

State of Wisconsin  
Department of Workforce Development  
Division of Administrative Services



Bureau of Procurement  
and Information Management  
P.O. Box 7892  
Madison, WI 53707

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## CONTRACT

by and between  
**Wisconsin Department of Workforce Development**  
and  
**Flexion Inc**

**REQUEST FOR COMMODITY OR SERVICE:**

IT Services

**BID/PROPOSAL:**

ILA0050

**CONTRACT PERIOD:**

September 27, 2021 through September 26, 2022  
With Renewal Options (three optional one-year renewals)

**CONTRACT NO:**

44500-O22-ILA0050Flexion-00

1. This Contract is entered into by and between the State of Wisconsin, Department of Workforce Development ("DWD"), and the contractor whose name, address, and principal officer appears below (the "Contractor").
2. Whereby DWD agrees to purchase, and the Contractor agrees to supply services in accordance with the terms and conditions of the request for proposal (cited above) and the Contractor's proposal, which are hereby made a part of this Contract.
3. Whereby DWD and the Contractor agree to jointly determine the acceptance criteria for the services the Contractor shall provide under this Contract, which will be hereby made part of this contract once determined and agreed to by both parties. Acceptance Criteria, located in Addendum F, shall serve as the default and starting point for creating these performance standards and accompanying assessment methods.
4. This Contract, the Agreement for Disclosure of Unemployment Insurance Data, the terms and conditions attached to this Contract, the Contractor's proposal, the request for proposals (cited above), and any written clarifications or representations between the parties regarding this Contract shall constitute the entire agreement between the parties. Any conflicts, inconsistencies, or ambiguity in the agreement between the parties shall be resolved by giving precedence in the following order:
  - A. Applicable laws, regulations, and policies of the State of Wisconsin and Federal government.
  - B. This Contract.
  - C. Addendum A, the Agreement for Disclosure of Unemployment Insurance Data.
  - D. Addendum B, the terms and conditions attached to this Contract.
  - E. Addendum C, the written clarifications or representations between the parties regarding this Contract.
  - F. Addendum D, the request for proposal (cited above) and all of its amendments.
  - G. Addendum E, the Contractor's proposal, as submitted.
  - H. Addendum F, Acceptance Criteria.

5. This Contract shall be administered by the Contract Administrators. All formal correspondence regarding this Contract shall be directed to the Contract Administrators or their designees. The Contractor Administrator for DWD is Kurtis Bock, and the Contract Administrator for Contractor is Aaron B. Powell, Partner, Flexion Inc. Changes to the named Contract Administrators may be made via email between the parties.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date of execution by both parties below. By signing below the parties agree to the terms of this Contract.

DocuSigned by:  
  
DB5A4EB6CCF2459...  
Michael D. Spude, President

9/27/2021  
\_\_\_\_\_

Flexion Inc.

DocuSigned by:  
  
C88A3A9F37D0468...  
Secretary-designee  
Department of Workforce Development

Date  
9/27/2021  
\_\_\_\_\_

## Addendum A. UI Data Sharing Agreement

### **Agreement for Disclosure of Unemployment Insurance Data**

#### **1.0 Parties to the Agreement**

This Agreement for Disclosure of Unemployment Insurance Data is entered into by the Department of Workforce Development ("DWD") and Flexion Inc. ("Data Recipient").

#### **2.0 Scope and Purpose of this Agreement**

- A. This Agreement governs use and disclosure of all unemployment insurance data disclosed at any time by DWD to Data Recipient and in the possession or control of Data Recipient on or after the effective date of this Agreement (referred to in this Agreement as "UI Data"). UI Data includes, but is not limited to, information or data related to unemployment benefits claims and unemployment taxes.
- B. The purposes of this Agreement are:
  - 1. To comply with 20 CFR Part 603, Wis. Stat. § 108.14(7) and Wisconsin Admin. Code ch. DWD 149 ("DWD 149"), which require DWD, in disclosing UI Data to certain persons and entities, to enter into an agreement with such persons and entities that contains certain required confidentiality safeguards, record disclosure requirements and consequences for breach.
  - 2. To assure DWD that Data Recipient will comply with all of the applicable requirements of 20 CFR Part 603 and DWD 149 regarding the sharing of UI Data that occurs under this Agreement.
  - 3. To specifically identify the UI Data that DWD will provide to Data Recipient under this Agreement, the intended purposes for its use by Data Recipient, and the limitations on such use.

