INFORMATION:** The Contractor shall safeguard Confidential Information supplied to the Contractor or its employees under the Contract. In addition, the Contractor will only share Confidential Information with its employees on a need-to-know basis. Should the Contractor fail to properly protect Confidential Information, any cost the Department pays to mitigate the failure will be subtracted from the Contractor's invoice(s).

(d) **USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION:** Contractor shall:

- (1) Not use or disclose Confidential Information for any purpose other than as permitted or required by the Contract or as required by law. Contractor shall not use or disclose member or employee names, addresses, or other data for any purpose other than specifically provided for in the Contract;
- (2) Make uses and disclosures and requests for any Confidential Information following the minimum necessary standard in the HIPAA Rules;
- (3) Use appropriate safeguards to prevent use or disclosure of Confidential Information other than as provided for by the Contract, and with respect to Protected Health Information, comply with Subpart C of 45 CFR Part 164;
- (4) Not use or disclose Confidential Information in a manner that would violate Subpart E of 45 CFR Part 164 or Wis. Stat. § 40.07; and
- (5) If applicable, be allowed to use or disclose Confidential Information for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor, provided the disclosures are required by law, or Contractor obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Contractor of any instances of which it is aware in which the confidentiality of the information has been or is suspected of being breached.

- (e) **COMPLIANCE WITH ELECTRONIC TRANSACTIONS AND CODE SET STANDARDS:** The Contractor shall comply with each applicable requirement of 45 C.F.R. Part 162 if the Contractor conducts standard transactions, as that term is defined in HIPAA, for or on behalf of the Department.
- (f) **MANDATORY REPORTING:** Contractor shall report to the Department in the manner set forth in Subsection 22(l) any use or disclosure or suspected use or disclosure of Confidential Information not provided for by the Contract, of which it becomes aware, including breaches or suspected breaches of unsecured Protected Health Information as required at 45 CFR 164.410.
- (g) **DESIGNATED RECORD SET:** Contractor shall make available Protected Health Information in a designated record set to the individual as necessary to satisfy the Department's obligations under 45 CFR 164.524.
- (h) **AMENDMENT IN DESIGNATED RECORD SET:** Contractor shall make any amendment to Protected Health Information in a designated record set as directed or agreed to by the Department pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy the Department's obligations under 45 CFR 164.526.
- (i) **ACCOUNTING OF DISCLOSURES:** Contractor shall maintain and make available the information required to provide an accounting of disclosures to the individual as necessary to satisfy the Department's obligations under 45 CFR 164.528.
- (j) **COMPLIANCE WITH SUBPART E OF 45 CFR 164:** To the extent Contractor is to carry out one or more of the Department's obligations under Subpart E of 45 CFR Part 164, Contractor shall comply with the requirements of Subpart E that apply to a covered entity in the performance of such obligation.
- (k) **INTERNAL PRACTICES:** Contractor shall make its internal practices, books, and records available to the Secretary of the United States Department of Labor for purposes of determining compliance with the HIPAA Rules.
- (l) **CONTRACTOR REPORTING OF BREACH OR SUSPECTED BREACH OR DISCLOSURE TO THE DEPARTMENT:**
 - (1) Within twenty-four (24) hours after Contractor becomes aware of a suspected breach, impermissible use, or impermissible disclosure, Contractor shall notify in writing the Department Program Manager and Privacy Officer. A suspected breach, impermissible use, or impermissible disclosure is considered to be discovered as of the first day on which such occurrence is known to Contractor, or, by exercising reasonable diligence, would have been known to Contractor. The notification must contain details sufficient for the Department Program Manager and Privacy Officer to determine the Department's response. Sufficient details include, without limitation:
 - a. A list of any persons affected (if available);
 - b. Information about the information included in the breach, impermissible use, or impermissible disclosure;
 - c. The date or dates of the suspected breach, impermissible use, or impermissible disclosure;
 - d. The date of the discovery by Contractor;
 - e. A list of the proactive steps taken by Contractor and being taken to correct the breach, impermissible use or impermissible disclosure; and
 - f. Contact information at Contractor for affected persons who contact the Department regarding the issue.
 - (2) Not less than one (1) business day before Contractor makes any external communications to the public, media, federal Office for Civil Rights (OCR), other governmental entity, or persons potentially affected by the breach, impermissible use, or impermissible disclosure, provide a copy of the planned communication to the Department Program Manager and Privacy Officer.
 - (3) Within thirty (30) business days after Contractor makes the initial report under this section, Contractor shall research the suspected breach, impermissible use, or impermissible disclosure of Confidential Information and provide a report in writing to the Department Program Manager. The report must contain, at a minimum:
 - a. A complete list of any persons affected (whose Confidential Information was supplied to Contractor by the Department) and their contact information;
 - b. Copies of correspondence or notifications provided to the public, media, OCR, other governmental entity, or persons potentially affected;
 - c. Whether Contractor's Privacy Officer has determined there has been a reportable breach under HIPAA, or an unauthorized acquisition under Wis. Stat. §134.98 and the reasoning for such determination;

- d. If Contractor determines there has been a breach, impermissible use, or impermissible disclosure, an explanation of the root cause of the breach, impermissible use, or impermissible disclosure;
 - e. A list of the corrective actions taken to mitigate the suspected breach, impermissible use, or impermissible disclosure; and
 - f. A list of the corrective actions taken to prevent a similar future breach, impermissible use, or impermissible disclosure.
- (m) **CLASSIFICATION LABELS:** Contractor shall ensure that all data classification labels contained on or included in any item of Confidential Information shall be reproduced by Contractor on any reproduction, modification, or translation of such Confidential Information. Contractor shall make a reasonable effort to add a proprietary notice or indication of confidentiality to any tangible materials within its possession that contain Confidential Information of the Department, as directed by the Department.
- (n) **SUBCONTRACTORS:** If applicable, in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), Contractor shall ensure that any subcontractors that create, receive, maintain, or transmit Confidential Information on behalf of Contractor agree to the same restrictions, conditions, and requirements that apply to Contractor with respect to such information.
- (o) **NOTICE OF LEGAL PROCEEDINGS:** If Contractor or any of its employees, agents, or subcontractors is legally required in any administrative, regulatory or judicial proceeding to disclose any Confidential Information, contractor shall give the Department prompt notice (unless it has a legal obligation to the contrary) so that the Department may seek a protective order or other appropriate remedy. In the event that such protective order is not obtained, Contractor shall furnish only that portion of the information that is legally required and shall disclose the Confidential Information in a manner reasonably designed to preserve its confidential nature.
- (p) **MITIGATION:** The Contractor shall take immediate steps to mitigate any harmful effects of the suspected or actual unauthorized use, disclosure, or loss of any Confidential Information provided to Contractor under the Contract. The Contractor shall reasonably cooperate with the Department's efforts to comply with the breach notification requirements of HIPAA, to seek appropriate injunctive relief or otherwise prevent or curtail such suspected or actual unauthorized use, disclosure or loss, or to recover its Confidential Information, including complying with a reasonable corrective action plan, as directed by the Department.
- (q) **COMPLIANCE REVIEWS:** The Department may conduct a compliance review of the Contractor's security procedures before and during the Contract term to protect Confidential Information.
- (r) **AMENDMENT:** The Parties agree to take such action as is necessary to amend the Contract as necessary for compliance with the HIPAA Rules and other applicable law.
- (s) **Survival:** The obligations of Contractor under this Section survive the termination of the underlying Contract.
- (t) **RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION:** Upon termination of the Contract for any reason, Contractor, with respect to Confidential Information received from the Department, another contractor of the Department, or created, maintained, or received by Contractor on behalf of the Department, shall:
1. Retain only that Confidential Information which is necessary for Contractor to continue its proper management and administration or to carry out its legal responsibilities;
 2. Return to the Department or, if agreed to by the Department, destroy the remaining Confidential Information that Contractor still maintains in any form;
 3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this Subsection, for as long as Contractor retains the Protected Health Information;
 4. Not use or disclose the Confidential Information retained by Contractor other than for the purposes for which such Confidential Information was retained and subject to the same conditions set out above under Subsection 22(d) which applied prior to termination;
 5. Return to the Department or, if agreed to by the Department, destroy the Protected Health Information retained by Contractor when it is no longer needed by Contractor for its proper management and administration or to carry out its legal responsibilities; and
 6. If required by the Department, transmit the Confidential Information to another contractor of the Department.

23.0 INDEMNIFICATION:

- 23.1 SCOPE OF INDEMNIFICATION FOR INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT:** In the event of a claim against the Parties for Intellectual Property Rights Infringement associated with a claim for benefits, Contractor agrees to defend, indemnify and hold harmless Board and Department ("Indemnified Parties") from and against any and all claims, actions, loss, damage, expenses, costs (including reasonable fees for Department's staff attorneys and/or attorneys from the Wisconsin Attorney General's Office) reasonable attorneys' fees otherwise incurred by Board, Department and/or the Wisconsin Attorney General's Office, court costs, and related reasonable legal expenses whether incurred in defending against such claims or enforcing this Section.
- 23.2 SCOPE OF OTHER INDEMNIFICATION:** In addition to the foregoing Section, Contractor shall defend, indemnify and hold harmless the Indemnified Parties from and against any and all claims, actions, loss, damage, expenses, costs (including reasonable fees for the Department's staff attorneys and/or attorneys from the Wisconsin Attorney General's Office), court costs, and related reasonable legal expenses whether incurred in defending against such claims or enforcing this Section, or liability arising from or in connection with the following: (a) Contractor's performance of or failure to perform any duties or obligations under any agreement between Contractor and any third party; (b) injury to persons (including death or illness) or damage to property caused by the act or omission of Contractor or Contractor personnel; (c) any claims or losses for Services rendered by any subcontractor, person, or firm performing or supplying Services, materials, or supplies in connection with the Contractor's performance of the Contract; (d) any claims or losses resulting to any person or third party entity injured or damaged by the Contractor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (e) any failure of the Contractor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.
- 23.3 INDEMNIFICATION NOTICE:** The Department shall give the Contractor prompt written notice of such claim, suit, demand, or action (provided that a failure to give such prompt notice will not relieve the Contractor of its indemnification obligations hereunder except to the extent Contractor can demonstrate actual, material prejudice to its ability to mount a defense as a result of such failure). The Department will cooperate, assist, and consult with the Contractor in the defense or investigation of any claim made or suit filed against Department resulting from Contractor's performance under the Contract.
- 23.4 NO INDEMNIFICATION OBLIGATIONS:** Contractor shall, as soon as practicable, notify the Department of any claim made or suit filed against Contractor resulting from Contractor's obligations under the Contract if such claim may involve the Department. The Department has no obligation to provide legal counsel or defense to Contractor if a suit, claim, or action is brought against Contractor or its subcontractors as a result of Contractor's performance of its obligations under the Contract. In addition, Department has no obligation for the payment of any judgments or the settlement of any claims against Contractor arising from or related to the Contract. Department has not waived any right or entitlement to claim sovereign immunity under the Contract.
- 23.5 CONTRACTOR'S DUTY TO INDEMNIFY:** The Contractor shall comply with its obligations to indemnify, defend and hold the Indemnified Parties harmless with regard to claims, damages, losses and/or expenses arising from a claim. The Contractor shall be entitled to control the defense of any such claim and to defend or settle any such claim, in its sole discretion, with counsel of its own choosing; however, the Contractor shall consult with the Department regarding its defense of any claim and not settle or compromise any claim or action in a manner that imposes restrictions or obligations on Department, requires any financial payment by the Department, or grants rights or concessions to a third party without first obtaining the Department's prior written consent. Contractor shall have the right to assert any and all defenses on behalf of the Indemnified Parties, including sovereign immunity.

In carrying out any provision of the Contract or in exercising any power or authority granted to the Contractor thereby, there shall be no liability upon the Department, it being understood that in such matters the Department acts as an agent of the State.

The Contractor shall at all times comply with and observe all federal and State laws and regulations which are in effect during the period of the Contract and which in any manner affect the work or its conduct.

24.0 **EQUITABLE RELIEF:** The Contractor acknowledges and agrees that the unauthorized use, disclosure, or loss of Confidential Information may cause immediate and irreparable injury to the individuals whose information is disclosed and to the State, which injury shall not be compensable by money damages and for which there is not an adequate remedy available at law. Accordingly, the Department and the Contractor specifically agree that the Department, on its own behalf or on behalf of the affected individuals, shall be entitled to obtain injunctive or other equitable relief to prevent or curtail any such breach, threatened or actual, without posting security and without prejudice to such other rights as may be available under the Contract or under applicable law.

25.0 **RIGHT TO PUBLISH OR DISCLOSE:** Throughout the term of the Contract, the Contractor must secure the Department's written approval prior to the release of any information which pertains to work or activities covered by the Contract.

The Department and the Contractor agree that it is a breach of the Contract to disclose any information to any person that the Department or its governing boards may not disclose under Wis. Stat. § 40.07. Contractor acknowledges that it will be liable for damage or injury to persons whose Confidential Information is disclosed by any officer, employee, agent, or subcontractor of the Contractor without proper authorization.

26.0 **TIME IS OF THE ESSENCE:** Timely provision of the Services required under the Contract shall be of the essence of the Contract, including the provision of the Services within the time agreed or on a date specified in the Contract.

27.0 **IDENTIFICATION OF KEY PERSONNEL AND PERSONNEL CHANGES:** The Department will designate a contract administrator, who shall have oversight for performance of the Department's obligations under the Contract. The Department shall not change the person designated without prior written notification to the Contractor.

The State of Wisconsin reserves the right to approve all individuals assigned to the project described in the Contract. The Contractor agrees to use its best efforts to minimize personnel changes during the Contract term.

At the time of contract negotiations, the Contractor shall furnish the Department with names of all key personnel assigned to perform work under the Contract and furnish the Department with criminal background checks.

The Contractor will designate a contract administrator who shall have executive and administrative oversight for performance of the Contractor's obligations under the Contract. The Contractor shall not change this designation without prior written notice to the Department.

The Contractor may not divert key personnel for any period of time except in accordance with the procedure identified in this Section. The Contractor shall provide a notice of proposed diversion or replacement to the Department Program Manager and Contract Manager at least sixty (60) calendar days in advance, together with the name and qualifications of the person(s) who will take the place of the diverted or replaced staff. At least thirty (30) calendar days before the proposed diversion or replacement, the Department shall notify the Contractor whether the proposed diversion or replacement is approved or rejected, and if rejected shall provide reasons for the rejection. Such approval by the Department shall not be unreasonably withheld or delayed.

Replacement staff shall be on-site within two (2) weeks of the departure date of the person being replaced. The Contractor shall provide the Department with reasonable access to any staff diverted by the Contractor.

Replacement of key personnel shall be with persons of equal ability and qualifications. The Department has the right to conduct separate interviews of proposed replacements for key personnel. The Department shall have the right to approve, in writing, the replacement of key personnel. Such approval shall not be unreasonably withheld. Failure of the Contractor to promptly replace key personnel within thirty (30) calendar days after departure shall entitle the Department to terminate the Contract. The Contractor's notice and justification of a change in key personnel must include identification of proposed substitute key personnel and must provide sufficient detail to permit the Department to evaluate the impact of the change on the project and/or maintenance.

Any of the Contractor's staff that the Department deems unacceptable shall be promptly and without delay removed from the project by the Contractor and replaced by the Contractor within thirty (30) calendar days by another employee with acceptable experience and skills subject to the prior approval of the Department. Such approval by the Department will not be unreasonably withheld or delayed.

An unauthorized change by the Contractor of any contracted personnel designated as key personnel will result in the imposition of liquidated damages, as defined in the Contract.

28.0 DATA SECURITY AND PRIVACY AGREEMENT

- (a) **PURPOSE AND SCOPE OF APPLICATION:** This Data Security and Privacy Agreement (Agreement) is designed to protect the Department of Employee Trust Funds' (Department) Confidential Information and Department Information Resources (defined below). This Agreement describes the data security and privacy obligations of Contractor and its sub-contractors that connect to Department Information Resources and/or gain access to Confidential Information.
- (b) **DEFINED TERMS:**
- (1) **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) Individual Personal 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); or (vii) any material submitted by the Contractor in response to a Department RFB/RFP that the Contractor designates confidential and proprietary information and which qualifies as a trade secret, as provided in Wis. Stat. § 19.36 (5) or material which can be kept confidential under the Wisconsin public records law.
 - (2) **Department Information Resources** means those devices, networks and related infrastructure that the Department has obtained for use to conduct Department business. Devices include but are not limited to, Department-owned, managed, used through service agreements storage, processing, communications devices and related infrastructure on which Department data is accessed, processed, stored, or communicated, and may include personally owned devices. Data includes, but is not limited to, Confidential Information, other Department created or managed business and research data, metadata, and credentials created by or issued on behalf of the Department.
- (c) **ACCESS TO DEPARTMENT INFORMATION RESOURCES:** In any circumstance when Contractor is provided access to Department Information Resources, it is solely Contractor's responsibility to ensure that its access does not result in any access by unauthorized individuals to Department Information Resources. Contractors who access the Department's systems from any Department location must at a minimum conform with Department security standards that are in effect at the Department location(s) where the access is provided. Any Contractor technology and/or systems that gain access to Department Information Resources must comply with, at a minimum, the elements in the Computer System Security Requirements set forth in this Agreement.
- (d) **COMPLIANCE WITH APPLICABLE LAWS:** Contractor agrees to comply with all applicable state and federal laws, as well as industry best practices, governing the collection, access, use, disclosure, safeguarding and destruction of Confidential Information.

- (e) **PROHIBITION ON UNAUTHORIZED USE OR DISCLOSURE OF CONFIDENTIAL INFORMATION:** Contractor agrees to hold the Department's Confidential Information, and any information derived from such information, in strictest confidence. Contractor will not access, use or disclose Confidential Information other than to carry out the purposes for which the Department disclosed the Confidential Information to Contractor, except as permitted or required by applicable law, or as otherwise authorized in writing by the Department. For avoidance of doubt, this provision prohibits Contractor from using for its own benefit Confidential Information or any information derived from such information. If required by a court of competent jurisdiction or an administrative body to disclose Confidential Information, Contractor will notify the Department in writing immediately upon receiving notice of such requirement and prior to any such disclosure, to give the Department an opportunity to oppose or otherwise respond to such disclosure (unless prohibited by law from doing so).
- (f) **REQUIREMENT TO KEEP CONFIDENTIAL INFORMATION WITHIN THE UNITED STATES:** The Contractor's transmission, transportation or storage of Confidential Information outside the United States, or access of Confidential Information from outside the United States, is prohibited except on prior written authorization by the Department.
- (g) **SAFEGUARD STANDARD:** Contractor agrees to protect the privacy and security of Confidential Information according to all applicable laws and regulations, including HIPAA, by commercially-acceptable frameworks or standards such as the ISO/IEC 27000-series, NIST, 800-53, RFC 2196, IEC 62443, and SANS CIS Top 20. ISO 27001, etc. Security Controls, and no less rigorously than it protects its own confidential information, but in no case less than reasonable care. Contractor will implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of the Confidential Information. All Confidential Information stored on portable devices or media must be encrypted in accordance with the Federal Information Processing Standards (FIPS) Publication 140-2. Contractor will ensure that all security measures are regularly reviewed including ongoing monitoring, an annual penetration and vulnerability test, and an annual security incident response test, and revised, no less than annually, to address evolving threats and vulnerabilities while Contractor has responsibility for the Confidential Information under the terms of this Agreement. Prior to agreeing to the terms of this Agreement, and periodically thereafter (no more frequently than annually) at the Department's request, Contractor will provide assurance, in the form of a third-party audit report or other documentation acceptable to the Department, such as SOC2 Type II, demonstrating that appropriate information security safeguards and controls are in place.
- (h) **INFORMATION SECURITY PLAN:**
- (1) Contractor acknowledges that the Department is required to comply with information security standards for the protection of Confidential Information as required by law, regulation and regulatory guidance, as well as the Department's internal security program for information and systems protection.
 - (2) Contractor will establish, maintain and comply with an information security plan (Information Security Plan), which will contain, at a minimum, such elements as those set forth in this Agreement.
 - (3) Contractor's Information Security Plan will be designed to:
 - a. Ensure the privacy, security, integrity, availability, and confidentiality of Confidential Information;
 - b. Protect against any anticipated threats or hazards to the security or integrity of Confidential Information;
 - c. Protect against unauthorized access to or use of Confidential Information that could result in harm or inconvenience to the person that is the subject of such information;
 - d. Reduce risks associated with Contractor having access to Department Information Resources; and
 - e. Comply with all applicable legal and regulatory requirements for data protection.
 - (4) On at least an annual basis, Contractor will review its Information Security Plan, update and revise it as needed, and submit it to the Department upon request. At the Department's request, Contractor will make modifications to its Information Security Plan or to the procedures and practices thereunder to conform to the Department's security requirements as they exist from time to time. If there are any significant modifications to Contractor's Information Security Plan, Contractor will notify the Department within a reasonable period of time, not to exceed two weeks. Any significant modification must include the same or a higher framework or information security standard maturity level than what currently exists in Contractor's Security Plan.