#### **3.0 UI Data to Be Provided by DWD and Purposes for Its Use**

- A. DWD will provide to Data Recipient the UI Data of the type and under the conditions described as follows:

Under this Agreement, DWD will only share the UI Data that Data Recipient needs to execute the agreed-upon work under Contract No. 44500-O22-ILA0050Flexion-00. The Data Recipient, Product Owner, and Technical Lead shall mutually agree to the type and scope of UI Data that is necessary for the Data Recipient to execute the

agreed-upon work, and only such UI Data will be disclosed to the Data Recipient under this Agreement.

B. Purpose for UI Data

Data Recipient intends to use the UI Data disclosed under this Agreement solely for the purpose of performing services under Contract No. 44500-O22-ILA0050Flexion-00.

#### **4.0 Security and Confidentiality of UI Data**

Data Recipient will use all procedures and security mechanisms necessary to prevent unauthorized access to or disclosure of the UI Data, including at a minimum the safeguards required by 20 CFR § 603.9 and Wis. Admin. Code § DWD 149.06, and specifically agrees that it will:

- A. Use the UI Data only for purposes authorized by law and this Agreement.
- B. Not disclose the UI Data without prior written approval of DWD and otherwise comply with the confidentiality requirements of Wis. Admin. Code § DWD 149.06, except the Data Recipient may redisclose UI Data to Agents in accordance with Section 5.0, C. of this Agreement.
- C. Store the UI Data in a place physically secure from access by unauthorized persons.
- D. Store and process the UI Data in an electronic format in a way that is secure from access by unauthorized persons.
- E. Take precautions to ensure that only authorized personnel have access to the computer systems in which the UI Data is stored.
- F. Make the UI Data accessible only to those staff of Data Recipient who require the data in the official performance of their job duties and for the specific purposes stated in this Agreement. All data will be kept in the strictest confidence and will be made available to staff of Data Recipient on a “need-to-know” basis.
- G. Instruct all persons with access to the data on the confidentiality requirements of this Agreement, the applicable federal and state confidentiality requirements of 20 CFR § 603.9 and Wis. Admin. Code § DWD 149.06 and the sanctions specified by law for unauthorized disclosure of information. If requested by DWD, Data Recipient will sign an acknowledgement that all persons with access to the information will be so instructed or have signed agreements to maintain security and confidentiality of UI Data.

- H. Maintain a system sufficient to allow a complete and efficient audit of compliance with these safeguard provisions and the other requirements of this Agreement, including complete records of all use, disclosure and limitations on such use and disclosure of UI Data.
- I. Provide access to DWD for on-site inspection in order to audit compliance and assure that the requirements of state and federal law and this Agreement are met.
- J. Destroy the UI Data after the purpose for which the information was disclosed has been served or when instructed to do so by DWD.

## **5.0 Duties with Respect to Breach**

- A. Suspension of UI Data Sharing by DWD; Termination of Agreement by DWD for Cause; Directions Regarding UI Data; Audit.

If DWD believes that Data Recipient has failed to comply with any provision of this Agreement, DWD may suspend data sharing under this Agreement and decline to make further disclosure of UI Data until DWD is satisfied that sufficient corrective action has been taken and there will be no further failure. Whether or not there has been any prior suspension of this Agreement, DWD may at its option immediately terminate this Agreement if Data Recipient fails to make prompt and satisfactory action to correct a failure or breach of security or confidentiality regarding UI Data it has received from DWD; or if Data Recipient otherwise breaches this Agreement; or if DWD considers itself insecure in the protection of UI Data disclosed to Data Recipient.