(i) RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION:

Upon termination of the Contract for any reason, Contractor, with respect to Confidential Information received from the Department, another contractor of the Department, or created, maintained, or received by Contractor on behalf of the Department, shall:

- (1) Retain only that Confidential Information which is necessary for Contractor to continue its proper management and administration or to carry out its legal responsibilities;
- (2) Where feasible, return to the Department, or, if agreed to by the Department, destroy the remaining Confidential Information that Contractor still maintains in any form;
- (3) Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this Subsection, for as long as Contractor retains the Protected Health Information;
- (4) Not use or disclose the Confidential Information retained by Contractor other than for the purposes for which such Confidential Information was retained and subject to the same conditions set out above under Subsection (d) which applied prior to termination;
- (5) Return to the Department or, if agreed to by the Department, destroy the Protected Health Information retained by Contractor when it is no longer needed by Contractor for its proper management and administration or to carry out its legal responsibilities; and
- (6) If required by the Department, transmit the Confidential Information to another contractor of the Department.

- (j) NOTIFICATION OF CORRESPONDENCE CONCERNING CONFIDENTIAL INFORMATION:** Contractor agrees to notify the Department immediately, both orally and in writing, but in no event more than twenty-four (24) hours after Contractor receives correspondence or a complaint regarding Confidential Information, including but not limited to, correspondence or a complaint that originates from a regulatory agency or an individual.

(k) BREACHES OF CONFIDENTIAL INFORMATION:

CONTRACTOR REPORTING OF BREACH OR SUSPECTED BREACH OR DISCLOSURE TO THE DEPARTMENT:

- (1) Within twenty-four (24) hours after Contractor becomes aware of a suspected breach, impermissible use, or impermissible disclosure of the Department's Confidential Information, Contractor agrees to notify in writing the Department Program Manager and Privacy Officer. A suspected breach, impermissible use, or impermissible disclosure is considered to be discovered as of the first day on which such occurrence is known to Contractor, or, by exercising reasonable diligence, would have been known to Contractor. The notification must contain details sufficient for the Department Program Manager and Privacy Officer to determine the Department's agency response. Sufficient details include, without limitation:
 - a. The nature of the unauthorized access, use or disclosure;
 - b. A list of any affected persons (if available), whose Confidential Information was supplied to Contractor by the Department;
 - c. Information about the information included in the breach, impermissible use, or impermissible disclosure;
 - d. The date or dates of the suspected breach, impermissible use, or impermissible disclosure;
 - e. The date of the discovery by Contractor;
 - f. A list of the pro-active steps taken by Contractor and being taken to correct the breach, impermissible use or impermissible disclosure; and
 - g. Contact information at Contractor for affected persons who contact the Department regarding the issue.
- (2) Not less than twenty-four (24) hours before Contractor makes any external communications to the public, media, federal Office for Civil Rights (OCR), other governmental entity, or persons potentially affected by the breach, impermissible use, or impermissible disclosure, Contractor agrees to provide a copy of the planned communication to the Department Program Manager and Privacy Officer.

- (3) Within thirty (30) days after Contractor makes the initial report under this section, Contractor shall research the suspected breach, impermissible use, or impermissible disclosure of Confidential Information and provide a report in writing to the Department Program Manager. The report must contain, at a minimum:
 - a. A complete list of any affected persons (whose Confidential Information was supplied to Contractor by the Department) and their contact information;
 - b. Copies of correspondence or notifications provided to the public, media, OCR, other governmental entity, or persons potentially affected;
 - c. Whether Contractor's Privacy Officer has determined there has been a reportable breach under HIPAA, or an unauthorized acquisition under Wis. Stat. §134.98 and the reasoning for such determination;
 - d. If Contractor determines there has been a breach, impermissible use, or impermissible disclosure, an explanation of the root cause of the breach, impermissible use, or impermissible disclosure;
 - e. A list of the corrective actions taken to mitigate the suspected breach, impermissible use, or impermissible disclosure; and
 - f. A list of the corrective actions taken to prevent a similar future breach, impermissible use, or impermissible disclosure.

COORDINATION OF BREACH RESPONSE ACTIVITIES:

- (4) Contractor will fully cooperate with the Department's investigation of any breach of Confidential Information involving Contractor, including but not limited to making witnesses, documents, HIPAA logs, systems logs, video recordings, or other pertinent or useful information available immediately upon Contractor's reporting of the breach and throughout the investigation. Contractor's full cooperation will include but not be limited to Contractor:
 - a. Immediately preserving any potential forensic evidence relating to the breach, and remedying the breach as quickly as circumstances permit
 - b. Within forty-eight (48) hours designating a contact person to whom the Department will direct inquiries, and who will communicate Contractor responses to Department inquiries; Contractor will designate a Privacy Officer and Security Officer to serve as contacts for the Department.
 - c. As rapidly as circumstances permit, applying appropriate resources to remedy the breach condition, investigate, document, restore the Department service(s) as directed by the Department, and undertake appropriate response activities such as working with the Department, its representative, and law enforcement to identify the breach, identify the perpetrator(s), and take appropriate actions to remediate the security vulnerability;
 - d. Providing status reports to the Department at least every two (2) hours until the root cause of the breach is identified and a plan is devised to fully remediate the breach;
 - e. Once the root cause of the breach is identified and a plan is devised to fully remediate the breach, providing status reports to the Department daily or at mutually agreed upon timeframes, to the Department on breach response activities, findings, analyses, and conclusions;
 - f. Coordinating all media, law enforcement, or other breach notifications with the Department in advance of such notification(s), unless expressly prohibited by law; and
 - g. Ensuring that knowledgeable Contractor staff is available on short notice, if needed, to participate in Department-initiated meetings and/or conference calls regarding the breach.

ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS:

- (5) Contractor will make itself and any employees, subcontractors, or agents assisting Contractor in the performance of its obligations available to the Department at no cost to the Department to testify as witnesses, or otherwise, in the event of a breach or other unauthorized disclosure of Confidential Information caused by Contractor that results in litigation, governmental investigations, or administrative proceedings against the Department, its directors, officers, agents or employees based upon a claimed violation of laws relating to security and privacy or arising out of this Agreement or the Contract.

(I) RETENTION OF LOGS:

- a. Contractor shall keep all HIPAA logs (logs of any systems that have information relating to HIPAA) for six (6) years.
- b. Contractor shall keep all firewall logs for twelve (12) months.

(m) **ADDITIONAL INSURANCE:** In addition to the insurance required under the Contract, Contractor, at its sole cost and expense, will obtain, keep in force, and maintain an insurance policy (or policies) that provides coverage for privacy and data security breaches. This specific type of insurance is typically referred to as Privacy, Technology and Data Security Liability, Cyber Liability, or Technology Professional Liability. In some cases, Professional Liability policies may include some coverage for privacy and/or data breaches. Regardless of the type of policy in place, it needs to include coverage for reasonable costs in investigating and responding to privacy and/or data breaches with the following minimum limits unless the Department specifies otherwise: \$1,000,000 Each Occurrence and \$5,000,000 Aggregate.

(n) **INFORMATION SECURITY PLAN REQUIREMENTS:**

- (1) Contractor will develop, implement, and maintain a comprehensive Information Security Plan that is written in one or more readily accessible parts and contains administrative, technical, and physical safeguards. The safeguards contained in the Information Security Plan must be consistent with the safeguards for protection of Confidential Information and information of a similar character set forth in any state or federal regulations by which the person who owns or licenses such information may be regulated.
- (2) Without limiting the generality of the foregoing, every comprehensive Information Security Plan will include, but not be limited to:
 - a. Designating one or more employees to maintain the comprehensive Information Security Plan;
 - b. Identifying and assessing internal and external risks to the security, confidentiality, and/or integrity of any electronic, paper or other records containing Confidential Information and of Department Information Resources, and evaluating and improving, where necessary, the effectiveness of the current safeguards for limiting such risks, including but not limited to:
 - Ongoing employee (including temporary and contract employee) training;
 - Employee compliance with policies and procedures; and
 - Means, including Contractor staff, processes, and technology, for detecting information system intrusions, data breaches, and anomalous system behavior or activity, and for preventing security breaches, intrusions, or unauthorized access to information systems or networks.
 - c. Developing security policies for employees relating to the storage, access and transportation of records containing Confidential Information outside of business premises.
 - d. Imposing disciplinary measures for violations of the comprehensive Information Security Plan rules.
 - e. Preventing terminated employees from accessing records containing Confidential Information and/or Department Information Resources.
 - f. Overseeing service providers, by:
 - Taking reasonable steps to select and retain third-party service providers that are capable of maintaining appropriate security measures to protect such Confidential Information and Department Information Resources consistent with all applicable laws and regulations; and
 - Requiring such third-party service providers by contract to implement and maintain such appropriate security measures for Confidential Information.
 - g. Placing reasonable restrictions upon physical access to records containing Confidential Information and Department Information Resources and requiring storage of such records and data in locked facilities, storage areas or containers.
 - h. Restrict physical access to any network or data centers that may have access to Confidential Information or Department Information Resources.
 - i. Requiring regular monitoring to ensure that the comprehensive Information Security Plan is operating in a manner reasonably calculated to prevent unauthorized access to or unauthorized use of Confidential Information and Department Information Resources; and upgrading information safeguards as necessary to limit risks.
 - j. Reviewing the scope of the security measures at least annually or whenever there is a material change in business practices that may reasonably implicate the security or integrity of records containing Confidential Information and of Department Information Resources.
 - k. Documenting responsive actions taken in connection with any incident involving a breach, and mandating post-incident review of events and actions taken, if any, to make changes in business practices relating to protection of Confidential Information and Department Information Resources.

- (o) **COMPUTER SYSTEM SECURITY REQUIREMENTS:** To the extent that Contractor electronically stores or transmits Confidential Information or has access to any Department Information Resources, it will include in its written, comprehensive Information Security Plan the establishment and maintenance of a security system covering its computers, including any wireless system, that, at a minimum, and to the extent technically feasible, will have the following elements:
- (1) Secure user authentication protocols including:
 - a. Control of user IDs and other identifiers;
 - b. A secure method of assigning and selecting passwords, or use of unique identifier technologies, such as biometrics or token devices;
 - c. Multi-Factor Authentication (MFA);
 - d. Control of data security passwords to ensure that such passwords are kept in a location and/or format that does not compromise the security of the data they protect;
 - e. MFA for system administrators and others with 'super-user' access rights;
 - f. Restricting access to active users and active user accounts only;
 - g. Blocking access to user identification after multiple unsuccessful attempts to gain access or the limitation placed on access for the particular system; and
 - h. Periodic review of user access, access rights and audit of user accounts.
 - (2) Secure access control measures that:
 - a. Restrict access to records and files containing Confidential Information and systems that may have access to Department Information Resources to those who need such information to perform their job duties; and
 - b. Assign unique identifications plus passwords, which are not vendor supplied default passwords, to each person with computer access, which are reasonably designed to maintain the integrity of the security of the access controls.
 - (3) Encryption of all transmitted records and files containing Confidential Information.
 - (4) Adequate security of all networks that connect to Department Information Resources or access Confidential Information, including wireless networks.
 - (5) Reasonable monitoring of systems, for unauthorized use of or access to Confidential Information and Department Information Resources.
 - (6) Encryption of all Confidential Information stored on Contractor devices, including laptops or other portable storage devices.
 - (7) For files containing Confidential Information on a system that is connected to the Internet or that may have access to Department Information Resources, reasonably up-to-date firewall, router and switch protection and operating system security patches, reasonably designed to maintain the integrity of the Confidential Information.
 - (8) Reasonably up-to-date versions of system security agent software, including intrusion detection systems, which must include malware protection and reasonably up-to-date patches and virus definitions, or a version of such software that can still be supported with up-to-date patches and virus definitions, and is set to receive the most current security updates on a regular basis.
 - (9) Education and training of employees on the proper use of the computer security system and the importance of Confidential Information and network security.

With reasonable notice to Contractor, the Department may require additional security measures which may be identified in additional guidance, contracts, communications or requirements.

- 29.0 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 the Contract, and if the Contract involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, the Contract is voidable by the Department unless appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before the Contract is signed. Disclosure must be made to the Department or the State of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123).
- 30.0 DISCLOSURE OF INDEPENDENCE AND RELATIONSHIP:**
- 30.1** Contractor certifies that no relationship exists between Contractor and the Department 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 may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interests of the State.
- 30.2** Contractor agrees 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 Department or has interests that are adverse to the Department. The Department may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interests of the State.
- 31.0 PROMOTIONAL ADVERTISING / NEWS RELEASES:** Reference to or use of the Department, the State, any of its departments, agencies or other subunits, or any State official or employee for commercial promotion is prohibited. News releases pertaining to the Contract, shall not be made without prior approval of the Department. Release of broadcast e-mails pertaining to the Contract shall not be made without prior written authorization of the Department.
- 32.0 EMPLOYMENT:** The Contractor will not engage the services of any person or persons now employed by the State, including any department, commission or board thereof, to provide services relating to the Contract without the written consent of the employing agency of such person or persons and of the Department.
- 33.0 INDEPENDENT CAPACITY OF CONTRACTOR:** The Department and the Contractor agree that the Contractor, its officers, agents, and employees, in the performance of the Contract 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.
- 34.0 TAXES:** The State and its agencies are exempt from payment of all federal tax and State and local taxes on its purchases except Wisconsin excise taxes as described below.
- The State is exempt from payment of Wisconsin sales or use tax on its purchases. The State 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.
- 35.0 VENDOR TAX DELINQUENCY:** The State may offset Contractor's payments if Contractor has a delinquent State tax liability.
- 36.0 FOREIGN CORPORATION:** If Contractor is a foreign corporation (any corporation other than a Wisconsin corporation), Contractor 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 Corporations, P. O. Box 7846, Madison, WI 53707-7846; telephone (608) 261-7577.

37.0 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 Department shall have the right to audit, review, examine, copy, and transcribe any pertinent records or documents relating to the Contract held by the Contractor.

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 a contract. Pursuant to §19.36 (3), Wis. Stats., all records of the Contractor that are produced or collected under the Contract are subject to disclosure pursuant to a public records request. Upon receipt of notice from the State of a public records request for records produced or collected under the Contract, the Contractor shall provide the requested records to the Department. The Contractor, following final payment, shall retain all records produced or collected under the Contract for six (6) years.

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

39.0 ASSIGNMENT: No right or duty in whole or in part of the Contractor under the Contract may be assigned or delegated without the prior written consent of the Department.

40.0 PATENT INFRINGEMENT: If goods, products, or articles are provided under the Contract, the Contractor guarantees such items were manufactured or produced in accordance with applicable federal labor laws. Further, that the sale or use of such items described in the Contract 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 (provided that the 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 items, and agrees that it will pay all costs, damages, and profits recoverable in any such suit.

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

42.0 FORCE MAJEURE: Neither the Contractor nor the Department shall be in default by reason of any failure in performance of the Contract 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 non-performing party.

FORM D - BIDDER REQUIRED FORM

STATE OF WISCONSIN
 DEPARTMENT OF ADMINISTRATION
 DOA-3832 (C01/2018)
 S. 16.72 WIS. STATS



STATE BUREAU OF PROCUREMENT
 101 EAST WILSON STREET, 6TH FLOOR
 P. O. BOX 7867
 MADISON, WI 53707-7867

Instructions: Bidder is required to complete all sections of this form. (Note: If the agency checks the box preceding Section 5 indicating that section is not applicable to the bid/proposal, Bidder may skip Section 5. Bidder may not skip any other sections of this form).

Agency Name Wisconsin Department of Employee Trust Funds	Solicitation Title Courier Services	Solicitation Reference Number ETI0033
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Section 1: Bidder Information

Bidder/Proposer Company Name:		E-Mail Address:	
Phone Number:	Toll Free Phone:	Fax:	
Address:			
City:	State:	Zip:	
Mailing Address for Purchase Orders (if different than above)			
Address:			
City:	State:	Zip:	

Section 2: Bidder Contacts

List the name and title of the person to contact for questions related to each of the topics below:

Topic	E-Mail Address	Phone
Bid/Proposal		
Affirmative Action Plan		
Orders and billing		

Section 3: Bidder Reference

Provide company name, address, contact person, telephone number, and appropriate information on the product(s) and/or service(s) used with requirements similar to those included in this solicitation document. If vendor is proposing any arrangement involving a third party, the named references should also be involved in a similar arrangement.

Company Name:

Address (including City, State, Zip):

Contact Person:	E-Mail Address:	Phone:
List Product(s) and/or Service(s) Used:		
Company Name:		
Address (including City, State, Zip):		
Contact Person:	E-Mail Address:	Phone:
List Product(s) and/or Service(s) Used:		
Company Name:		
Address (including City, State, Zip):		
Contact Person:	E-Mail Address:	Phone:
List Product(s) and/or Service(s) Used:		
Company Name:		
Address (including City, State, Zip):		
Contact Person:	E-Mail Address:	Phone:
List Product(s) and/or Service(s) Used:		

Section 4: Designation of Confidential and Proprietary Information

The attached material submitted in response to this 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

Using the boxes below, indicate your agreement with the following statements:

- In the event the designation of confidentiality of this information is challenged, the bidder/proposer 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.

- The state considers other markings of confidential in the bid/proposal document to be insufficient. The bidder/proposer agrees to hold the state harmless for any damages arising out of the release of any materials unless they are specifically identified above.

Agency Only:

Section 5 is not applicable to this bid/proposal. If this box is checked, Bidder may skip to Section 6.

Section 5: Bidder Agreement: Wisconsin's Cooperative Purchasing Service

Wisconsin statutes (s. 16.73, Wis. Stats.) establish authority to allow Wisconsin municipalities to purchase from state contracts. Participating in the service gives vendors opportunities for additional sales without additional bidding. Municipalities use the service to expedite purchases. A "municipality" is defined as any county, city, village, town, school district, board of school directors, sewer district, drainage district, vocational, technical and adult education district, or any other public body having the authority to award public contracts (s. 16.70(8), Wis. Stats.). Federally recognized Indian tribes and bands in this state may participate in cooperative purchasing with the state or any municipality under ss. 66.0301(1) and (2), Wis. Stats.