- B. Mitigation of Breach of Security or Breach of Confidentiality.

If Data Recipient becomes aware of a failure or breach by any of its employees or agents of security or confidentiality regarding UI Data it has received from DWD or in the event it has reason to suspect that such a failure or breach of security or confidentiality has occurred, including any unauthorized use, disclosure, public exposure or loss of or unauthorized access to UI Data, Data Recipient shall:

1. Within one business day, notify DWD of the failure or breach, known and suspected, and supply to DWD all available information concerning the nature and extent of such failure or breach.
2. In consultation with DWD, take immediate steps to mitigate any harmful effects of such failure or breach and to prevent any additional failure or breach.

3. Cooperate with DWD upon request to obtain assistance of law enforcement and injunctive or other judicial relief to prevent or curtail any threatened or actual breach of security of UI Data or redisclosure or unauthorized use of UI Data, and to recover UI Data from any person.
  4. Take reasonable corrective action prescribed by DWD.
- C. Data Recipient's Responsibility for Performance of this Agreement by Agents.
1. "Agent" means any person who is contracted by the Data Recipient, or otherwise obligated to perform services on behalf of the Data Recipient for one or more of the purposes specified in Section 3.0, B. of the Agreement. Agents include, but are not limited to consultants, information technology contractors, interns, independent contractors, or other program partners.
  2. DWD authorizes Data Recipient to allow its Agents to access UI Data in accordance with the terms of this Agreement.
  3. Data Recipient must require all Agents to comply with the applicable terms and conditions of this Agreement. DWD intends to hold the Data Recipient responsible for any breaches of this Agreement by its Agents.
  4. Data Recipient acknowledges and agrees:
    - a. That all UI Data disclosed by DWD under this Agreement is considered disclosed to Data Recipient;
    - b. That Data Recipient may disclose UI Data to Agents in accordance with the terms of this Agreement;
    - c. That UI Data may only be used for the purposes authorized by DWD under this Agreement, and that Agents may face criminal charges if they disclose UI Data for any other purpose without prior written approval from DWD. Penalties for violation include, but are not limited to, those provided for in Wis. Stat. § 108.24(4).
    - d. That Data Recipient shall require Agents to immediately report any known or suspected failure or breach of the security or confidentiality of the UI Data it has received from DWD under this Agreement to the Data Recipient so that it can notify DWD, if required under Section 5.0, B., 1.

#### D. Enforcement

In addition to suspending or terminating this Agreement under Section 5.0, A. of this Agreement, pursuant to 20 C.F.R. § 603.10(c)(2), DWD must undertake any other action under the Agreement, or under any law of the State or of the United States, to enforce the Agreement and secure satisfactory corrective action or surrender of the information, and must take other remedial actions permitted under State or Federal law to effect adherence to the requirements of this Agreement, including seeking damages, penalties, and restitution as permitted under such law for any charges to granted funds and all costs incurred by the State or DWD in pursuing the breach of the Agreement and enforcement.

### **6.0 Term and Termination of Agreement**

This Agreement will be effective upon signature by both parties. Any party may terminate this Agreement without cause by giving written notice of such termination to the other party

The duties of Data Recipient and Agent regarding security, confidentiality, maintenance and destruction of UI Data and duties with respect to breach (Sections 4.0 and 5.0) under this Agreement shall survive the termination of the Agreement. Following termination of this Agreement, Data Recipient and Agent shall adhere to DWD's written directions regarding maintenance, return and destruction of all UI Data and records of use and disclosure of UI Data.

### **7.0 Agreement Compliance Monitoring**

DWD will periodically monitor the Data Recipient's compliance with the terms and conditions of this Agreement.

DWD will send Data Recipient a compliance self-assessment packet once every three years. Data Recipient shall complete a compliance self-assessment questionnaire for themselves and will coordinate the completion of a compliance self-assessment questionnaire by their Agent. DWD will review the compliance self-assessment questionnaires to ensure Data Recipient and their Agent are compliant with the terms and conditions of this Agreement. Data Recipient and their Agents shall cooperate with DWD to clarify questionnaire responses and take corrective actions when DWD identifies areas of non-compliance.