Interested municipalities:

- Will contact the contractor directly to place orders referencing the state agency contract number; and
- Are responsible for receipt, acceptance, and inspection of commodities directly from the contractor, and making payment directly to the contractor.

The State of Wisconsin is not party to these purchases or any dispute arising from these purchases and is not liable for delivery or payment of any of these purchases.

Bidders/Proposers may or may not agree to furnish the commodities or services of this bid/proposal to Wisconsin municipalities. A vendor's decision on participating in these services has no effect on awarding this contract.

Bidder: Please indicate your willingness to furnish the commodities or services to Wisconsin municipalities by checking the appropriate box below.

I Agree to furnish the commodities or services of this bid/proposal to Wisconsin municipalities with any special conditions noted below.

I Do Not Agree to furnish the commodities or services to Wisconsin municipalities.

A vendor in the service may specify a minimum order sizes by volume or dollar amount, additional charges beyond normal delivery areas, or other minimal charges for municipalities.

Special Conditions (if applicable):

Section 6: Bidder Identification (Check all that apply)

- We claim minority bidder preference [Wis. Stats. 16.75(3m)(b)(3)]. Under Wisconsin Statutes, a 5% preference may be granted to CERTIFIED Minority Business Enterprises. Bidder must be certified by the Wisconsin Supplier Diversity Program. If you have questions concerning the certification process, contact the Wisconsin Supplier Diversity Program, 6th Floor, 101 E. Wilson St., Madison, WI 53703, (608) 267-9550. **Does Not Apply to Printing Bids.**
- We claim disabled veteran owned business bidder preference [Wis. Stats. 16.75(3m)(b)(3)]. Under Wisconsin Statutes, a 5% preference may be granted to CERTIFIED Disabled Veteran Owned Businesses. Bidder must be certified by the Wisconsin Supplier Diversity Program. If you have questions concerning the certification process, contact the Wisconsin Supplier Diversity Program, 6th Floor, 101 E. Wilson St., Madison, WI 53703, (608) 267-9550. **Does Not Apply to Printing Bids.**
- We are a work center certified under Wis. Stats. S. 16.752 employing persons with severe disabilities. Questions concerning the certification process should be addressed to the Work Center Program, State Bureau of Procurement, 6th Floor, 101 E. Wilson St., Madison, WI 53703, (608) 266-5462.

Section 7: Bidder Certifications

Wis. Stats. s. 16.754 directs the state to purchase materials which are manufactured to the greatest extent in the United States when all other factors are equal. Materials covered in our bid were manufactured in whole or in substantial part in the United States. Yes No Unknown

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 bid, that this bid has been independently arrived at without collusion with any other bidder, competitor or potential competitor; that this bid has not been knowingly disclosed prior to the opening of bids to any other bidder or competitor; that the above statement is accurate under penalty of perjury.

We certify that we are not currently engaged in a boycott of the State of Israel. Should we be awarded a contract, we understand that future engagement in a boycott of the State of Israel may result in contract termination.

We will comply with all terms, conditions and specifications required by the state in this Request for Bid/Proposal and all terms of our bid.

Section 8: Bidder Signature

Name of Authorized Company Representative:	Title:	Phone:	Fax:
Signature of Above	Date:	Email:	

This document can be made available in alternate formats to individuals with disabilities upon request.



Department of Employee Trust Funds
 4822 Madison Yards Way, 8th Floor
 P. O. Box 7931
 Madison, WI 53707-7931

FORM F - DRAFT CONTRACT

Commodity or Service:

Contract No./Request for Bid/Proposal No:

Courier Services

RFB ETI0033

Contract Period: February 1, 2019 – January 31, 2020, with the option of two, one-year renewals

Cost: XXX

1. This Contract is entered into by and between the State of Wisconsin Department of Employee Trust Funds ("ETF") and XXX ("Contractor") whose address and principal officer appear below. ETF is the sole point of contact for this Contract. All references to the "Department," "ETF," "State of Wisconsin," or "State" in any term, condition, or specification shall have the same authority as one entity.
2. ETF agrees to direct the purchase and Contractor agrees to supply the services described in ETF's RFB ETI0033 Courier Services with the release date of January 3, 2019, in accordance with the Department Terms and Conditions (listed below).
3. For purposes of administering this Contract, the following documents are hereby incorporated under this Contract by reference, and the order of precedence shall be as follows:
 - (a) This Contract with XXX with payment schedule as follows:

Description	Schedule	Invoice Total

- (b) RFB ETI0033 Courier Services, with the release date of January 3, 2019, including Department Terms and Conditions, revised 03-01-2018;
- (c) XXX's response to RFB ETI0033, signed January XX, 2019; and,
- (d) Exhibit A – Contracted Personnel - Confidentiality and Inventions Agreement – signed by each person from XXX who will be working with ETF on this project, including (List Names).

Contract: ETI0033 – Courier Services

The parties agree to the terms and conditions set forth herein:

State of Wisconsin Department of Employee Trust Funds
Address:

XXX
Address:

4822 Madison Yards Way, 8 th Floor P.O. Box 7931 Madison, WI 53707-7931
By (print the name of person authorized to legally sign this document and bind the agency):
Title (print title of person named above):

Signature:
Date:

Taxpayer ID Number (for payment purposes):
By (print the name of person authorized to legally sign this document and bind the entity):
Title (print title of person named above):

Signature:
Date:

FORM G - SUBCONTRACTOR INFORMATION

None of the services to be provided by the Contractor shall be subcontracted or delegated to any other organization, subdivision, association, individual, corporation, partnership or group of individuals, or other such entity without the prior written consent of ETF. The determination of whether such consent will be provided shall be within the sole discretion of ETF. No subcontract or delegation shall relieve or discharge the Contractor from any obligation to meet deliverables, stated time frames or from liability under the Contract.

Instructions:

1. Provide a list of all subcontractors, consultants and suppliers (including subsidiaries) that will provide services, products, content, work and supplies as part of the project described in the RFB, using the table below. Add additional copies of this form as necessary.
2. Provide a list of all persons who contributed to authoring the Bid.
3. Print company name.
4. Print the name of the representative signing this form (must be authorized to legally bind the company).
5. Sign the form.
6. Date the form.
7. Include the form with Bid within Tab. 1.

Name and Title of Subcontractor, Consultant, Supplier, Bid Author	Address and Phone Number	Work/Service/Product/Content to be Performed/Supplied

Company Name: _____
Authorized Printed Name _____
Authorized Signature _____ Date _____

RFB ETI0033 COURIER SERVICES - VENDOR Q&A

January 14, 2019

No.	RFB SECTION	RFB PAGE	QUESTION	ANSWER
Q1			What is the current rate for the morning route (starting at 10 AM)? What is the current rate for the afternoon route (starting at 1:15 PM)?	The current daily run costs \$829.74/month. This includes both morning and afternoon stops and more stops total than the schedule being bid out here.
Q2			What is the hourly rate for the special stops that are outside of the routes noted above?	The flat rate for new additional deliveries within Madison is \$6/stop. The hourly rate for the services of one person and a mode of transport is \$24/hour, which is based on a per mile rate of \$1.50.
Q3			Will there ever be a need for a cargo van to perform these services? For example, it appears a vendor may pick up banker boxes, paper ream cartons and larger envelopes.	No, there is not a need for a van for ETF's route.
Q4			On average, can a smaller vehicle be used to perform the daily duties such as a car?	Yes, a car will work for ETF's route.
Q5			Are we entering your buildings or is it a requirement to call at each location and meet your staff at the designated doors or dock areas?	Yes, you must call to get into the building to meet with ETF staff. There is a security desk at DOA that requires you to check in before you can go to the 5 th floor to drop off or pick up materials.

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Courier Services for ETF
RFB – ETI0033

Presented by:
CS Logistics, Inc.

- Title:
- Courier Services

- Bid Due Date:
- January 18, 2019, 2:00 p.m. CST

CSL Original

TABLE OF CONTENTS

1	TAB 1: GENERAL INFORMATION AND REQUIRED FORMS.....	3
	FORM A - BIDDERS CHECKLIST	8
	FORM B - COURIER DAILY RUN SCHEDULE	11
	FORM C - DEPARTMENT TERMS AND CONDITIONS	13
	FORM D - BIDDER REQUIRED FORM	33
	FORM E - COST WORKSHEET	38
	FORM F - DRAFT CONTRACT	39
	FORM G - SUBCONTRACTOR INFORMATION	41
2	TAB 2: ASSUMPTIONS AND EXPECTATIONS.....	43
3	TAB 3: RESPONSE TO SECTIONS 3.....	45
	FORM C – ASSUMPTIONS AND EXCEPTIONS TO DEPARTMENT TERMS AND CONDITIONS	50

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1 **TAB 1: GENERAL INFORMATION AND REQUIRED FORMS**

TAB 1 General Information and Required Forms

Provide the following in the following order:

- **TRANSMITTAL LETTER: A signed transmittal letter must accompany the bid. The transmittal letter must be written on the Bidder's official business stationery and signed by an official that is authorized to legally bind the Bidder. Include in the letter:**

- I. **Name, signature and title of Bidder's authorized representative;**

Steven S. Kreinz, Vice President and Owner (Signature on original Transmittal Letter.)

- II. **Name and address of company;**

11001 W. Mitchell Street, Milwaukee, WI 53214

- III. **Telephone number and e-mail address of representatives who will be providing services under this RFB;**

(414) 774-6322, operations@cslog.com and the team at CS Logistics will be taking care of the account.

- IV. **RFB number and title:**

ETI0033 Courier Services;

- V. **Number of employees (if less than 50)**

extra credit: over 100 employees; and,

- VI. **Executive Summary.**

January 10, 2019

Dept. of Employee Trust Funds
Kristen Schipper – Purchasing Agent

CSL Original

RFB ETI0033

Hill Farms State Office Building (HFSOB)
8th Floor North Tower (Visitor's Entrance)
4822 Madison Yards Way
Madison, WI 53705-9100

TO WHOM IT MAY CONCERN:

CS LOGISTICS, INC. IS PREPARED TO PROVIDE COURIER SERVICE FOR YOUR ORGANIZATION. STEVEN S. KREINZ (414) 774-6322 (STEVEK@CSLOG.COM), VICE PRESIDENT AND OWNER, WILL BE YOUR REPRESENTATIVE FOR THIS ACCOUNT AND HAS AUTHORIZATION FOR RFB - ETI0033-COURIER SERVICES.

Executive Summary

CS logistics has been working with the Departments for the State of Wisconsin for over 20 years. Are proven record for quality service with the best possible price can be demonstrated with our references as well as our present track record with ETF.

We have the state of the art Information Technology to constantly monitor and update our delivery runs. CS is for "Customer Service" and this is what we provide. Steve and Mike Kreinz with Bob Birkland have been working directly and indirectly with several State Agencies, Universities and Companies in the State of Wisconsin, especially the Madison area. Our business has been around for 21 years and we encourage you to come visit our office and meet our staff of over 100 employees.

CS Logistics, Inc.
Corporate
11001 W. Mitchell Street
Milwaukee, WI 53214

Madison Office
3012 Progress Road
Madison, WI 53716

Thank you for your business,


Steven S. Kreinz

CSL Original



January 10, 2019

Dept. of Employee Trust Funds
Kristen Schipper – Purchasing Agent
RFB ETI0033
Hill Farms State Office Building (HFSOB)
8th Floor North Tower (Visitor's Entrance)
4822 Madison Yards Way
Madison, WI 53705-9100

To whom it may concern:

CS Logistics, Inc. is prepared to provide courier service for your organization. Steven S. Kreinz (414) 774-6322 (slevek@cslog.com), Vice President and owner, will be your representative for this account and has authorization for RFB - ETI0033-Courier Services.

Executive Summary

CS logistics has been working with the Departments for the State of Wisconsin for over 20 years. Are proven record for quality service with the best possible price can be demonstrated with our references as well as our present track record with ETF. We have the state of the art Information Technology to constantly monitor and update our delivery runs. CS is for "Customer Service" and this is what we provide. Steve and Mike Kreinz with Bob Birkland have been working directly and indirectly with several State Agencies, Universities and Companies in the State of Wisconsin, especially the Madison area. Our business has been around for 21 years and we encourage you to come visit our office and meet our staff of over 100 employees.

CS Logistics, Inc.
Corporate
11001 W. Mitchell Street
Milwaukee, WI 53214

Madison Office
3012 Progress Road
Madison, WI 53716

Thank you for your business.

Steven S. Kreinz

414.774.6322
11001 W. Mitchell Street
Milwaukee, WI 53214

608.310.6966
3012 Progress Road
Madison, WI 53716

■ Form A – Bidders Checklist

See form A below:

■ Form B – Courier Daily Run Schedule

See form B behind Form A.

■ Form C – Department Terms and Conditions

See Form C behind Form B.

■ Form D – Bidder Required Form (DOA-3832)

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See Form D behind Form C.

Provide references that can validate that the Bidder has two (2) or more years of experience providing courier services.

See form D that is behind Form C.

If any subcontractors will be involved with this project, make sure the references provided are also involved in a similar arrangement and can speak to the quality of work for BOTH the Bidder and any subcontractors named on Form G.

N/A We only utilize employees and not sub-contractors.

Form G is signed N/A and is behind Form D.

- **Current Form W-9 Request for Taxpayer Identification Number and Certification (from the Department of the Treasury, Internal Revenue Service: <https://www.irs.gov/pub/irs-pdf/fw9.pdf>**

See below the W-9 form and is also located behind Form G.

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W-9
Form 990, November 2017
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Go to www.irs.gov/FormW9 for instructions and the latest information.

1. Name of filer (do not use "d/b/a" or "doing business as") (Name is required on the IRS website for the filer.)

CS Logistics Inc.

2. Business name (separate entity name, if different from above)

3. Check appropriate box for filer's classification (check the box whose name is entered on the line above only one of the following boxes below)

Individual proprietor or single-member LLC
 Limited liability company. Enter the tax classification on line 3b: C-C corporation, E-S corporation, P-Partnership.
 U Corporation
 Corporation
 Partnership
 Trust/estate
 Other (see instructions)

4. If entity may be subject to backup withholding, check the appropriate box (see instructions on page 3)

Formal payment card (any)
 Prepaid payment card (any)
 Debit card (any)
 Credit card (any)

5. Address (number, street, and apt. or suite no.) (Do not include P.O. box)

11001 W Mitchell St.
 City, state, and ZIP code
 Milwaukee, WI 53214
 List account numbers, here optional

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN, later.

Notes: If the account is in more than one name, see the instructions for line 1. Also see What Name and Number to Give the Requester for guidelines on whose number to enter.

Social security number
 Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and

2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and

3. I am a U.S. citizen or other U.S. person (defined below); and

4. The FATCA (underlined) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions: You must check box 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have to file to report all interest and dividends on your tax return. For real estate investors, item 2 does not apply. For multiple interest paid, acquisition or abandonment of secured property, or collection of debt, contribute one to an individual retirement arrangement (IRA) or generally, report only other than dividends and dividends, you are not required to sign this certification, but you must provide your correct TIN. See the instructions for Part II, later.

Signature of U.S. person
 Date: JAN 15, 2018

General Instructions

Section references refer to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (the "W-9 requester") who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report an information return to the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of incomes, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by broker)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third-party network transactions)
- Form 1098 (mortgage interest), 1098-E (student loan interest), 1098-F (fuel oil)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

OMB No. 1545-0047 Form W-9 (Rev. 11/2017)

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FORM A - BIDDERS CHECKLIST

Instructions:

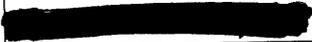
1. This form shall be completed by the vendor by marking the check-boxes below. By marking these boxes, the bidder acknowledges compliance with these items. Not checking a box may be cause for rejection of a bid.
2. Print company name.
3. Print the name of the representative signing this form (must be authorized to legally bind the company).
4. Provide the signature of the individual authorized to sign this form (to legally bind the company).
5. Date the form.
6. Submit this form as part of your bid (TAB 1).

<p>Front Cover: Create a front cover for your bid with your company's name, the bid title, and the bid due date.</p>	<input type="checkbox"/> I have completed this task.
<p>Table of Contents: Create a table of contents for your bid that lists each Tab number, a description of what is in the Tab number, and the page each Tab number starts on.</p>	<input type="checkbox"/> I have completed this task.
<p>Transmittal Letter: A signed transmittal letter must accompany the bid. 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:</p> <ol style="list-style-type: none"> I. Name, signature and title of bidder's authorized representative; II. Name and address of company; III. Telephone number and e-mail address of representatives who will be providing services under this RFB; IV. RFB number and title: RFB ETI0033 Courier Services; V. Number of employees (if less than 50); and, VI. Executive Summary. 	<input type="checkbox"/> I have created, signed, and put my transmittal letter in Tab 1.
<p>Form A: Bidders Checklist</p>	<input type="checkbox"/> I have read, completed, signed, and put my Form A in Tab 1, behind the transmittal letter.
<p>Form B: Courier Daily Run Schedule</p>	<input type="checkbox"/> I have read, understood, and put my Form B in Tab 1, behind Form A. I explained in Tab 2 any assumptions or exceptions I have to anything in Form B.
<p>Form C: Department Terms and Conditions</p>	<input type="checkbox"/> I have read and understand. I explained in Tab 2 any assumptions or exceptions I have to any part of Form C, noting that assumptions or exceptions to any term or condition listed in Table 3 may

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	<p>result in disqualification. I put Form C in Tab 1, behind Form B.</p>
<p>Form D: Bidder Form Vendor must have two or more years of experience providing courier services. The references listed here must validate this experience. Each reference must identify the vendor and any subcontractor(s) who assisted the vendor in performing work for that reference. Note: Although these clients shall serve as the primary references for purposes of this RFB, the Department specifically reserves the right to contact any clients or past clients for information about the company's performance under past and present contracts.</p>	<p><input checked="" type="checkbox"/> I have read, completed, signed, and put my Form D in Tab 1, behind Form C. If I listed any subcontractors on Form G, I provided references for them on Form D.</p>
<p>Form E: Cost Worksheet Failure to provide a cost using the exact form provided in Form E may result in your bid being disqualified and rejected.</p>	<p><input checked="" type="checkbox"/> I have read, completed, signed, and put my Form E in Tab 1, behind Form D.</p>
<p>Form F: Draft Contract</p>	<p><input checked="" type="checkbox"/> I have read and put Form F in Tab 1, behind Form E. If I have any objections to executing this form as a binding contract, I have included them in Tab 2 assumptions and exceptions.</p>
<p>Form G: Subcontractor Form</p>	<p><input checked="" type="checkbox"/> I have read, completed, signed, and put Form G in Tab 1, behind Form F.</p>
<p>Current W-9 (use online IRS Form)</p>	<p><input checked="" type="checkbox"/> I have read, completed, signed, and put my W-9 in Tab 1, behind Form G.</p>
<p>Assumptions and Exceptions: All assumptions and exceptions must be included in Tab 2. Assumptions and exceptions may be considered during contract negotiations if it is beneficial to the Department. ETF may reject bids with assumptions or exceptions related to terms and conditions listed in Table 3. Clearly label each assumption and exception with one of the following:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Section 3 Requirements - Assumption <input checked="" type="checkbox"/> Section 3 Requirements - Exception <input checked="" type="checkbox"/> Form C Department Terms and Conditions - Assumption <input checked="" type="checkbox"/> Form C Department Terms and Conditions - Exception <input checked="" type="checkbox"/> Form F Draft Contract - Assumption or Exception 	<p><input checked="" type="checkbox"/> I have completed this task.</p>
<p>Response to Section 3 Provide a point-by-point response and each-and-every piece of information called for in Section 3. Tab 3 must exactly follow the same numbering system as 3, use the same headings, and address each point in Section 3. Format the original ETF-authored text so that it looks different from the response. For example, put the ETF-authored text in bold.</p>	<p><input checked="" type="checkbox"/> I have completed this task.</p>