DWD will send Data Recipient a compliance acknowledgement packet on an annual basis, except during the years the Data Recipient supplies a compliance self-assessment questionnaire. Data Recipient shall sign and return the compliance acknowledgment

form certifying their compliance with the terms and conditions of this Agreement. Data Recipient shall also coordinate the signing and returning of a compliance acknowledgement form their Agent.

## **8.0 Audit**

DWD may elect to audit the compliance of Data Recipient and its Agent with this Agreement before or within 30 days following termination of this Agreement. Data Recipient and its Agent shall fully cooperate in the conduct of such an audit by DWD and its agents, including, if requested by DWD, on-site inspections. In the event an audit is conducted, DWD shall work in good faith with Data Recipient to provide a scope of work statement for the audit. Such audit shall extend to matters of compliance by Data Recipient and its Agents both prior to and after termination of the Agreement. In the event of an audit preceded by a breach of the Agreement by Data Recipient or its Agents, all costs incurred by DWD to conduct the audit, including DWD's expense of compensating retained auditors, shall be charged to and paid by Data Recipient.

## **9.0 Data Sharing Agreement Coordinators**

A. Data Recipient shall address all inquiries and notices that are required by or relating to this Agreement to:

Jeff Becker  
Internal Security Officer/UI Data Sharing Coordinator  
Unemployment Insurance Division  
201 E Washington Ave  
PO Box 7905  
Madison, WI 53707-7905  
Phone: 608-261-0210  
Email: [UIDataSharingCoordinator@dwd.wisconsin.gov](mailto:UIDataSharingCoordinator@dwd.wisconsin.gov)

OR

Mark Riedel  
Internal Security Officer/UI Data Sharing Coordinator  
Unemployment Insurance Division  
201 E Washington Ave  
PO Box 7905  
Madison, WI 53707-7905  
Phone: 608-264-8825  
Email: [UIDataSharingCoordinator@dwd.wisconsin.gov](mailto:UIDataSharingCoordinator@dwd.wisconsin.gov)

AND

Neeraj Kulkarni  
Chief Information Officer and Information Technology Director  
Administrative Services Division  
201 E Washington Ave  
PO Box 7905  
Madison, WI 53707-7905  
Phone: 608-261-2145  
Email: [neerajv.kulkarni@dwd.wisconsin.gov](mailto:neerajv.kulkarni@dwd.wisconsin.gov)

- B. DWD shall address all inquiries and notices that are required by or relating to this Agreement to:

Rick Giese, Project Manager  
Flexion Inc  
811 E Washington Avenue, Suite 400  
Madison, WI 53703  
[rgiese@flexion.us](mailto:rgiese@flexion.us)

## **10.0 Authority, Signing and Integration**

- A. DWD has granted full authority to sign this agreement to:

Mark Reihl  
Division Administrator  
Unemployment Insurance Division  
201 E Washington Ave  
PO Box 7905  
Madison, WI 53707-7905  
[Mark.Reihl@dwd.wisconsin.gov](mailto:Mark.Reihl@dwd.wisconsin.gov)

and

Pamela McGillivray  
Deputy Secretary  
Department of Workforce Development  
201 E Washington Ave  
PO Box 7905  
Madison, WI 53707-7905  
[pamelar.mcgillivray@dwd.wisconsin.gov](mailto:pamelar.mcgillivray@dwd.wisconsin.gov)

B. Data Recipient has granted full authority to sign this Agreement to:

Michael D. Spude, President  
Flexion Inc  
811 E Washington Ave, Suite 400  
Madison, WI 53703  
mspude@flexion.us

This Agreement may be signed in counterpart and amended only in writing signed by the parties.