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Company Name:	CS Logistics, Inc.
Steven S. Kreinz	
Printed Name of Authorized Representative	
	01/10/2019
Signature of Authorized Representative	Date

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FORM B - COURIER DAILY RUN SCHEDULE

Time	10 AM DOA	10:30 AM ETF	1:15 PM DOA	1:45 PM ETF	2:15 PM DOA
<p>10:00 a.m. DOA Morning Pickup</p> <p>10:30 a.m. Arrive at ETF</p> <p>1:15 p.m. DOA Drop- off and Pick-up</p> <p>Arrive at ETF at 1:45 p.m. (or earlier if possible)</p> <p>Return to DOA by 2:15 p.m. if have items to deliver</p>	<p>DOA Bldg. 101 E Wilson St. 5th Floor, Rm 517A</p> <p>Pick up materials for ETF at DOA building as noted below.</p> <p>DOA Finance</p> <p>Pick up materials on the 5th floor in room 517A. In the room you will find a mail station with slots for each state agency.</p> <p>DOA Central Payroll</p> <p>Pick up materials on the 5th floor in room 517A</p> <p>Office of State Treasurer</p> <p>Pick up inter-departmental envelopes on 5th floor in letter tray. Pick up any deliveries for ETF in letter slot marked ETF515.</p>	<p>ETF – Building Dock 4822 Madison Yards Way Madison, WI 53705-9100</p> <p>Drop off materials to ETF staff at 4822 Madison Yards Way Dock. Pick up materials from ETF staff to drop off at DOA.</p>	<p>DOA Bldg. 101 E Wilson St. 5th Floor, Rm 517A</p> <p>Drop off items in the bin marked “State Controller Drop Off.” Pick up materials as noted below.</p> <p>DOA Finance</p> <p>Pick up materials on the 5th floor in room 517A. In the room you will find a mail station with slots for each state agency.</p> <p>DOA Central Payroll</p> <p>Pick up materials on the 5th floor in room 517A</p> <p>Office of State Treasurer</p> <p>Pick up inter-departmental envelopes on 5th floor in letter tray. Pick up any deliveries for ETF in letter slot marked ETF515.</p>	<p>ETF – Building Dock 4822 Madison Yards Way Madison, WI 53705-9100</p> <p>Drop off materials to ETF staff at 4822 Madison Yards Way Dock. Pick up materials from ETF staff to drop off at DOA.</p>	<p>DOA Bldg. 101 E Wilson St. 5th Floor Rm 517A</p> <p>DOA Finance</p> <p>Drop off the “Finance” deliveries in the bin marked “State Controller Drop Off”</p> <p>DOA Central Payroll</p> <p>Drop off deliveries in the bin marked “State Controller Drop Off.”</p> <p>Office of State Treasurer</p> <p>Drop off inter-d envelopes in bin marked “State Controller Drop Off.”</p> <p>End of Run --</p> <p><u>Do not keep any materials in possession overnight.</u></p>

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Time	First Stop	Tasks	Run Stops	Tasks	Last Stop
<p>“Special Request” Stops</p> <p>-Not part of the “Fixed Cost per Month Invoiced Monthly”</p> <p>-Addresses are subject to change</p>	<p>ETF – Building Dock 4822 Madison Yards Way Madison, WI 53705-9100</p>	<p>Pick up materials to be delivered to drops listed under Run Stops, when requested.</p>	<p>DOA Print - Computer Center 2310 Darwin Road Madison, WI 53704-3108</p> <p>DOA InfoTech DOA Bldg. 101 E Wilson St 4th Floor Receptionist Desk</p>	<p>DOA Print-Computer Center – drop off materials marked for delivery.</p> <p>DOA InfoTech. Drop off only. Take materials to receptionist desk on 4th Floor.</p>	<p>Bring any deliveries picked up to ETF.</p>

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FORM C - DEPARTMENT TERMS AND CONDITIONS

Rev. Date: 03-01-2018

- 1.0 ENTIRE AGREEMENT:** The following terms and conditions are hereby made a part of the underlying contract. These Department Terms and Conditions, the underlying contract, its exhibits, subsequent amendments and other documents incorporated by order of precedence in the contract encompass the entire contract ("Contract") and contain the entire understanding between the Wisconsin Department of Employee Trust Funds ("Department") and the contractor named in the Contract ("Contractor") on the subject matter hereof, and no representations, inducements, promises, or agreements, oral or otherwise, not embodied herein shall be of any force or effect. The Contract supersedes any other oral or written agreement entered into between the Department and the Contractor on the subject matter hereof. The terms "State," "ETF," and "Department" may be used interchangeably herein.

The Contract may be amended at any time by written mutual agreement of the Department and Contractor, but any such amendment shall be without prejudice to any claim arising prior to the date of the change. No one, except duly authorized officers or agents of the Contractor and the Department, shall alter or amend the Contract. No change in the Contract shall be valid unless evidenced by an amendment that is signed by such officers of the Contractor and the Department.

- 2.0 COMPLIANCE WITH THE CONTRACT AND APPLICABLE LAW:** In the event of a conflict between the Contract and any applicable federal or state statute, administrative rule, or regulation; the statute, rule, or regulation will control.

In connection with the performance of work under the Contract, the Contractor agrees not to discriminate against employees or applicants for employment because of age, race, religion, creed, color, handicap, physical condition, developmental disability as defined in Wis. Stat. § 51.01 (5); marital status, sex, sexual orientation as defined in s.111.32(13m), Wis. Stats., national origin, ancestry, arrest record, conviction record; or membership in the national guard, state defense force, or any reserve component of the military forces of the United States or the state of Wisconsin (the "State"). 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. 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.

Contracts estimated to be over fifty thousand dollars (\$50,000) require the submission of a written affirmative action plan by the Contractor. Contractors with an annual work force of less than fifty (50) employees are exempt from this requirement. Contractor shall provide the plan to the Department within fifteen (15) business days of the Department's request for such plan after the award of the Contract.

The Contractor shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA) of 1990. Evidence of compliance with ADA shall be made available to the Department upon request.

The Contractor acknowledges that Wis. Stat. § 40.07 specifically exempts information related to individuals in the records of the Department of Employee Trust Funds from the Wisconsin Public Records Law. Contractor shall treat any such records provided to or accessed by Contractor as non-public records as set forth in Wis. Stat. § 40.07.

Contractor will comply with the provisions of Wis. Stat. § 134.98 **Notice of Unauthorized Acquisition of Personal Information.**

- 3.0 LEGAL RELATIONS:** 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 the Contract and which in any manner affect the work or its conduct. This includes but is not limited to laws regarding compensation, hours of work, conditions of employment and equal opportunities for employment.

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In carrying out any provisions of the Contract or in exercising any power or authority granted to the Contractor thereby, there shall be no liability upon the Department, it being understood that in such matters that the Department acts as an agent of the State.

The Contractor accepts full liability and agrees to hold harmless the State, the Department's governing boards, the Department, its employees, agents and contractors for any act or omission of the Contractor, or any of its employees, in connection with the Contract.

No employee of the Contractor may represent himself or herself as an employee of the Department or the State.

- 4.0 CONTRACTOR:** The Contractor will be the sole point of contact with regard to contractual matters, including the performance of services specified in the Contract (the "Services") and the payment of any and all charges resulting from contractual obligations.

None of the Services to be provided by the Contractor shall be subcontracted or delegated to any other organization, subdivision, association, individual, corporation, partnership or group of individuals, or other such entity without prior written notification to, and approval of, the Department.

After execution of the Contract, the Department will provide Contractor with the name of the Department's designated contact person and commit to a timely approval process for Contractor's notification of a change in subcontractor(s) and/or delegated Services.

The Contractor shall be solely responsible for its actions and those of its agents, employees or subcontractors under the Contract. The Contractor will be responsible for Contract performance when subcontractors are used. Subcontractors must abide by all terms and conditions of the Contract.

Neither the Contractor nor any of the foregoing parties has the authority to act or speak on behalf of the State.

The Contractor will be responsible for payment of any losses by its subcontractors or agents.

Any notice required or permitted to be given shall be deemed to have been given on the date of delivery or three (3) business days after mailing by the United States Postal Service, certified or registered mail-receipt requested. In the event the Contractor moves or updates contact information, the Contractor shall inform the Department of such changes in writing within ten (10) business days. The Department shall not be held responsible for payments delayed due to the Contractor's failure to provide such notice.

- 5.0 CONTRACTOR PERFORMANCE:** Work under the Contract shall be performed in a timely, professional and diligent manner by qualified and efficient personnel and in conformity with the strictest quality standards mandated or recommended by all generally-recognized organizations establishing quality standards for the work of the type specified in the Contract. The Contractor shall be solely responsible for controlling the manner and means by which it and its employees or its subcontractors perform the Services, and the Contractor shall observe, abide by, and perform all of its obligations in accordance with all legal and Contract requirements.

Without limiting the foregoing, the Contractor shall control the manner and means of the Services so as to perform the work in a reasonably safe manner and comply fully with all applicable codes, regulations and requirements imposed or enforced by any government agencies. Notwithstanding the foregoing, any stricter standard provided in plans, specifications or other documents incorporated as part of the Contract shall govern.

The Contractor shall provide the Services with all due skill, care, and diligence, in accordance with accepted industry practices and legal requirements, and to the Department's satisfaction; the Department's decision in that regard shall be final and conclusive.

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All Contractor's Services under the Contract shall be performed in material compliance with the applicable federal and state laws and regulations in effect at the time of performance, except when imposition of a newly enacted or revised law or regulation would result in an unconstitutional impairment of the Contract.

The Contractor will make commercially reasonable efforts to ensure that Contractor's professional and managerial staff maintain a working knowledge and understanding of all federal and state laws, regulations, and administrative code appropriate for the performance of their respective duties, as well as contemplated changes in such law which affect or may affect the Services delivered under the Contract.

The Contractor shall maintain a written contingency plan describing in detail how it will continue operations and Services under the Contract in certain events including, but not limited to, strike and disaster, and shall submit it to the Department upon request.

- 6.0 AUDIT PROVISION:** The Contractor and its authorized subcontractors are subject to audits by the State, the Legislative Audit Bureau (LAB), an independent Certified Public Accountant (CPA), or other representatives as authorized by the State. The Contractor will cooperate with such efforts and provide all requested information permitted under the law.
- 6.1 SOC Report:** If the Department requires Contractor to provide a SOC Audit, Contractor will furnish the Department with an annual copy of an Independent Service Auditor's Report on Management's Description of the Service Organization's System and the Suitability of the Design and Operating Effectiveness of Controls (SOC 1, Type 2), which will be provided to the Department by May 1 following each plan year. This independent audit of the Contractor's controls must be completed in accordance with the American Institute of Certified Public Accountants' Statements on Standards for Attestation Engagements (SSAE) No. 18 (SOC 1, Type 2). The SSAE 18 (SOC 1, Type 2) annual audit will include all programs under the Contract and will be conducted at the Contractor's expense. If the Contractor's SSAE 18 (SOC 1, Type 2) audit covers less than the twelve (12) months of a calendar year, the Contractor will provide a bridge letter to the Department, stating whether processes and controls have changed since the SSAE 18 (SOC 1, Type 2) audit.
- 6.2 Contract Compliance Audit:** The Department may schedule and arrange for an independent certified public accountant to perform agreed upon procedures or consulting work related to the Contractor's compliance with the Contract on a periodic basis, as determined by the Department. The audit scope will be determined by the Department and may include recordkeeping, participant account activity, claims processing, administrative performance standards, and any other relevant areas to the programs under the Contract. The timeline of the audit will be mutually agreed upon by the Department and the Contractor. A minimum ten (10) business day notice is required.
- 6.3 Open Access:** All Contractor books, records, ledgers, data, and journals relating to the programs under the Contract will be open for inspection and audit by the Department, its designees, or the State of Wisconsin Legislative Audit Bureau, at any time during normal working hours. A minimum ten (10) business day notice will be provided. Records or data requested shall be provided electronically in a format mutually agreed upon by the Department and Contractor. The Department shall have access to interview any employee and authorized agent of the Contractor involved with the Contract in conjunction with any audit, review, or investigation deemed necessary by the Department or the State.
- 6.4 LAB Audit:** The Department is audited by the State of Wisconsin Legislative Audit Bureau annually, as required by Wisconsin Statute 13.94 (1) (dd). The Contractor agrees to provide necessary information related to any such audit for all programs under the Contract, as requested by the Department or auditor.
- 7.0 CRIMINAL BACKGROUND VERIFICATION:** The Department follows the provisions in the Wisconsin Human Resources Handbook Chapter 246, Securing Applicant Background Checks (see https://dpm.wi.gov/Hand%20Book%20Chapters/WHRH_Ch_246.pdf). The Contractor 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 Contractor's background check procedures should be provided to the Department regarding the measures used by the Contractor to protect the security and privacy of program data and participant information. A copy of the results of the criminal background checks the Contractor conducted must be made available

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to the Department upon request. The Department reserves the right to conduct its own criminal background checks on any or all employees or subcontractors of and referred by the Contractor for the delivery or provision of Services.

- 8.0 COMPLIANCE WITH ON-SITE PARTY RULES AND REGULATIONS:** Contractor and the Department agree that their employees, while working at or visiting the premises of the other party, shall comply with all internal rules and regulations of the other party, including security procedures, and all applicable federal, state, and local laws and regulations applicable to the location where said employees are working or visiting.

The Department is responsible for allocating building and equipment access, as well as any other necessary services available from the Department that may be used by the Contractor. Any use of the Department facilities, equipment, internet access, and/or services shall only be to assist Contractor in providing the Services, as authorized by the Department. The Contractor will provide its own personal computers, which must comply with the Department security policies before connection to the Department's local computer network.

- 9.0 SECURITY OF PREMISES, EQUIPMENT, DATA AND PERSONNEL:** The Department shall have the right, acting by itself or through its authorized representatives, to enter the premises of the Contractor at mutually agreeable times to inspect and copy the records of the Contractor and the Contractor's compliance with this section. In the course of performing Services under the Contract, the Contractor may have access to the personnel, premises, equipment, and other property, including data files, information, or materials (collectively referred to as "data") belonging to the Department.

The Contractor shall be responsible for damage to the Department's equipment, workplace, and its contents, or for the loss of data, when such damage or loss is caused by the Contractor, contracted personnel, or subcontractors, and shall reimburse the Department accordingly upon demand. This remedy shall be in addition to any other remedies available to the Department by law or in equity.

- 10.0 BREACH NOT WAIVER:** A failure to exercise any right, or a delay in exercising any right, power or remedy hereunder on the part of either party shall not operate as a waiver thereof. Any express waiver shall be in writing and shall not affect any event or default other than the event or default specified in such waiver. A waiver of any covenant, term or condition contained herein or in the Contract shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The making of any payment to the Contractor under the Contract shall not constitute a waiver of default, evidence of proper Contractor performance, or acceptance of any defective item or Services furnished by the Contractor.

- 11.0 SEVERABILITY:** The provisions of the Contract shall be deemed severable and the unenforceability of any one or more provisions shall not affect the enforceability of any of the other provisions. If any provision of the Contract, for any reason, is declared to be invalid, unenforceable, or illegal, the parties shall substitute an enforceable provision that, to the maximum extent possible in accordance with applicable law, preserves the original intentions and economic positions of the parties.

- 12.0 LIQUIDATED DAMAGES:** The Contractor and Department acknowledge that it can be difficult to ascertain actual damages when a Contractor fails to carry out its responsibilities under the Contract. Because of that, the Contractor and Department will negotiate liquidated damages, as required by the Department, for the Contract. The Contractor agrees that the Department 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) calendar days after the Contractor's failure to perform in accordance with the terms and conditions of the Contract.

Notwithstanding the foregoing language, when necessary, the Department will identify in the Contract, specific financial penalties for failure of the Contractor to meet performance standards and guarantees. If the Contract was established through the Department's Request for Bid (RFB) or Request for Proposals (RFP) procurement process, such performance standards and guarantees may have been set forth in the RFB/RFP.

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- 13.0 CONTRACT DISPUTE RESOLUTION:** In the event of any dispute or disagreement between the parties under the Contract, whether with respect to the interpretation of any provision of the Contract, or with respect to the performance of either party thereto, except for breach 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 an adjustment to such provision.

Contractor shall continue without delay to carry out all its responsibilities under the Contract, which are not affected by the dispute. Should Contractor fail to perform its responsibilities under the Contract that are not affected by the dispute without delay, any and all additional costs incurred by the Contractor and the Department as a result of such failure to proceed shall be borne by the Contractor and the Contractor shall not make any claim against the Department for such costs. The Department's non-payment of fees in breach of the Contract that are overdue by sixty (60) calendar days is a dispute that will always be considered to affect Contractor's responsibilities.

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 Department, 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.

The party believing itself aggrieved (the "Invoking Party") shall call for progressive management involvement in the dispute negotiation by delivering written notice to the other party. Such notice shall be without prejudice to the Invoking Party's right to any other remedy permitted by the Contract. After such notice, the parties shall use all reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between authorized negotiators for the parties at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute:

Level	Contractor	The Department	Allotted Time
First	Level 1 entity	Level 1 entity	10 Business Days
Second	Level 2 entity	Level 2 entity	20 Business Days
Third	Level 3 entity	Level 3 entity	30 Business Days

The allotted time for the First Level negotiations shall begin on the date the Invoking Party's notice is received by the other party. Subsequent allotted time is days from the date that the Invoking Party's notice was originally received by the other party. If the Third Level parties cannot resolve the issue within thirty (30) business days of the Invoking Party's original notice, then the issue shall be designated as a dispute at the discretion of the Invoking Party and, if so, shall be resolved in accordance with the section below. The time periods herein are in addition to those periods for a party to cure provided elsewhere in the Contract, and do not apply to claims for equitable relief (e.g., injunction to prevent disclosure of Confidential Information). The Department may withhold payments on disputed items pending resolution of the dispute.

- 14.0 CONTROLLING LAW:** All questions as to the execution, validity, interpretation, construction and performance of the Contract shall be construed in accordance with the laws of the State of Wisconsin, without regard to any conflicts of laws or choice of law principles. Any court proceeding arising or related to the Contract or a party's obligations under the Contract shall be exclusively brought and exclusively maintained in the State of Wisconsin, Dane County Circuit Court, or in the District Court of the United States Western District (if jurisdiction is proper in federal court), or upon appeal to the appellate courts of corresponding jurisdiction, and Contractor hereby consents to the exclusive jurisdiction and exclusive venue therein and waives any right to object to such jurisdiction or venue. To the extent that in any jurisdiction Contractor may now or hereafter be entitled to claim for itself or its assets immunity from suit, execution, attachment (before or after judgment) or other legal process, Contractor, to the extent it may effectively do so, irrevocably agrees not to claim, and it hereby waives, the same.
- 15.0 RIGHT TO SUSPEND OPERATIONS:** If, at any time during the period of the Contract, the Department determines that the best interest of the Department or its governing boards would be best served by the Contractor temporarily holding of all Services, the Department will promptly notify the Contractor. Upon receipt of such notice, the Contractor shall suspend all Services.

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- 16.0 TERMINATION OF THE CONTRACT:** The Department may terminate the Contract at any time at its sole discretion by delivering one-hundred eighty (180) calendar days written notice to the Contractor.

Upon termination, the Department'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 the Department.

If the Contractor terminates the Contract, the Contractor shall refund all payments made under the Contract by the Department to the Contractor for work not completed or not accepted by the Department. Such termination shall require written notice to that effect to be delivered by the Contractor to the Department not less than one-hundred eighty (180) calendar days prior to said termination.

Upon any termination of the Contract, the Contractor shall perform the Services specified in a transition plan if so requested by the Department; provided, however, that except as expressly set forth otherwise herein, the Contractor shall not be obligated to perform such Services unless all amounts due to the Contractor under the Contract, including payment for the transition Services, have been paid. Failure of the Contractor to comply with a transition plan upon the Department's request and upon payment shall constitute a separate breach for which the Contractor shall be liable.

Upon the expiration or termination of the Contract for any reason, each party shall be released from all obligations to the other arising after the expiration date or termination date, except for those that by their terms survive such termination or expiration.

- 17.0 TERMINATION FOR CAUSE:** If the Contractor fails to perform any material requirement of the Contract, breaches any material requirement of the Contract, or if the Contractor's full and satisfactory performance of the Contract is substantially endangered, the Department may terminate the Contract. Before terminating the Contract, the Department shall give written notice of its intent to terminate to Contractor after a thirty (30) calendar day written notice and cure period.

The Department reserves the right to cancel the Contract in whole or in part without penalty in the event one (1) or more of the following occurs:

1. If the Contractor intentionally furnished any statement, representation, warranty, or certification, in connection with the Contract which is materially false, incorrect, or incomplete;
2. If applicable, if the Contractor fails to follow the sales and use tax certification requirements of Wis. Stat. § 77.66;
3. If the Contractor incurs a delinquent Wisconsin tax liability;
4. If the Contractor fails to submit a non-discrimination or affirmative action plan per the requirements of Wis. Stat. § 16.765 and Wisconsin's Fair Employment Law, subch. II, Chapter 111 of the Wisconsin Statutes as required herein;
5. If the Contractor is presently identified on the list of parties excluded from State of Wisconsin procurement and non-procurement contracts;
6. If the Contractor becomes a state or federal debarred Contractor, or becomes excluded from State contracts;
7. If the Contractor fails to maintain and keep in force all required insurance, permits and licenses as required per the Contract;
8. If the Contractor fails to maintain the confidentiality of the Department's information that is considered to be Confidential Information or Protected Health Information;
9. If the Contractor files a petition in bankruptcy, become insolvent, or otherwise takes action to dissolve as a legal entity;
10. If at any time the Contractor's performance threatens the health or safety of a State employee, citizen, or customer;
11. If the Contractor violates any requirements in Section 22.0 below regarding Confidential Information; or
12. If the Department or State fails to appropriate funds for the project described in the Contract.

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

- 18.0 REMEDIES OF THE DEPARTMENT:** The Department 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 Department may issue a written notice of default providing for at least a seven (7) business day period in which the Contractor shall have an opportunity to cure, provided that cure is possible, feasible, and approved in writing by the Department. 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 Department 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 the Contract after receiving reasonable notice from the Department to do so, the Contractor shall reimburse the Department 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 the Contract, or services from other sources as necessary to fulfill the Contract, the Contractor shall be responsible for the additional cost of such services, including purchase price and administrative fees. This remedy shall be in addition to any other legal remedies available to the Department.

- 19.0 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 Department to facilitate the orderly transition of the work under the Contract to the Department 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 in the Contract.

- 20.0 ADDITIONAL INSURANCE RESPONSIBILITY:** The Contractor shall exercise due diligence in providing the Services under the Contract. In order to protect the Department's governing boards and any Department employee against liability, cost, or expenses (including reasonable attorney fees), which may be incurred or sustained as a result of Contractor's errors or other failure to comply with the terms of the Contract, the Contractor shall maintain errors and omissions insurance including coverage for network and privacy risks, breach of privacy and wrongful disclosure of information in an amount acceptable to the Department with a minimum of \$1,000,000 per claim and \$5,000,000 aggregate in force during the Contract period and for a period of three (3) years thereafter for Services completed. Contractor shall furnish the Department with a certificate of insurance for such amount. Further, this certificate shall designate the State of Wisconsin Department of Employee Trust Funds and its affiliated boards as additional insured parties. The Department reserves the right to require higher or lower limits where warranted.

- 21.0 OWNERSHIP OF MATERIALS:** Except as otherwise provided in subsection (t) of Section 22, all information, data, reports and other materials as are existing and available from the Department and which the Department determines to be necessary to carry out the scope of Services under the Contract shall be furnished to the Contractor and shall be returned to the Department upon completion of the Contract. The Contractor shall not use such materials for any purpose other than carrying out the work described in the Contract.

The Department will be furnished without additional charge all data, models, information, reports, and other materials associated with and generated under the Contract by the Contractor.

The Department shall solely own all customized software, documents, and other materials developed under the Contract. Use of such software, documents, and materials by the Contractor shall only be with the prior written approval of the Department.

The Contract shall in no way affect or limit the Department's rights to use, disclose or duplicate, for any purpose whatsoever, all information and data pertaining to the Department, employees or members and generated by the claims administration and other Services provided by Contractor under the Contract.

All files (paper or electronic) containing any Wisconsin plan member, claimant or employee information and all records created and maintained in the course of the work specified by the Contract are the sole and exclusive property of the Department. Contractor may maintain copies of such files during the term of the Contract as may be necessary or

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appropriate for its performance of the Contract. Moreover, Contractor may maintain copies of such files after the term of the Contract (i) for one hundred twenty (120) days after termination, after which all such files shall be transferred to the Department or destroyed by Contractor, except for any files as to which a claim has been made, and (ii) for an unlimited period of time after termination for Contractor's use for statistical purposes, if Contractor first deletes all information in the records from which the identity of a claimant or employee could be determined and certifies to the Department that all personal identifiers have been removed from the retained files.

- 22.0 CONFIDENTIAL INFORMATION AND HIPAA BUSINESS ASSOCIATE AGREEMENT:** This Section is intended to cover handling of Confidential Information under State and federal law, and specifically to comply with the requirements of the Health Insurance Portability and Accountability Act (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH), the Genetic Information Nondiscrimination Act (GINA), and the federal implementing regulations for those statutes requiring a written agreement with business associates.
- (a) **DEFINITIONS:** As used herein, unless the context otherwise requires:
- (1) Business Associate. "Business Associate" has the meaning ascribed to it at 45 CFR 160.103 and refers to the Contractor.
 - (2) Confidential Information. "Confidential Information" has the meaning set forth below in Section 28.0.
 - (3) Covered Entity. "Covered Entity" has the meaning ascribed to it at 45 CFR 160.103 and refers to the Department of Employee Trust Funds.
 - (4) HIPAA Rules. "HIPAA Rules" mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
 - (5) Individual Personal Information. "Individual Personal Information" has the meaning ascribed to it at Wis. Admin. Code ETF § 10.70 (1).
 - (6) Medical Record. "Medical Record" has the meaning ascribed to it at Wis. Admin. Code ETF 10.01 (3m).
 - (7) Protected Health Information. "Protected Health Information" has the meaning ascribed to it under 45 s. CFR 160.103.
- (b) **PROVISION OF CONFIDENTIAL INFORMATION FOR CONTRACTED SERVICES:** The Department, a different business associate of the Department or a contractor performing services for the Department may provide Confidential Information to the Contractor under the Contract as the Department determines is necessary for the proper administration of the Contract, as provided by Wis. Stat. § 40.07 (1m) (d) and (3).
- (c) **DUTY TO SAFEGUARD CONFIDENTIAL INFORMATION:** The Contractor shall safeguard Confidential Information supplied to the Contractor or its employees under the Contract. In addition, the Contractor will only share Confidential Information with its employees on a need-to-know basis. Should the Contractor fail to properly protect Confidential Information, any cost the Department pays to mitigate the failure will be subtracted from the Contractor's invoice(s).
- (d) **USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION:** Contractor shall:
- (1) Not use or disclose Confidential Information for any purpose other than as permitted or required by the Contract or as required by law. Contractor shall not use or disclose member or employee names, addresses, or other data for any purpose other than specifically provided for in the Contract;
 - (2) Make uses and disclosures and requests for any Confidential Information following the minimum necessary standard in the HIPAA Rules;
 - (3) Use appropriate safeguards to prevent use or disclosure of Confidential Information other than as provided for by the Contract, and with respect to Protected Health Information, comply with Subpart C of 45 CFR Part 164;
 - (4) Not use or disclose Confidential Information in a manner that would violate Subpart E of 45 CFR Part 164 or Wis. Stat. § 40.07; and
 - (5) If applicable, be allowed to use or disclose Confidential Information for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor, provided the disclosures are required by law, or Contractor obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Contractor of any instances of which it is aware in which the confidentiality of the information has been or is suspected of being breached.

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- (e) **COMPLIANCE WITH ELECTRONIC TRANSACTIONS AND CODE SET STANDARDS:** The Contractor shall comply with each applicable requirement of 45 C.F.R. Part 162 if the Contractor conducts standard transactions, as that term is defined in HIPAA, for or on behalf of the Department.
- (f) **MANDATORY REPORTING:** Contractor shall report to the Department in the manner set forth in Subsection 22(l) any use or disclosure or suspected use or disclosure of Confidential Information not provided for by the Contract, of which it becomes aware, including breaches or suspected breaches of unsecured Protected Health Information as required at 45 CFR 164.410.
- (g) **DESIGNATED RECORD SET:** Contractor shall make available Protected Health Information in a designated record set to the individual as necessary to satisfy the Department's obligations under 45 CFR 164.524.
- (h) **AMENDMENT IN DESIGNATED RECORD SET:** Contractor shall make any amendment to Protected Health Information in a designated record set as directed or agreed to by the Department pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy the Department's obligations under 45 CFR 164.526.
- (i) **ACCOUNTING OF DISCLOSURES:** Contractor shall maintain and make available the information required to provide an accounting of disclosures to the individual as necessary to satisfy the Department's obligations under 45 CFR 164.528.
- (j) **COMPLIANCE WITH SUBPART E OF 45 CFR 164:** To the extent Contractor is to carry out one or more of the Department's obligations under Subpart E of 45 CFR Part 164, Contractor shall comply with the requirements of Subpart E that apply to a covered entity in the performance of such obligation.
- (k) **INTERNAL PRACTICES:** Contractor shall make its internal practices, books, and records available to the Secretary of the United States Department of Labor for purposes of determining compliance with the HIPAA Rules.
- (l) **CONTRACTOR REPORTING OF BREACH OR SUSPECTED BREACH OR DISCLOSURE TO THE DEPARTMENT:**
 - (1) Within twenty-four (24) hours after Contractor becomes aware of a suspected breach, impermissible use, or impermissible disclosure, Contractor shall notify in writing the Department Program Manager and Privacy Officer. A suspected breach, impermissible use, or impermissible disclosure is considered to be discovered as of the first day on which such occurrence is known to Contractor, or, by exercising reasonable diligence, would have been known to Contractor. The notification must contain details sufficient for the Department Program Manager and Privacy Officer to determine the Department's response. Sufficient details include, without limitation:
 - a. A list of any persons affected (if available);
 - b. Information about the information included in the breach, impermissible use, or impermissible disclosure;
 - c. The date or dates of the suspected breach, impermissible use, or impermissible disclosure;
 - d. The date of the discovery by Contractor;
 - e. A list of the proactive steps taken by Contractor and being taken to correct the breach, impermissible use or impermissible disclosure; and
 - f. Contact information at Contractor for affected persons who contact the Department regarding the issue.
 - (2) Not less than one (1) business day before Contractor makes any external communications to the public, media, federal Office for Civil Rights (OCR), other governmental entity, or persons potentially affected by the breach, impermissible use, or impermissible disclosure, provide a copy of the planned communication to the Department Program Manager and Privacy Officer.
 - (3) Within thirty (30) business days after Contractor makes the initial report under this section, Contractor shall research the suspected breach, impermissible use, or impermissible disclosure of Confidential Information and provide a report in writing to the Department Program Manager. The report must contain, at a minimum:
 - a. A complete list of any persons affected (whose Confidential Information was supplied to Contractor by the Department) and their contact information;
 - b. Copies of correspondence or notifications provided to the public, media, OCR, other governmental entity, or persons potentially affected;
 - c. Whether Contractor's Privacy Officer has determined there has been a reportable breach under HIPAA, or an unauthorized acquisition under Wis. Stat. §134.98 and the reasoning for such determination;

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- d. If Contractor determines there has been a breach, impermissible use, or impermissible disclosure, an explanation of the root cause of the breach, impermissible use, or impermissible disclosure;
 - e. A list of the corrective actions taken to mitigate the suspected breach, impermissible use, or impermissible disclosure; and
 - f. A list of the corrective actions taken to prevent a similar future breach, impermissible use, or impermissible disclosure.
- (m) **CLASSIFICATION LABELS:** Contractor shall ensure that all data classification labels contained on or included in any item of Confidential Information shall be reproduced by Contractor on any reproduction, modification, or translation of such Confidential Information. Contractor shall make a reasonable effort to add a proprietary notice or indication of confidentiality to any tangible materials within its possession that contain Confidential Information of the Department, as directed by the Department.
- (n) **SUBCONTRACTORS:** If applicable, in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), Contractor shall ensure that any subcontractors that create, receive, maintain, or transmit Confidential Information on behalf of Contractor agree to the same restrictions, conditions, and requirements that apply to Contractor with respect to such information.
- (o) **NOTICE OF LEGAL PROCEEDINGS:** If Contractor or any of its employees, agents, or subcontractors is legally required in any administrative, regulatory or judicial proceeding to disclose any Confidential Information, contractor shall give the Department prompt notice (unless it has a legal obligation to the contrary) so that the Department may seek a protective order or other appropriate remedy. In the event that such protective order is not obtained, Contractor shall furnish only that portion of the information that is legally required and shall disclose the Confidential Information in a manner reasonably designed to preserve its confidential nature.
- (p) **MITIGATION:** The Contractor shall take immediate steps to mitigate any harmful effects of the suspected or actual unauthorized use, disclosure, or loss of any Confidential Information provided to Contractor under the Contract. The Contractor shall reasonably cooperate with the Department's efforts to comply with the breach notification requirements of HIPAA, to seek appropriate injunctive relief or otherwise prevent or curtail such suspected or actual unauthorized use, disclosure or loss, or to recover its Confidential Information, including complying with a reasonable corrective action plan, as directed by the Department.
- (q) **COMPLIANCE REVIEWS:** The Department may conduct a compliance review of the Contractor's security procedures before and during the Contract term to protect Confidential Information.
- (r) **AMENDMENT:** The Parties agree to take such action as is necessary to amend the Contract as necessary for compliance with the HIPAA Rules and other applicable law.
- (s) **Survival:** The obligations of Contractor under this Section survive the termination of the underlying Contract.
- (t) **RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION:** Upon termination of the Contract for any reason, Contractor, with respect to Confidential Information received from the Department, another contractor of the Department, or created, maintained, or received by Contractor on behalf of the Department, shall:
1. Retain only that Confidential Information which is necessary for Contractor to continue its proper management and administration or to carry out its legal responsibilities;
 2. Return to the Department or, if agreed to by the Department, destroy the remaining Confidential Information that Contractor still maintains in any form;
 3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this Subsection, for as long as Contractor retains the Protected Health Information;
 4. Not use or disclose the Confidential Information retained by Contractor other than for the purposes for which such Confidential Information was retained and subject to the same conditions set out above under Subsection 22(d) which applied prior to termination;
 5. Return to the Department or, if agreed to by the Department, destroy the Protected Health Information retained by Contractor when it is no longer needed by Contractor for its proper management and administration or to carry out its legal responsibilities; and
 6. If required by the Department, transmit the Confidential Information to another contractor of the Department.

CSL Original

23.0 INDEMNIFICATION:

- 23.1 SCOPE OF INDEMNIFICATION FOR INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT:** In the event of a claim against the Parties for Intellectual Property Rights Infringement associated with a claim for benefits, Contractor agrees to defend, indemnify and hold harmless Board and Department ("Indemnified Parties") from and against any and all claims, actions, loss, damage, expenses, costs (including reasonable fees for Department's staff attorneys and/or attorneys from the Wisconsin Attorney General's Office) reasonable attorneys' fees otherwise incurred by Board, Department and/or the Wisconsin Attorney General's Office, court costs, and related reasonable legal expenses whether incurred in defending against such claims or enforcing this Section.
- 23.2 SCOPE OF OTHER INDEMNIFICATION:** In addition to the foregoing Section, Contractor shall defend, indemnify and hold harmless the Indemnified Parties from and against any and all claims, actions, loss, damage, expenses, costs (including reasonable fees for the Department's staff attorneys and/or attorneys from the Wisconsin Attorney General's Office), court costs, and related reasonable legal expenses whether incurred in defending against such claims or enforcing this Section, or liability arising from or in connection with the following: (a) Contractor's performance of or failure to perform any duties or obligations under any agreement between Contractor and any third party; (b) injury to persons (including death or illness) or damage to property caused by the act or omission of Contractor or Contractor personnel; (c) any claims or losses for Services rendered by any subcontractor, person, or firm performing or supplying Services, materials, or supplies in connection with the Contractor's performance of the Contract; (d) any claims or losses resulting to any person or third party entity injured or damaged by the Contractor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (e) any failure of the Contractor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.
- 23.3 INDEMNIFICATION NOTICE:** The Department shall give the Contractor prompt written notice of such claim, suit, demand, or action (provided that a failure to give such prompt notice will not relieve the Contractor of its indemnification obligations hereunder except to the extent Contractor can demonstrate actual, material prejudice to its ability to mount a defense as a result of such failure). The Department will cooperate, assist, and consult with the Contractor in the defense or investigation of any claim made or suit filed against Department resulting from Contractor's performance under the Contract.
- 23.4 NO INDEMNIFICATION OBLIGATIONS:** Contractor shall, as soon as practicable, notify the Department of any claim made or suit filed against Contractor resulting from Contractor's obligations under the Contract if such claim may involve the Department. The Department has no obligation to provide legal counsel or defense to Contractor if a suit, claim, or action is brought against Contractor or its subcontractors as a result of Contractor's performance of its obligations under the Contract. In addition, Department has no obligation for the payment of any judgments or the settlement of any claims against Contractor arising from or related to the Contract. Department has not waived any right or entitlement to claim sovereign immunity under the Contract.
- 23.5 CONTRACTOR'S DUTY TO INDEMNIFY:** The Contractor shall comply with its obligations to indemnify, defend and hold the Indemnified Parties harmless with regard to claims, damages, losses and/or expenses arising from a claim. The Contractor shall be entitled to control the defense of any such claim and to defend or settle any such claim, in its sole discretion, with counsel of its own choosing; however, the Contractor shall consult with the Department regarding its defense of any claim and not settle or compromise any claim or action in a manner that imposes restrictions or obligations on Department, requires any financial payment by the Department, or grants rights or concessions to a third party without first obtaining the Department's prior written consent. Contractor shall have the right to assert any and all defenses on behalf of the Indemnified Parties, including sovereign immunity.