**AGREED:**

**Wisconsin Department of Workforce Development**

DocuSigned by:  
 9/27/2021  
9D6AEA7D90DA430...  
Mark Rehl (Date)  
Division Administrator  
Unemployment Insurance Division

**Wisconsin Department of Workforce Development**

DocuSigned by:  
 9/27/2021  
C88A3A9F37D0468...  
Amy Pecnacek (Date)  
Secretary-designee  
Department of Workforce Development

DocuSigned by:  
 9/27/2021  
DB5A4EB6CCF2459...  
Michael D. Spude, President  
Flexion Inc (Date)

## Addendum B. Terms and Conditions

### 1.1 Standard Terms and Conditions (DOA-3054)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A good faith dispute creates an exception to prompt payment.

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

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

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

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

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

**16.0 ANTITRUST ASSIGNMENT:** The Contractor and the State of Wisconsin recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Wisconsin (purchaser). Therefore, the Contractor hereby assigns to the

State of Wisconsin any and all claims for such overcharges as to goods, materials or services purchased in connection with this contract.

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

**18.0 WORK CENTER CRITERIA:** INTENTIONALLY OMITTED; NOT APPLICABLE.

**19.0 NONDISCRIMINATION / AFFIRMATIVE ACTION:** In connection with the performance of work under this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation as defined in s. 111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Contractor further agrees to take affirmative action to ensure equal employment opportunities.

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

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

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

**19.4** Effective October 27, 2017, consistent with 2017 Wisconsin Executive Order 261, Contractor agrees it is not engaged in a boycott of the State of Israel and further, Contractor will not during the term of the contract engage in a boycott of the State of Israel. State agencies may not execute a contract and reserve the right to terminate an

existing contract with a business entity that is not compliant with this provision. This provision applies to all contracts of all values.

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

**21.0 SAFETY REQUIREMENTS:** INTENTIONALLY OMITTED; NOT APPLICABLE.

**22.0 WARRANTY:** INTENTIONALLY OMITTED; NOT APPLICABLE.

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

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

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

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

**24.0 CANCELLATION:** The State of Wisconsin reserves the right to cancel any contract in whole or in part without penalty due to non appropriation of funds or for failure of the Contractor to comply with terms, conditions, and specifications of this contract. The State of Wisconsin will follow the procedures outlined in Special Clause 1.3.6 prior to canceling the contract for failure of the Contractor to comply with terms, conditions, and specifications of this contract.

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

**26.0 PUBLIC RECORDS ACCESS:** It is the intention of the state to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Bid/proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract. Pursuant to §19.36 (3), Wis. Stats., all records of the Contractor that are produced or collected under this contract are subject to disclosure pursuant to a public records request. Upon receipt of notice from the State of Wisconsin of a public records request for records produced or collected under this contract, the Contractor shall provide the requested records to the contracting agency. The Contractor, following final payment, shall retain all records produced or collected under this contract for six (6) years.

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

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

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

**28.0 DISCLOSURE:** If a state public official (s. 19.42, Wis. Stats.), a member of a state public official's immediate family, or any organization in which a state public official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to this agreement, and if this agreement involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, this contract is voidable by the state unless

appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before signing the contract. Disclosure must be made to the State of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123).

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

**29.0 RECYCLED MATERIALS:** INTENTIONALLY OMITTED; NOT APPLICABLE.

**30.0 MATERIAL SAFETY DATA SHEET:** INTENTIONALLY OMITTED; NOT APPLICABLE.

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

**32.0 HOLD HARMLESS:** The Contractor will indemnify and save harmless the State of Wisconsin and all of its officers, agents and employees from all suits, actions, or claims of any character brought for or on account of any injuries or damages received by any persons or property resulting from the Contractor's negligence or omission, including recklessness or willful misconduct, or of any of its Contractors, in prosecuting work under this agreement.