In carrying out any provision of the Contract or in exercising any power or authority granted to the Contractor thereby, there shall be no liability upon the Department, it being understood that in such matters the Department acts as an agent of the State.

The Contractor shall at all times comply with and observe all federal and State laws and regulations which are in effect during the period of the Contract and which in any manner affect the work or its conduct.

CSL Original

- 24.0 EQUITABLE RELIEF:** The Contractor acknowledges and agrees that the unauthorized use, disclosure, or loss of Confidential Information may cause immediate and irreparable injury to the individuals whose information is disclosed and to the State, which injury shall not be compensable by money damages and for which there is not an adequate remedy available at law. Accordingly, the Department and the Contractor specifically agree that the Department, on its own behalf or on behalf of the affected individuals, shall be entitled to obtain injunctive or other equitable relief to prevent or curtail any such breach, threatened or actual, without posting security and without prejudice to such other rights as may be available under the Contract or under applicable law.
- 25.0 RIGHT TO PUBLISH OR DISCLOSE:** Throughout the term of the Contract, the Contractor must secure the Department's written approval prior to the release of any information which pertains to work or activities covered by the Contract.

The Department and the Contractor agree that it is a breach of the Contract to disclose any information to any person that the Department or its governing boards may not disclose under Wis. Stat. § 40.07. Contractor acknowledges that it will be liable for damage or injury to persons whose Confidential Information is disclosed by any officer, employee, agent, or subcontractor of the Contractor without proper authorization.

- 26.0 TIME IS OF THE ESSENCE:** Timely provision of the Services required under the Contract shall be of the essence of the Contract, including the provision of the Services within the time agreed or on a date specified in the Contract.
- 27.0 IDENTIFICATION OF KEY PERSONNEL AND PERSONNEL CHANGES:** The Department will designate a contract administrator, who shall have oversight for performance of the Department's obligations under the Contract. The Department shall not change the person designated without prior written notification to the Contractor.

The State of Wisconsin reserves the right to approve all individuals assigned to the project described in the Contract. The Contractor agrees to use its best efforts to minimize personnel changes during the Contract term.

At the time of contract negotiations, the Contractor shall furnish the Department with names of all key personnel assigned to perform work under the Contract and furnish the Department with criminal background checks.

The Contractor will designate a contract administrator who shall have executive and administrative oversight for performance of the Contractor's obligations under the Contract. The Contractor shall not change this designation without prior written notice to the Department.

The Contractor may not divert key personnel for any period of time except in accordance with the procedure identified in this Section. The Contractor shall provide a notice of proposed diversion or replacement to the Department Program Manager and Contract Manager at least sixty (60) calendar days in advance, together with the name and qualifications of the person(s) who will take the place of the diverted or replaced staff. At least thirty (30) calendar days before the proposed diversion or replacement, the Department shall notify the Contractor whether the proposed diversion or replacement is approved or rejected, and if rejected shall provide reasons for the rejection. Such approval by the Department shall not be unreasonably withheld or delayed.

Replacement staff shall be on-site within two (2) weeks of the departure date of the person being replaced. The Contractor shall provide the Department with reasonable access to any staff diverted by the Contractor.

Replacement of key personnel shall be with persons of equal ability and qualifications. The Department has the right to conduct separate interviews of proposed replacements for key personnel. The Department shall have the right to approve, in writing, the replacement of key personnel. Such approval shall not be unreasonably withheld. Failure of the Contractor to promptly replace key personnel within thirty (30) calendar days after departure shall entitle the Department to terminate the Contract. The Contractor's notice and justification of a change in key personnel must include identification of proposed substitute key personnel and must provide sufficient detail to permit the Department to evaluate the impact of the change on the project and/or maintenance.

CSL Original

Any of the Contractor's staff that the Department deems unacceptable shall be promptly and without delay removed from the project by the Contractor and replaced by the Contractor within thirty (30) calendar days by another employee with acceptable experience and skills subject to the prior approval of the Department. Such approval by the Department will not be unreasonably withheld or delayed.

An unauthorized change by the Contractor of any contracted personnel designated as key personnel will result in the imposition of liquidated damages, as defined in the Contract.

28.0 DATA SECURITY AND PRIVACY AGREEMENT

- (a) **PURPOSE AND SCOPE OF APPLICATION:** This Data Security and Privacy Agreement (Agreement) is designed to protect the Department of Employee Trust Funds' (Department) Confidential Information and Department Information Resources (defined below). This Agreement describes the data security and privacy obligations of Contractor and its sub-contractors that connect to Department Information Resources and/or gain access to Confidential Information.
- (b) **DEFINED TERMS:**
- (1) **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) Individual Personal 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); or (vii) any material submitted by the Contractor in response to a Department RFB/RFP that the Contractor designates confidential and proprietary information and which qualifies as a trade secret, as provided in Wis. Stat. § 19.36 (5) or material which can be kept confidential under the Wisconsin public records law.
 - (2) **Department Information Resources** means those devices, networks and related infrastructure that the Department has obtained for use to conduct Department business. Devices include but are not limited to, Department-owned, managed, used through service agreements storage, processing, communications devices and related infrastructure on which Department data is accessed, processed, stored, or communicated, and may include personally owned devices. Data includes, but is not limited to, Confidential Information, other Department created or managed business and research data, metadata, and credentials created by or issued on behalf of the Department.
- (c) **ACCESS TO DEPARTMENT INFORMATION RESOURCES:** In any circumstance when Contractor is provided access to Department Information Resources, it is solely Contractor's responsibility to ensure that its access does not result in any access by unauthorized individuals to Department Information Resources. Contractors who access the Department's systems from any Department location must at a minimum conform with Department security standards that are in effect at the Department location(s) where the access is provided. Any Contractor technology and/or systems that gain access to Department Information Resources must comply with, at a minimum, the elements in the Computer System Security Requirements set forth in this Agreement.
- (d) **COMPLIANCE WITH APPLICABLE LAWS:** Contractor agrees to comply with all applicable state and federal laws, as well as industry best practices, governing the collection, access, use, disclosure, safeguarding and destruction of Confidential Information.

CSL Original

- (e) **PROHIBITION ON UNAUTHORIZED USE OR DISCLOSURE OF CONFIDENTIAL INFORMATION:** Contractor agrees to hold the Department's Confidential Information, and any information derived from such information, in strictest confidence. Contractor will not access, use or disclose Confidential Information other than to carry out the purposes for which the Department disclosed the Confidential Information to Contractor, except as permitted or required by applicable law, or as otherwise authorized in writing by the Department. For avoidance of doubt, this provision prohibits Contractor from using for its own benefit Confidential Information or any information derived from such information. If required by a court of competent jurisdiction or an administrative body to disclose Confidential Information, Contractor will notify the Department in writing immediately upon receiving notice of such requirement and prior to any such disclosure, to give the Department an opportunity to oppose or otherwise respond to such disclosure (unless prohibited by law from doing so).
- (f) **REQUIREMENT TO KEEP CONFIDENTIAL INFORMATION WITHIN THE UNITED STATES:** The Contractor's transmission, transportation or storage of Confidential Information outside the United States, or access of Confidential Information from outside the United States, is prohibited except on prior written authorization by the Department.
- (g) **SAFEGUARD STANDARD:** Contractor agrees to protect the privacy and security of Confidential Information according to all applicable laws and regulations, including HIPAA, by commercially-acceptable frameworks or standards such as the ISO/IEC 27000-series, NIST, 800-53, RFC 2196, IEC 62443, and SANS CIS Top 20. ISO 27001, etc. Security Controls, and no less rigorously than it protects its own confidential information, but in no case less than reasonable care. Contractor will implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of the Confidential Information. All Confidential Information stored on portable devices or media must be encrypted in accordance with the Federal Information Processing Standards (FIPS) Publication 140-2. Contractor will ensure that all security measures are regularly reviewed including ongoing monitoring, an annual penetration and vulnerability test, and an annual security incident response test, and revised, no less than annually, to address evolving threats and vulnerabilities while Contractor has responsibility for the Confidential Information under the terms of this Agreement. Prior to agreeing to the terms of this Agreement, and periodically thereafter (no more frequently than annually) at the Department's request, Contractor will provide assurance, in the form of a third-party audit report or other documentation acceptable to the Department, such as SOC2 Type II, demonstrating that appropriate information security safeguards and controls are in place.
- (h) **INFORMATION SECURITY PLAN:**
- (1) Contractor acknowledges that the Department is required to comply with information security standards for the protection of Confidential Information as required by law, regulation and regulatory guidance, as well as the Department's internal security program for information and systems protection.
 - (2) Contractor will establish, maintain and comply with an information security plan (Information Security Plan), which will contain, at a minimum, such elements as those set forth in this Agreement.
 - (3) Contractor's Information Security Plan will be designed to:
 - a. Ensure the privacy, security, integrity, availability, and confidentiality of Confidential Information;
 - b. Protect against any anticipated threats or hazards to the security or integrity of Confidential Information;
 - c. Protect against unauthorized access to or use of Confidential Information that could result in harm or inconvenience to the person that is the subject of such information;
 - d. Reduce risks associated with Contractor having access to Department Information Resources; and
 - e. Comply with all applicable legal and regulatory requirements for data protection.
 - (4) On at least an annual basis, Contractor will review its Information Security Plan, update and revise it as needed, and submit it to the Department upon request. At the Department's request, Contractor will make modifications to its Information Security Plan or to the procedures and practices thereunder to conform to the Department's security requirements as they exist from time to time. If there are any significant modifications to Contractor's Information Security Plan, Contractor will notify the Department within a reasonable period of time, not to exceed two weeks. Any significant modification must include the same or a higher framework or information security standard maturity level than what currently exists in Contractor's Security Plan.

CSL Original

(i) **RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION:**

Upon termination of the Contract for any reason, Contractor, with respect to Confidential Information received from the Department, another contractor of the Department, or created, maintained, or received by Contractor on behalf of the Department, shall:

- (1) Retain only that Confidential Information which is necessary for Contractor to continue its proper management and administration or to carry out its legal responsibilities;
- (2) Where feasible, return to the Department, or, if agreed to by the Department, destroy the remaining Confidential Information that Contractor still maintains in any form;
- (3) Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this Subsection, for as long as Contractor retains the Protected Health Information;
- (4) Not use or disclose the Confidential Information retained by Contractor other than for the purposes for which such Confidential Information was retained and subject to the same conditions set out above under Subsection (d) which applied prior to termination;
- (5) Return to the Department or, if agreed to by the Department, destroy the Protected Health Information retained by Contractor when it is no longer needed by Contractor for its proper management and administration or to carry out its legal responsibilities; and
- (6) If required by the Department, transmit the Confidential Information to another contractor of the Department.

- (j) **NOTIFICATION OF CORRESPONDENCE CONCERNING CONFIDENTIAL INFORMATION:** Contractor agrees to notify the Department immediately, both orally and in writing, but in no event more than twenty-four (24) hours after Contractor receives correspondence or a complaint regarding Confidential Information, including but not limited to, correspondence or a complaint that originates from a regulatory agency or an individual.

(k) **BREACHES OF CONFIDENTIAL INFORMATION:**

CONTRACTOR REPORTING OF BREACH OR SUSPECTED BREACH OR DISCLOSURE TO THE DEPARTMENT:

- (1) Within twenty-four (24) hours after Contractor becomes aware of a suspected breach, impermissible use, or impermissible disclosure of the Department's Confidential Information, Contractor agrees to notify in writing the Department Program Manager and Privacy Officer. A suspected breach, impermissible use, or impermissible disclosure is considered to be discovered as of the first day on which such occurrence is known to Contractor, or, by exercising reasonable diligence, would have been known to Contractor. The notification must contain details sufficient for the Department Program Manager and Privacy Officer to determine the Department's agency response. Sufficient details include, without limitation:
 - a. The nature of the unauthorized access, use or disclosure;
 - b. A list of any affected persons (if available), whose Confidential Information was supplied to Contractor by the Department;
 - c. Information about the information included in the breach, impermissible use, or impermissible disclosure;
 - d. The date or dates of the suspected breach, impermissible use, or impermissible disclosure;
 - e. The date of the discovery by Contractor;
 - f. A list of the pro-active steps taken by Contractor and being taken to correct the breach, impermissible use or impermissible disclosure; and
 - g. Contact information at Contractor for affected persons who contact the Department regarding the issue.
- (2) Not less than twenty-four (24) hours before Contractor makes any external communications to the public, media, federal Office for Civil Rights (OCR), other governmental entity, or persons potentially affected by the breach, impermissible use, or impermissible disclosure, Contractor agrees to provide a copy of the planned communication to the Department Program Manager and Privacy Officer.

CSL Original

- (3) Within thirty (30) days after Contractor makes the initial report under this section, Contractor shall research the suspected breach, impermissible use, or impermissible disclosure of Confidential Information and provide a report in writing to the Department Program Manager. The report must contain, at a minimum:
- a. A complete list of any affected persons (whose Confidential Information was supplied to Contractor by the Department) and their contact information;
 - b. Copies of correspondence or notifications provided to the public, media, OCR, other governmental entity, or persons potentially affected;
 - c. Whether Contractor's Privacy Officer has determined there has been a reportable breach under HIPAA, or an unauthorized acquisition under Wis. Stat. §134.98 and the reasoning for such determination;
 - d. If Contractor determines there has been a breach, impermissible use, or impermissible disclosure, an explanation of the root cause of the breach, impermissible use, or impermissible disclosure;
 - e. A list of the corrective actions taken to mitigate the suspected breach, impermissible use, or impermissible disclosure; and
 - f. A list of the corrective actions taken to prevent a similar future breach, impermissible use, or impermissible disclosure.

COORDINATION OF BREACH RESPONSE ACTIVITIES:

- (4) Contractor will fully cooperate with the Department's investigation of any breach of Confidential Information involving Contractor, including but not limited to making witnesses, documents, HIPAA logs, systems logs, video recordings, or other pertinent or useful information available immediately upon Contractor's reporting of the breach and throughout the investigation. Contractor's full cooperation will include but not be limited to Contractor:
- a. Immediately preserving any potential forensic evidence relating to the breach, and remedying the breach as quickly as circumstances permit
 - b. Within forty-eight (48) hours designating a contact person to whom the Department will direct inquiries, and who will communicate Contractor responses to Department inquiries; Contractor will designate a Privacy Officer and Security Officer to serve as contacts for the Department.
 - c. As rapidly as circumstances permit, applying appropriate resources to remedy the breach condition, investigate, document, restore the Department service(s) as directed by the Department, and undertake appropriate response activities such as working with the Department, its representative, and law enforcement to identify the breach, identify the perpetrator(s), and take appropriate actions to remediate the security vulnerability;
 - d. Providing status reports to the Department at least every two (2) hours until the root cause of the breach is identified and a plan is devised to fully remediate the breach;
 - e. Once the root cause of the breach is identified and a plan is devised to fully remediate the breach, providing status reports to the Department daily or at mutually agreed upon timeframes, to the Department on breach response activities, findings, analyses, and conclusions;
 - f. Coordinating all media, law enforcement, or other breach notifications with the Department in advance of such notification(s), unless expressly prohibited by law; and
 - g. Ensuring that knowledgeable Contractor staff is available on short notice, if needed, to participate in Department-initiated meetings and/or conference calls regarding the breach.

ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS:

- (5) Contractor will make itself and any employees, subcontractors, or agents assisting Contractor in the performance of its obligations available to the Department at no cost to the Department to testify as witnesses, or otherwise, in the event of a breach or other unauthorized disclosure of Confidential Information caused by Contractor that results in litigation, governmental investigations, or administrative proceedings against the Department, its directors, officers, agents or employees based upon a claimed violation of laws relating to security and privacy or arising out of this Agreement or the Contract.

(I) RETENTION OF LOGS:

- a. Contractor shall keep all HIPAA logs (logs of any systems that have information relating to HIPAA) for six (6) years.
- b. Contractor shall keep all firewall logs for twelve (12) months.

CSL Original

(m) **ADDITIONAL INSURANCE:** In addition to the insurance required under the Contract, Contractor, at its sole cost and expense, will obtain, keep in force, and maintain an insurance policy (or policies) that provides coverage for privacy and data security breaches. This specific type of insurance is typically referred to as Privacy, Technology and Data Security Liability, Cyber Liability, or Technology Professional Liability. In some cases, Professional Liability policies may include some coverage for privacy and/or data breaches. Regardless of the type of policy in place, it needs to include coverage for reasonable costs in investigating and responding to privacy and/or data breaches with the following minimum limits unless the Department specifies otherwise: \$1,000,000 Each Occurrence and \$5,000,000 Aggregate.

(n) **INFORMATION SECURITY PLAN REQUIREMENTS:**

- (1) Contractor will develop, implement, and maintain a comprehensive Information Security Plan that is written in one or more readily accessible parts and contains administrative, technical, and physical safeguards. The safeguards contained in the Information Security Plan must be consistent with the safeguards for protection of Confidential Information and information of a similar character set forth in any state or federal regulations by which the person who owns or licenses such information may be regulated.
- (2) Without limiting the generality of the foregoing, every comprehensive Information Security Plan will include, but not be limited to:
 - a. Designating one or more employees to maintain the comprehensive Information Security Plan;
 - b. Identifying and assessing internal and external risks to the security, confidentiality, and/or integrity of any electronic, paper or other records containing Confidential Information and of Department Information Resources, and evaluating and improving, where necessary, the effectiveness of the current safeguards for limiting such risks, including but not limited to:
 - Ongoing employee (including temporary and contract employee) training;
 - Employee compliance with policies and procedures; and
 - Means, including Contractor staff, processes, and technology, for detecting information system intrusions, data breaches, and anomalous system behavior or activity, and for preventing security breaches, intrusions, or unauthorized access to information systems or networks.
 - c. Developing security policies for employees relating to the storage, access and transportation of records containing Confidential Information outside of business premises.
 - d. Imposing disciplinary measures for violations of the comprehensive Information Security Plan rules.
 - e. Preventing terminated employees from accessing records containing Confidential Information and/or Department Information Resources.
 - f. Overseeing service providers, by:
 - Taking reasonable steps to select and retain third-party service providers that are capable of maintaining appropriate security measures to protect such Confidential Information and Department Information Resources consistent with all applicable laws and regulations; and
 - Requiring such third-party service providers by contract to implement and maintain such appropriate security measures for Confidential Information.
 - g. Placing reasonable restrictions upon physical access to records containing Confidential Information and Department Information Resources and requiring storage of such records and data in locked facilities, storage areas or containers.
 - h. Restrict physical access to any network or data centers that may have access to Confidential Information or Department Information Resources.
 - i. Requiring regular monitoring to ensure that the comprehensive Information Security Plan is operating in a manner reasonably calculated to prevent unauthorized access to or unauthorized use of Confidential Information and Department Information Resources; and upgrading information safeguards as necessary to limit risks.
 - j. Reviewing the scope of the security measures at least annually or whenever there is a material change in business practices that may reasonably implicate the security or integrity of records containing Confidential Information and of Department Information Resources.
 - k. Documenting responsive actions taken in connection with any incident involving a breach, and mandating post-incident review of events and actions taken, if any, to make changes in business practices relating to protection of Confidential Information and Department Information Resources.