**33.0 FOREIGN CORPORATION:** A foreign corporation (any corporation other than a Wisconsin corporation) which becomes a party to this Agreement is required to conform to all the requirements of Chapter 180, Wis. Stats., relating to a foreign corporation and must possess a certificate of authority from the Wisconsin Department of Financial Institutions, unless the corporation is transacting business in interstate commerce or is otherwise exempt from the requirement of obtaining a certificate of authority. Any foreign corporation which desires to apply for a certificate of authority should contact the Department of Financial Institutions, Division of Corporation, P. O. Box 7846, Madison, WI 53707-7846; telephone (608) 261-7577.

**34.0 WORK CENTER PROGRAM:** INTENTIONALLY OMITTED; NOT APPLICABLE.

**35.0 FORCE MAJEURE:** Neither party shall be in default by reason of any failure in performance of this Agreement in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods,

epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.

## **1.2 Supplemental Terms and Conditions (DOA-3681)**

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

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

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

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

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

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

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

he/she has not participated, and will not participate, in any action contrary to 2.1 through 2.3 above.

**3.0 DISCLOSURE OF INDEPENDENCE AND RELATIONSHIP:**

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

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

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

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

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

**7.0 RECORDKEEPING AND RECORD RETENTION:** The contractor shall establish and maintain adequate records of all expenditures incurred under the contract. All records must be

kept in accordance with generally accepted accounting procedures. All procedures must be in accordance with federal, state and local ordinances.

The contracting agency shall have the right to audit, review, examine, copy, and transcribe any pertinent records or documents relating to any contract resulting from this bid/proposal held by the Contractor.

It is the intention of the state to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Bid/proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract. Pursuant to §19.36 (3), Wis. Stats., all records of the Contractor that are produced or collected under this contract are subject to disclosure pursuant to a public records request. Upon receipt of notice from the State of Wisconsin of a public records request for records produced or collected under this contract, the Contractor shall provide the requested records to the contracting agency. The Contractor, following final payment, shall retain all records produced or collected under this contract for six (6) years.

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

## **1.3 Special Terms and Conditions**

### **1.3.1 Payment Terms and Invoicing**

Payment for services are to be provided on a time-and-materials basis in accordance with the labor rates set forth in the Contractor's price proposal, which is incorporated into this Contract as Addendum E. Proposal, Attachment E – Updated Pricing Sheet. Contractor agrees that all invoices shall reflect the contracted price(s) as detailed in its price proposal.

It is estimated that the total cost to DWD for the performance of this Contract shall not exceed the total estimated cost set forth for the Base Period and each Option Year in the Contractor's price proposal, and the Contractor agrees to use its best efforts to perform the services detailed in its technical proposal and the RFP within the total estimated cost identified in its price

proposal for each year, respectively. If at any time the Contractor has reason to believe that it will exceed 85 percent of the estimated cost for the Base Period or Option Year, as applicable, on its next monthly invoice, the Contractor shall notify the DWD Contract Administrator giving a revised estimate of the total price to DWD for performing this contract with supporting reasons and documentation.

DWD will not be obligated to pay the Contractor any amount in excess of the total estimated cost set forth for the applicable Base Period or Option Year, as listed in the Contractor's price proposal, and the Contractor shall not be obligated to continue performance if to do so would exceed the total estimated cost set forth for the applicable Base Period or Option Year unless and until the Contract is amended in accordance with Section 1.3.5.

The Contractor shall invoice DWD for services performed in accordance with the Contract on a monthly basis. Only properly submitted invoices will be processed for payment. Prompt payment requires that Contractor invoices be clear and in conformity with the instructions below.

All invoices must be itemized showing:

Contractor name; Remit to address;  
Purchase order number; and  
Number of hours worked broken down by name, labor category, and date.

The original invoice must be sent to the applicable DWD address which will be provided to the Contractor prior to Contract start date.

The Contractor is limited to providing the services contracted for in the terms of the Contract. Services provided outside the terms of the Contract will be considered "out of scope." DWD will only pay for services within the scope of this Contract. Invoices sent to DWD for items not covered by the scope of this Contract will be denied for payment. All changes to the scope of this Contract must be made through an amendment pursuant to Section 1.3.5.