CSL Original

- (o) **COMPUTER SYSTEM SECURITY REQUIREMENTS:** To the extent that Contractor electronically stores or transmits Confidential Information or has access to any Department Information Resources, it will include in its written, comprehensive Information Security Plan the establishment and maintenance of a security system covering its computers, including any wireless system, that, at a minimum, and to the extent technically feasible, will have the following elements:
- (1) Secure user authentication protocols including:
 - a. Control of user IDs and other identifiers;
 - b. A secure method of assigning and selecting passwords, or use of unique identifier technologies, such as biometrics or token devices;
 - c. Multi-Factor Authentication (MFA);
 - d. Control of data security passwords to ensure that such passwords are kept in a location and/or format that does not compromise the security of the data they protect;
 - e. MFA for system administrators and others with 'super-user' access rights;
 - f. Restricting access to active users and active user accounts only;
 - g. Blocking access to user identification after multiple unsuccessful attempts to gain access or the limitation placed on access for the particular system; and
 - h. Periodic review of user access, access rights and audit of user accounts.
 - (2) Secure access control measures that:
 - a. Restrict access to records and files containing Confidential Information and systems that may have access to Department Information Resources to those who need such information to perform their job duties; and
 - b. Assign unique identifications plus passwords, which are not vendor supplied default passwords, to each person with computer access, which are reasonably designed to maintain the integrity of the security of the access controls.
 - (3) Encryption of all transmitted records and files containing Confidential Information.
 - (4) Adequate security of all networks that connect to Department Information Resources or access Confidential Information, including wireless networks.
 - (5) Reasonable monitoring of systems, for unauthorized use of or access to Confidential Information and Department Information Resources.
 - (6) Encryption of all Confidential Information stored on Contractor devices, including laptops or other portable storage devices.
 - (7) For files containing Confidential Information on a system that is connected to the Internet or that may have access to Department Information Resources, reasonably up-to-date firewall, router and switch protection and operating system security patches, reasonably designed to maintain the integrity of the Confidential Information.
 - (8) Reasonably up-to-date versions of system security agent software, including intrusion detection systems, which must include malware protection and reasonably up-to-date patches and virus definitions, or a version of such software that can still be supported with up-to-date patches and virus definitions, and is set to receive the most current security updates on a regular basis.
 - (9) Education and training of employees on the proper use of the computer security system and the importance of Confidential Information and network security.

CSL Original

With reasonable notice to Contractor, the Department may require additional security measures which may be identified in additional guidance, contracts, communications or requirements.

- 29.0 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 the Contract, and if the Contract involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, the Contract is voidable by the Department unless appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before the Contract is signed. Disclosure must be made to the Department or the State of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123).
- 30.0 DISCLOSURE OF INDEPENDENCE AND RELATIONSHIP:**
- 30.1** Contractor certifies that no relationship exists between Contractor and the Department 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 may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interests of the State.
- 30.2** Contractor agrees 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 Department or has interests that are adverse to the Department. The Department may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interests of the State.
- 31.0 PROMOTIONAL ADVERTISING / NEWS RELEASES:** Reference to or use of the Department, the State, any of its departments, agencies or other subunits, or any State official or employee for commercial promotion is prohibited. News releases pertaining to the Contract, shall not be made without prior approval of the Department. Release of broadcast e-mails pertaining to the Contract shall not be made without prior written authorization of the Department.
- 32.0 EMPLOYMENT:** The Contractor will not engage the services of any person or persons now employed by the State, including any department, commission or board thereof, to provide services relating to the Contract without the written consent of the employing agency of such person or persons and of the Department.
- 33.0 INDEPENDENT CAPACITY OF CONTRACTOR:** The Department and the Contractor agree that the Contractor, its officers, agents, and employees, in the performance of the Contract 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.
- 34.0 TAXES:** The State and its agencies are exempt from payment of all federal tax and State and local taxes on its purchases except Wisconsin excise taxes as described below.
- The State is exempt from payment of Wisconsin sales or use tax on its purchases. The State 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.
- 35.0 VENDOR TAX DELINQUENCY:** The State may offset Contractor's payments if Contractor has a delinquent State tax liability.
- 36.0 FOREIGN CORPORATION:** If Contractor is a foreign corporation (any corporation other than a Wisconsin corporation), Contractor 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 Corporations, P. O. Box 7846, Madison, WI 53707-7846; telephone (608) 261-7577.

CSL Original

- 37.0 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 Department shall have the right to audit, review, examine, copy, and transcribe any pertinent records or documents relating to the Contract held by the Contractor.

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 a contract. Pursuant to §19.36 (3), Wis. Stats., all records of the Contractor that are produced or collected under the Contract are subject to disclosure pursuant to a public records request. Upon receipt of notice from the State of a public records request for records produced or collected under the Contract, the Contractor shall provide the requested records to the Department. The Contractor, following final payment, shall retain all records produced or collected under the Contract for six (6) years.

- 38.0 ANTITRUST ASSIGNMENT:** The Contractor and the State recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State (purchaser). Therefore, the Contractor hereby assigns to the State any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.
- 39.0 ASSIGNMENT:** No right or duty in whole or in part of the Contractor under the Contract may be assigned or delegated without the prior written consent of the Department.
- 40.0 PATENT INFRINGEMENT:** If goods, products, or articles are provided under the Contract, the Contractor guarantees such items were manufactured or produced in accordance with applicable federal labor laws. Further, that the sale or use of such items described in the Contract 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 (provided that the 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 items, and agrees that it will pay all costs, damages, and profits recoverable in any such suit.
- 41.0 SAFETY REQUIREMENTS:** All materials, equipment, and supplies provided to the Department must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code and all applicable OSHA Standards.
- 42.0 FORCE MAJEURE:** Neither the Contractor nor the Department shall be in default by reason of any failure in performance of the Contract 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 non-performing party.

CSL Original

FORM D - BIDDER REQUIRED FORM

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-3832 (C01/2018)
S. 16.72 WIS. STATS



STATE BUREAU OF PROCUREMENT
101 EAST WILSON STREET, 6TH FLOOR
P. O. BOX 7867
MADISON, WI 53707-7867

Instructions: Bidder is required to complete all sections of this form. (Note: If the agency checks the box preceding Section 5 indicating that section is not applicable to the bid/proposal, Bidder may skip Section 5. Bidder may not skip any other sections of this form).

Agency Name Wisconsin Department of Employee Trust Funds	Solicitation Title Courier Services	Solicitation Reference Number ETI0033
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Section 1: Bidder Information		
Bidder/Proposer Company Name: CS Logistics, Inc.		E-Mail Address: stevek@cslog.com
Phone Number: 414.774.6322	Toll Free Phone:	Fax:
Address: 11001 W. Mitchell Street		
City: Milwaukee	State: WI	Zip: 53214
Mailing Address for Purchase Orders (if different than above)		
Address: SAA		
City:	State:	Zip:

Section 2: Bidder Contacts

List the name and title of the person to contact for questions related to each of the topics below:

Topic	E-Mail Address	Phone
Bid/Proposal Steve Kreinz	stevek@cslog.com	414.774.6322
Affirmative Action Plan Mike Kreinz	mikek@cslog.com	414.774.6322
Orders and billing Bob Birkland and order entry	bobb@cslog.com, operations@cslog.com	41.774.6322

Section 3: Bidder Reference

Provide company name, address, contact person, telephone number, and appropriate information on the product(s) and/or service(s) used with requirements similar to those included in this solicitation document. If vendor is proposing any arrangement involving a third party, the named references should also be involved in a similar arrangement.

Company Name:

Wisconsin DOT (1299)

Address (including City, State, Zip):

141 NW Bartow Street, Waukesha, WI 53188

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Contact Person: Sandy Reed	E-Mail Address: Sandra.reed@dot.wi.gov	Phone: 262.548.5662
List Product(s) and/or Service(s) Used: Service, mail runs		
Company Name: Wisconsin Department of Agricultural, Trade, & Consumer Protection (264)		
Address (including City, State, Zip): 2811 Agriculture Drive		
Contact Person: Jessica Catlin	E-Mail Address: Jessica.catlin@wisconsin.gov	Phone: 608.224.4737
List Product(s) and/or Service(s) Used: Inter office mail and services		
Company Name: Wisconsin Department of Safety & Professional Services (324)		
Address (including City, State, Zip): 1400 E. Washington Avenue, Madison, WI 53703		
Contact Person: Bev Haberman	E-Mail Address: Bev.haberman@drl.state.wi.us	Phone: 608.261.4480
List Product(s) and/or Service(s) Used: Mail services		
Company Name: ETF Presently doing the work		
Address (including City, State, Zip):		
Contact Person:	E-Mail Address:	Phone:
List Product(s) and/or Service(s) Used:		

Section 4: Designation of Confidential and Proprietary Information

The attached material submitted in response to this 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

CSL Original

Using the boxes below, indicate your agreement with the following statements:

In the event the designation of confidentiality of this information is challenged, the bidder/proposer 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.

The state considers other markings of confidential in the bid/proposal document to be insufficient. The bidder/proposer agrees to hold the state harmless for any damages arising out of the release of any materials unless they are specifically identified above.

CSL Original

Agency Only:

Section 5 is not applicable to this bid/proposal. If this box is checked, Bidder may skip to Section 6.

Section 5: Bidder Agreement: Wisconsin's Cooperative Purchasing Service

Wisconsin statutes (s. 16.73, Wis. Stats.) establish authority to allow Wisconsin municipalities to purchase from state contracts. Participating in the service gives vendors opportunities for additional sales without additional bidding. Municipalities use the service to expedite purchases. A "municipality" is defined as any county, city, village, town, school district, board of school directors, sewer district, drainage district, vocational, technical and adult education district, or any other public body having the authority to award public contracts (s. 16.70(8), Wis. Stats.). Federally recognized Indian tribes and bands in this state may participate in cooperative purchasing with the state or any municipality under ss. 66.0301(1) and (2), Wis. Stats.

Interested municipalities:

- Will contact the contractor directly to place orders referencing the state agency contract number; and
- Are responsible for receipt, acceptance, and inspection of commodities directly from the contractor, and making payment directly to the contractor.

The State of Wisconsin is not party to these purchases or any dispute arising from these purchases and is not liable for delivery or payment of any of these purchases.

Bidders/Proposers may or may not agree to furnish the commodities or services of this bid/proposal to Wisconsin municipalities. A vendor's decision on participating in these services has no effect on awarding this contract.

Bidder: Please indicate your willingness to furnish the commodities or services to Wisconsin municipalities by checking the appropriate box below.

I Agree to furnish the commodities or services of this bid/proposal to Wisconsin municipalities with any special conditions noted below.

I Do Not Agree to furnish the commodities or services to Wisconsin municipalities.

A vendor in the service may specify a minimum order sizes by volume or dollar amount, additional charges beyond normal delivery areas, or other minimal charges for municipalities.

Special Conditions (if applicable):

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Section 6: Bidder Identification (Check all that apply)

- We claim minority bidder preference [Wis. Stats. 16.75(3m)(b)(3)]. Under Wisconsin Statutes, a 5% preference may be granted to CERTIFIED Minority Business Enterprises. Bidder must be certified by the Wisconsin Supplier Diversity Program. If you have questions concerning the certification process, contact the Wisconsin Supplier Diversity Program, 6th Floor, 101 E. Wilson St., Madison, WI 53703, (608) 267-9550. **Does Not Apply to Printing Bids.**
- We claim disabled veteran owned business bidder preference [Wis. Stats. 16.75(3m)(b)(3)]. Under Wisconsin Statutes, a 5% preference may be granted to CERTIFIED Disabled Veteran Owned Businesses. Bidder must be certified by the Wisconsin Supplier Diversity Program. If you have questions concerning the certification process, contact the Wisconsin Supplier Diversity Program, 6th Floor, 101 E. Wilson St., Madison, WI 53703, (608) 267-9550. **Does Not Apply to Printing Bids.**
- We are a work center certified under Wis. Stats. S. 16.752 employing persons with severe disabilities. Questions concerning the certification process should be addressed to the Work Center Program, State Bureau of Procurement, 6th Floor, 101 E. Wilson St., Madison, WI 53703, (608) 266-5462.

Section 7: Bidder Certifications

Wis. Stats. s. 16.754 directs the state to purchase materials which are manufactured to the greatest extent in the United States when all other factors are equal. Materials covered in our bid were manufactured in whole or in substantial part in the United States. Yes No Unknown

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 bid, that this bid has been independently arrived at without collusion with any other bidder, competitor or potential competitor; that this bid has not been knowingly disclosed prior to the opening of bids to any other bidder or competitor; that the above statement is accurate under penalty of perjury.

We certify that we are not currently engaged in a boycott of the State of Israel. Should we be awarded a contract, we understand that future engagement in a boycott of the State of Israel may result in contract termination.

We will comply with all terms, conditions and specifications required by the state in this Request for Bid/Proposal and all terms of our bid.

Section 8: Bidder Signature

Name of Authorized Company Representative: Steven S. Kreinz	Title: VP	Phone: 414.774.6322	Fax:
Signature of Above 	Date: 1/10/18	Email: stevek@cslog.com	

This document can be made available in alternate formats to individuals with disabilities upon request.

CSL Original



FORM E - COST WORKSHEET

Instructions: The Department of Employee Trust Funds (ETF) is soliciting bids to contract with a single vendor to provide courier services. The contractor will provide courier service to deliver confidential financial documents between ETF's offices at 4822 Madison Yards Way, Madison, WI, 53705-9100, and various downtown Madison locations. The services are to be provided each day Monday through Friday, except state holidays. There may be occasional additional deliveries. The Bidder must adhere to the format set forth below; failure to do so may result in disqualification. Bidders must provide pricing for the entire length of the Contract, including any optional renewals. There will be no price increases for the length of the Contract, including optional renewal periods. Gasoline surcharges won't be considered. A bid conditioned on a possible floating gasoline surcharge will be grounds for disqualification. If the bidder believes additional pricing information would be helpful and benefit ETF in understanding the costs, provide the additional information after the Cost Worksheet.

Company Name: CS LOGISTICS, INC.	Date: 1/15/19
Authorized Person: Steve Kreinz	Phone: 414.774.6322
Title: VP	Signature: [REDACTED]

Bidder will extend the same pricing to other Wisconsin government agencies.

Agree Disagree

Fixed Cost per Month Invoiced Monthly	<u>\$795.00</u>
(Payment within thirty (30) days of receipt of invoice)	
(Includes daily run but not "Special Request" stops)	
Discount for payment within less than thirty (30) days of receipt of invoice	(_____ % net _____)
Net Fixed Cost per Month Invoiced Monthly: Your Bid	\$ <u>795.00</u>

Additional charges for changes/reductions to this bid may be based on the following:

- Flat rate for new additional deliveries within the same parameters of current services and geographic area, including "Special Request" stops. \$ 5.95
 - Hourly rate for services of one person and mode of transport. \$ 22.95
(Quarter hour minimum increments)
- Based on a per mile rate of: \$ 1.25 per
mile

CSL Original

FORM F - DRAFT CONTRACT

Commodity or Service:

Courier Services

Contract No./Request for Bid/Proposal No:

RFB ETI0033

Contract Period: February 1, 2019 – January 31, 2020, with the option of two, one-year renewals

Cost: XXX

1. This Contract is entered into by and between the State of Wisconsin Department of Employee Trust Funds ("ETF") and XXX ("Contractor") whose address and principal officer appear below. ETF is the sole point of contact for this Contract. All references to the "Department," "ETF," "State of Wisconsin," or "State" in any term, condition, or specification shall have the same authority as one entity.
2. ETF agrees to direct the purchase and Contractor agrees to supply the services described in ETF's RFB ETI0033 Courier Services with the release date of January 3, 2019, in accordance with the Department Terms and Conditions (listed below).
3. For purposes of administering this Contract, the following documents are hereby incorporated under this Contract by reference, and the order of precedence shall be as follows:
 - (a) This Contract with XXX with payment schedule as follows:

Description	Schedule	Invoice Total

- (b) RFB ETI0033 Courier Services, with the release date of January 3, 2019, including Department Terms and Conditions, revised 03-01-2018;
- (c) XXX's response to RFB ETI0033, signed January XX, 2019; and,
- (d) Exhibit A – Contracted Personnel - Confidentiality and Inventions Agreement – signed by each person from XXX who will be working with ETF on this project, including (List Names).

Contract: ETI0033 – Courier Services

The parties agree to the terms and conditions set forth herein:

State of Wisconsin Department of Employee Trust Funds
Address:

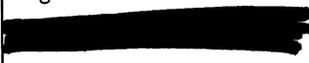
CS Logistics, Inc.
Address:

CSL Original

4822 Madison Yards Way, 8 th Floor P.O. Box 7931 Madison, WI 53707-7931
By (print the name of person authorized to legally sign this document and bind the agency):
Title (print title of person named above):

Signature:
Date:

11001 W. Michell Street Milwaukee, WI 53214
Taxpayer ID Number (for payment purposes):
By (print the name of person authorized to legally sign this document and bind the entity):
Steven S. Kreinz
Title (print title of person named above):
VP

Signature: 
Date: 1/15/19

CSL Original

FORM G - SUBCONTRACTOR INFORMATION

None of the services to be provided by the Contractor shall be subcontracted or delegated to any other organization, subdivision, association, individual, corporation, partnership or group of individuals, or other such entity without the prior written consent of ETF. The determination of whether such consent will be provided shall be within the sole discretion of ETF. No subcontract or delegation shall relieve or discharge the Contractor from any obligation to meet deliverables, stated time frames or from liability under the Contract.

Instructions:

1. Provide a list of all subcontractors, consultants and suppliers (including subsidiaries) that will provide services, products, content, work and supplies as part of the project described in the RFB, using the table below. Add additional copies of this form as necessary.
2. Provide a list of all persons who contributed to authoring the Bid.
3. Print company name.
4. Print the name of the representative signing this form (must be authorized to legally bind the company).
5. Sign the form.
6. Date the form.
7. Include the form with Bid within Tab 1.

Name and Title of Subcontractor, Consultant, Supplier, Bid Author	Address and Phone Number	Work/Service/Product/Content to be Performed/Supplied
N/A		

Company Name:	CS Logistics, Inc.	
Steven S. Kreinz		
Authorized Printed Name		
	1/15/19	
Authorized Signature	Date	

CSL Original

2 **TAB 2:** ASSUMPTIONS AND EXPECTATIONS

TAB 2 Assumptions and Exceptions

If the Bidder has no assumptions or exceptions to any term, condition, RFB exhibit or form, provide a statement to that effect in Tab 2.

We are presently doing the work and have assumptions or expectations based on the contract that we have been working with for years and the new contract that contains and is more for the information technology sector verses what we are doing which is "courier work".

From C – Department of Terms and conditions has items that we do not have or cannot provide without a substantial cost modification.

- Clearly label each assumption and exception with one of the following labels:
 - Section 3 Requirements - Assumption
 - Section 3 Requirements - Exception
 - Form C Department Terms and Conditions - Assumption
 - Form C Department Terms and Conditions - Exception
 - Form F Draft Contract – Assumption or Exception

Form C Exception: Section 6.1 We do not provide this type of auditing.

Form C Exception: Section 20.0 Errors and omissions needs to be discussed be we do have General Liability of \$1,000,000 and \$2,000,000 aggregate with \$2,000,000 and \$3,000,000 umbrellas.

Form C Exception: Section 28.L Hipa Laws how it applies to this contract need to be discussed?

Form C Exception: Section 28.M Insurance items need to be discussed.

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Supplemental Information – IMPORTANT

The Department will not allow any assumptions or exceptions by the Bidder to any of the following items listed in Table 3. Any Bid with an assumption or exception to any of the items listed in Table 3 may be rejected.

Table 3 - No Assumptions or Exceptions Allowed

No.	Document	Item/Section
1	Form C	3.0 Legal Relations
2	Form C	6.0 Audit Provision
3	Form C	12.0 Liquidated Damages
4	Form C	13.0 Contract Dispute Resolution
5	Form C	14.0 Controlling Law
6	Form C	16.0 Termination of the Contract
7	Form C	17.0 Termination for Cause
8	Form C	18.0 Remedies of the Department
9	Form C	22.0 Confidential Information and HIPAA Business Associate Agreement
10	Form C	23.0 Indemnification
11	Form C	25.0 Right to Publish or Disclose
12	Form C	28.0 Data Security and Privacy Agreement
13	Form C	39.0 Assignment

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3 **TAB 3:** RESPONSE TO SECTIONS 3

TAB 3

Response to Section 3

Provide a point-by-point response and each-and-every piece of information called for in Section 3. Tab 3 must exactly follow the same numbering system as 3, use the same headings, and address each point in Section 3. Format the original ETF-authored text so that it looks different from the response. For example, put the ETF-authored text in bold.

REQUIREMENTS

The Bidder's services must be able to be performed according to the requirements contained in this RFB. All resources necessary to meet the requirements are to be provided by the Bidder and included in the price indicated by Bidder on the Form E – Cost Worksheet. The Bidder must provide enough detail in its response to allow the Department to understand how the Bidder will comply with each requirement. The Bidder's response to each item in 3 is mandatory and shall include (in Bid TAB 3) the following items, organized as indicated below:

3.1 MANDATORY REQUIREMENTS

Failure to comply with one or more of these mandatory requirements may disqualify a Bid. A response to each item is a mandatory requirement, and failure to respond with either "agree" or "disagree" to everything listed may result in a Bid being rejected.

If a Bidder cannot agree to each item listed, the Bidder must so specify and provide a reason or justification in Bid TAB 2 – Assumptions and Exceptions – of the Bid response. ETF may consider the issue if it is addressed in Bid TAB 2. Even if addressed in Bid TAB 2, a "disagree" to a mandatory requirement may still result in a Bid being rejected.

1. The Contractor's delivery staff must be able to lift boxes that weigh between twenty (20) and thirty (30) pounds. The Contractor's delivery staff is expected to pick up and deliver approximately four-five (4-5) oversized office envelopes from each site. On occasion there may be two-three (2-3) banker's boxes, record storage boxes or ten (10) ream paper boxes.

Agreed.

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2. *The Contractor must be able to carry one or more locked bags or containers. These may contain checks. Packages shall always be kept secure. Courier vehicle must always be locked.*

Agreed.

3. *The Contractor must agree to be responsible for any contents lost in transit and assist with investigations related to any contents lost in transit.*

Agreed.

4. *The Contractor must provide drivers who have a valid Wisconsin driver's license and maintain comprehensive automobile collision and liability insurance. (ETF will consider vendors who use alternative forms of transportation. Liability insurance is required even if a motor vehicle is not used for delivery). All vehicles must have company identification.*

Agreed.

5. *The Contractor must ensure sufficient staff to meet and maintain the Form B – Courier Daily Run Schedule. If a driver happens to arrive early for a scheduled pick-up or if the items to be picked up are not ready at the scheduled pick-up time, the driver shall be required to wait for ten (10) minutes after the scheduled pick-up time at no additional charge.*

Agreed.

6. *The Contractor must be on time 95% of the time. ETF may or may not make allowances for weather, traffic, or other delays – at ETF's discretion. ETF may at its discretion require the courier to come up the elevator to deliver or may agree to meet the courier near the building's dock or another location that is mutually convenient.*

Agreed.

7. *The Contractor must not work when ETF is closed. Holidays and closures are posted on ETF's website. No pick-ups or deliveries will occur during holidays, closures, or weekends. ETF offices are closed on these holidays:*

- *New Year's Day (January 1)*
- *Martin Luther King Jr.'s Birthday (3rd Monday in January)*
- *Memorial Day (Last Monday in May)*
- *Independence Day (July 4)*
- *Labor Day (1st Monday in September)*

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- *Thanksgiving Day (4th Thursday in November)*
- *Christmas Eve Day (December 24)*
- *Christmas Day (December 25)*
- *New Year's Eve Day (December 31)*

Agreed.

8. Confidentiality

The Contractor understands and acknowledges that the records the Contractor will transport are strictly confidential under various provisions of law, including Wis. Stats. § 40.07. Contractor further understands and agrees that any employee or agent of the Contractor who violates the confidentiality provisions is subject to penalties, including monetary fines.

The Contractor agrees to limit access to the records to those members of Contractor's staff who are needed to transport the records as required by the contract.

The Contractor understands and agrees that at no time during the performance of its duties under this bid will any records be left unattended unless locked in the Contractor's vehicle.

The Contractor will not make copies of or retain copies of any records.

Contractor agrees and understands that all material scheduled to be picked up will be delivered the same day by no later than 2:15 PM, and no later than 4:00 PM for any special trips. Under no circumstances will any material be left in the mode of transport overnight, even if locked and secured.

Agreed.

9. The Contractor must be responsible for all wages, Federal and State Withholding taxes, FICA and Worker's Compensation Insurance for Contractor's employees.

10. The Contractor must accommodate additional and non-scheduled pick-ups and deliveries in the Madison Metro area.

Agreed.

11. The Contractor must agree to these payment terms. If the Contractor fails, on any given day, to perform its duties under the bid, ETF will bill the Contractor for actual costs incurred in securing delivery of the courier mail, or at its discretion, withhold the actual costs to cover from the monthly payment. In the event that a driver will not be able to make a scheduled stop (pick-up or delivery) within fifteen (15) minutes of the scheduled pick-up time or delivery time, an alert shall be phoned to the appropriate State staff to avoid liquidated damages. Liquidated damages will consist of an invoice credit equal to the cost of the contracted delivery that was late or missed. Once the award is made, the

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Contractor shall be provided with the appropriate staff and phone numbers for each scheduled stop.

Agreed.

12. Staff Identification: All Contractor's staff, while working on State property, shall wear a clearly displayed photo identification badge (provided by the Contractor at the Contractor's cost) showing they work for the Contractor.

Agreed.

3.2 REQUIRED RESPONSES

1. Describe the Bidder's business including:

- *number of staff, including independent contractors and employees*
114
- *number of offices and locations*
2 offices and 2 locations
- *the location(s) of the office(s) from which the work on this project is to be performed*

Both operations

- *primary business*
Courier Service
- *other business or services*
trucking, warehousing and product fulfillment
- *type of organization (franchise, corporation, partnership, etc.)*
C-Corporation
- *number and type of clients*

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Over 300 customers that range from small office providing interoffice mail like your organization or a multibillion dollar organization like Paychex, Wells Fargo and other organizations in the governmental sector as well as the business to business groups.

- *experience and capabilities in providing services similar to this bid*
- we have been doing this type of work since our inception over 21 years ago and presently provide this service for your organization.

, and

- *what Bidder believes are its strengths regarding Bidder's client services and what distinguishes Bidder's company from its competitors.*

We provide top notch customer service (CS Logistics) with the state of the art technology and employee bases associates that want to be part of a growing, efficient and caring organization.

2. *Name the Bidder's staff person who will act as ETF's main contact and relationship manager. This person must be available for meetings with ETF staff.*

Bryce Hass

3. *List any acquisitions, and/or mergers or other material developments (changes in ownership, personnel, business, etc.) pending now or that occurred in the past five years for Bidder. List what other companies your company is affiliated with as a parent or subsidiary. Describe in detail.*

N/A

4. *Describe any and all contracts currently held with State of Wisconsin agencies, local units of government (in Wisconsin) and related public authorities or entities. The response must identify the entity and describe the services provided.*

Please see references.

5. *Detail any judgment, criminal conviction, investigation or litigation pending against Bidder. Include a list of any litigation alleging breach of contract, fraud, breach of fiduciary duty or other willful or negligent misconduct of the Bidder during the past five (5) years. ETF reserves the right to reject a response based on this information.*

N/A

CSL Original

FORM C – ASSUMPTIONS AND EXCEPTIONS TO DEPARTMENT TERMS AND CONDITIONS



SKMBT_C4541901160
4460.pdf

EXHIBIT A – CONTRACTED PERSONNEL - CONFIDENTIALITY AND INVENTIONS AGREEMENT

In consideration of my Engagement as a Contracted Personnel with STATE OF WISCONSIN, I agree to the following:

1.0 Definitions:

Words and terms shall be given their ordinary and usual meanings. Unless negotiated otherwise by the parties, where capitalized, the following words and terms shall have the meanings indicated. The meanings shall be applicable to the singular, plural, masculine, feminine and neuter of the words and terms.

“Authorized User” means any State agency, University of Wisconsin campus, or other public body authorized to use statewide contracts, as established in §16.70 (1b), (2), (4) and (8), §16.73 and §66.0301 of the Wisconsin Statutes and PRO-D-30 of the State Procurement Manual.

“Confidential Information” means all tangible and intangible information and materials, including all Personally Identifiable Information, being disclosed in connection with this Contract, in any form or medium (and without regard to whether the information is owned by the Authorized User or by a third party), that satisfy at least one of the following criteria: (i) Personally Identifiable Information; (ii) non-public information related to the Authorized User’s employees, customers, technology (including data bases, data processing and communications networking systems), schematics, specifications, and all information or materials derived there from or based thereon; or (iii) information designated as confidential in writing by the Authorized User.

“Contracted Personnel” means individuals provided by the Contractor for an Engagement with an Authorized User.

“Engagement” means the provision of Services to an Authorized User upon the assignment of Contracted Personnel for specific work pursuant to a Request for Services.

“Personally Identifiable Information” 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 Authorized User 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; and (e) the individual's unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical characteristic.

"Proprietary Information" means all information that has been created, discovered, developed or otherwise become known to the STATE OF WISCONSIN or any of its related entities, (including, without limitation, information created discovered, developed or made known to me or by me during my association with State of Wisconsin). Thus, such Proprietary Information includes, but is not limited to, contracts, customers, employee and referral source lists and addresses, information about employees and employee relations, training manuals and procedures, recruitment methods and practices, other information about customers and referral sources, pricing, costs and expenses, budgets, business proposals, financial information, product development information, computer programs, hardware and software, and any other information relating to the STATE OF WISCONSIN and its operations, products, business and financial affairs.

2. I will keep in strictest confidence and trust all Confidential Information, Proprietary Information and Personally Identifiable Information and will not, either during or after my Engagement, disclose, use or disseminate any Confidential Information, Proprietary Information and Personally Identifiable Information or rights pertaining to Confidential Information, Proprietary Information and Personally Identifiable Information, except as necessary in the performance of my STATE OF WISCONSIN duties.

3. I also agree that all computer programs and listings, correspondence, notes, records, drawings, memoranda, files, training manuals, customer lists, mailing or contract lists, or other documents that are created, modified, or compiled by me, or which are available to me while engaged as a Contracted Personnel at the STATE OF WISCONSIN, concerning my Engagement and my dealings with any customers and agencies shall be the exclusive property of the STATE OF WISCONSIN. I agree to deliver such documents or other agency property to the STATE OF WISCONSIN upon the termination of my Engagement or at any other time at the STATE OF WISCONSIN's request.

4. I agree to disclose in writing and to assign on behalf of myself, my heirs, executors, or administrators, to the STATE OF WISCONSIN or its successor, any inventions, processes, diagrams, methods, computer software, or any improvements whatsoever that I may have discovered, conceived, or developed, either individually or in collaboration with others, during the course of my Engagement with the STATE OF WISCONSIN, or with the use of State of Wisconsin' time, data, equipment, facilities, or materials. I agree to execute all documents necessary or appropriate for use by the STATE OF WISCONSIN in applying for, obtaining and enforcing any

rights regarding Confidential Information, Proprietary Information and Personally Identifiable Information or inventions as the STATE OF WISCONSIN may desire, together with any assignments thereof to the STATE OF WISCONSIN.

5. I understand that the STATE OF WISCONSIN is committed to the highest standards of business ethics and requires that its Contracted Personnel conduct themselves at all times with honesty and integrity. I agree and acknowledge that I am required to comply with all laws, rules and regulations of federal, state and local governments. I am also encouraged, and expected, to bring to the attention of management any information that raises the possibility that any Contracted Personnel is not fulfilling these ethical and legal responsibilities.

6. I agree that during the period of my engagement with the STATE OF WISCONSIN I will not, without the STATE OF WISCONSIN's express written consent, engage in any consulting, employment or business which is otherwise in conflict with my Contracted Personnel relationship with the STATE OF WISCONSIN.

7. I have listed below all inventions or other improvements which have been made or conceived by me, either prior to or during my engagement with the STATE OF WISCONSIN, which I believe do not fall within the provisions of this agreement:

In addition, in the event I contend that any invention or improvement made or conceived of by me in the future is not covered by the provisions of this Agreement, I understand that I am required to promptly inform the STATE OF WISCONSIN in writing of such invention or improvement for the purpose of permitting the STATE OF WISCONSIN to determine whether such item is covered by the terms of this Agreement.

2/12/2019

Date

DocuSigned by:


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Contracted Personnel Signature

Bryce Hass

Contracted Personnel Name (please print)

EXHIBIT A – CONTRACTED PERSONNEL - CONFIDENTIALITY AND INVENTIONS AGREEMENT

In consideration of my Engagement as a Contracted Personnel with STATE OF WISCONSIN, I agree to the following:

1.0 Definitions:

Words and terms shall be given their ordinary and usual meanings. Unless negotiated otherwise by the parties, where capitalized, the following words and terms shall have the meanings indicated. The meanings shall be applicable to the singular, plural, masculine, feminine and neuter of the words and terms.

“Authorized User” means any State agency, University of Wisconsin campus, or other public body authorized to use statewide contracts, as established in §16.70 (1b), (2), (4) and (8), §16.73 and §66.0301 of the Wisconsin Statutes and PRO-D-30 of the State Procurement Manual.

“Confidential Information” means all tangible and intangible information and materials, including all Personally Identifiable Information, being disclosed in connection with this Contract, in any form or medium (and without regard to whether the information is owned by the Authorized User or by a third party), that satisfy at least one of the following criteria: (i) Personally Identifiable Information; (ii) non-public information related to the Authorized User’s employees, customers, technology (including data bases, data processing and communications networking systems), schematics, specifications, and all information or materials derived there from or based thereon; or (iii) information designated as confidential in writing by the Authorized User.

“Contracted Personnel” means individuals provided by the Contractor for an Engagement with an Authorized User.

“Engagement” means the provision of Services to an Authorized User upon the assignment of Contracted Personnel for specific work pursuant to a Request for Services.

“Personally Identifiable Information” 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 Authorized User 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; and (e) the individual's unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical characteristic.

"Proprietary Information" means all information that has been created, discovered, developed or otherwise become known to the STATE OF WISCONSIN or any of its related entities, (including, without limitation, information created discovered, developed or made known to me or by me during my association with State of Wisconsin). Thus, such Proprietary Information includes, but is not limited to, contracts, customers, employee and referral source lists and addresses, information about employees and employee relations, training manuals and procedures, recruitment methods and practices, other information about customers and referral sources, pricing, costs and expenses, budgets, business proposals, financial information, product development information, computer programs, hardware and software, and any other information relating to the STATE OF WISCONSIN and its operations, products, business and financial affairs.

2. I will keep in strictest confidence and trust all Confidential Information, Proprietary Information and Personally Identifiable Information and will not, either during or after my Engagement, disclose, use or disseminate any Confidential Information, Proprietary Information and Personally Identifiable Information or rights pertaining to Confidential Information, Proprietary Information and Personally Identifiable Information, except as necessary in the performance of my STATE OF WISCONSIN duties.

3. I also agree that all computer programs and listings, correspondence, notes, records, drawings, memoranda, files, training manuals, customer lists, mailing or contract lists, or other documents that are created, modified, or compiled by me, or which are available to me while engaged as a Contracted Personnel at the STATE OF WISCONSIN, concerning my Engagement and my dealings with any customers and agencies shall be the exclusive property of the STATE OF WISCONSIN. I agree to deliver such documents or other agency property to the STATE OF WISCONSIN upon the termination of my Engagement or at any other time at the STATE OF WISCONSIN's request.

4. I agree to disclose in writing and to assign on behalf of myself, my heirs, executors, or administrators, to the STATE OF WISCONSIN or its successor, any inventions, processes, diagrams, methods, computer software, or any improvements whatsoever that I may have discovered, conceived, or developed, either individually or in collaboration with others, during the course of my Engagement with the STATE OF WISCONSIN, or with the use of State of Wisconsin' time, data, equipment, facilities, or materials. I agree to execute all documents necessary or appropriate for use by the STATE OF WISCONSIN in applying for, obtaining and enforcing any

rights regarding Confidential Information, Proprietary Information and Personally Identifiable Information or inventions as the STATE OF WISCONSIN may desire, together with any assignments thereof to the STATE OF WISCONSIN.

5. I understand that the STATE OF WISCONSIN is committed to the highest standards of business ethics and requires that its Contracted Personnel conduct themselves at all times with honesty and integrity. I agree and acknowledge that I am required to comply with all laws, rules and regulations of federal, state and local governments. I am also encouraged, and expected, to bring to the attention of management any information that raises the possibility that any Contracted Personnel is not fulfilling these ethical and legal responsibilities.

6. I agree that during the period of my engagement with the STATE OF WISCONSIN I will not, without the STATE OF WISCONSIN's express written consent, engage in any consulting, employment or business which is otherwise in conflict with my Contracted Personnel relationship with the STATE OF WISCONSIN.

7. I have listed below all inventions or other improvements which have been made or conceived by me, either prior to or during my engagement with the STATE OF WISCONSIN, which I believe do not fall within the provisions of this agreement:

In addition, in the event I contend that any invention or improvement made or conceived of by me in the future is not covered by the provisions of this Agreement, I understand that I am required to promptly inform the STATE OF WISCONSIN in writing of such invention or improvement for the purpose of permitting the STATE OF WISCONSIN to determine whether such item is covered by the terms of this Agreement.

2/13/2019

Date

DocuSigned by:



C55EA272C7E618D...

Contracted Personnel Signature

Ifeanyi Anonah

Contracted Personnel Name (please print)

Exhibit B

Clarifications agreed to by the Parties to Form C - Department Terms and Conditions.

#	Document/Section	Section Description	Clarification
1	Form C – Department Terms and Conditions Section 6.1	SOC Report	Department will not require Contractor to provide a SOC Audit Report
2	Form C – Department Terms and Conditions Section 20.0	Additional Insurance Responsibility	CS Logistics general liability insurance will cover this requirement. CS Logistics has informed Department that it has \$1,000,000 per accordance for general liability with \$2,000,000 aggregate and \$2,000,000 umbrella with additional \$3,000,000 umbrella.
3	Form C – Department Terms and Conditions Section 28.0(l)	Retention of Logs	CS Logistics does not keep logs of HIPAA covered information for the Department and therefore this subsection does not apply to this Contract.
4	Form C – Department Terms and Conditions Section 28.0(m)	Additional Insurance	CS Logistics general liability insurance will cover this requirement. CS Logistics has informed Department that it has \$1,000,000 per accordance for general liability with \$2,000,000 aggregate and \$2,000,000 umbrella with additional \$3,000,000 umbrella.