### 1.3.2 Data Rights and Ownership of Deliverables

Unless otherwise agreed to by DWD and the Contractor, all software and documentation delivered by the Contractor will be owned by DWD and free of copyright by either using an open source license or committing the work to the public domain. This software and documentation includes, but is not limited to, data, documents, graphics, code, plans, reports, schedules, schemas, metadata, architecture designs, and the like; all new open source software created by the Contractor and forks or branches of current open source software where the Contractor has made a modification; and all new tooling, scripting configuration management,

infrastructure as code, or any other final changes or edits to successfully deploy or operate the software.

If software delivered by the Contractor incorporates software that is subject to an open source license that provides implementation guidance, then the Contractor must ensure compliance with that guidance. If software delivered by the Contractor incorporates software that is subject to an open source license that does not provide implementation guidance, then the Contractor must attach or include the terms of the license within the work itself, such as in code comments at the beginning of a file, or in a license file within a software repository.

In addition, the Contractor must obtain written permission from DWD before incorporating into the delivered software any software that is subject to a license that does not qualify under the Open Source Definition promulgated by the Open Source Initiative. If DWD grants such written permission, then the Contractor's rights to use that software must be promptly assigned to DWD.

### 1.3.3 Subcontractors

The Contractor is responsible for Contract performance when subcontractors are used. When subcontractors are used, they must abide by all terms and conditions of the Contract.

All subcontractors shall be approved in writing by DWD. Any proposed substitution of an approved subcontractor shall be submitted in writing to the Product Owner 30 days prior to implementation of the substitution, and include the substitute's qualifications, the reason for the change, and the intended effective date of the substitution. Failure to notify the Product Owner may result in cancellation of the Contract without notice and without penalty to the State.

### 1.3.4 Mandatory Personnel

The Project Manager and Technical Lead are designated as Mandatory Personnel for this Contract. Any change to the Mandatory Personnel identified in the Contractor's proposal and accepted by DWD must be approved in advance and in writing by the Product Owner. Personnel changes that are not approved by DWD may be grounds for DWD to terminate the Contract. In requesting to make a change to the Mandatory Personnel, the Contractor must provide the Product Owner the resume of the proposed substitute and any other information requested by the Product Lead or needed by DWD to approve or disapprove of the substitution.

### 1.3.5 Contract Amendments

This Contract may be amended upon the written mutual agreement of the Contractor and DWD.

For any proposed amendment that would change the scope of this Contract and have the effect of increasing the Contract price, Contractor agrees to submit the proposed amendment to the Wisconsin Department of Administration via the Contract Administrator for its review and approval prior to execution via written mutual agreement of the Contractor and DWD. In reviewing the proposed amendment, the Wisconsin Department of Administration shall have the authority to review the Contract and the proposed amendment to determine the following, and to negotiate with the Contractor regarding any change:

1. Whether the work proposed in the amendment is within the scope of the Contract.
2. Whether the work proposed in the amendment is necessary.

If the Wisconsin Department of Administration does not approve of a proposed amendment that would change the scope of this Contract and have the effect of increasing the Contract price, DWD and the Contractor shall not execute the proposed amendment and the Contractor shall not be obligated to perform in accordance with the proposed amendment.

### 1.3.6 Termination for Cause

DWD may terminate the Contract for cause if the Contractor breaches its terms. DWD's right to terminate for cause may only be exercised if the Contractor fails to cure its breach of this Contract within 10 calendar days of receiving written notice of said breach from DWD. In the event of termination for cause by DWD, the Contractor shall only be entitled to receive compensation for any payments owed under the Contract at the time of termination.

### 1.3.7 Termination for Convenience

Either party may terminate this Contract at any time, without cause, by providing a written notice to the other party at least 30 days in advance of the intended date of termination. In the event of termination for convenience by the Contractor or DWD, the Contractor shall be entitled to receive compensation for any services it provided prior to the date of termination.

### 1.3.8 Suspension and Debarment

This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The Contractor must comply with 2 C.F.R. pt. 180, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

### 1.3.9 Use of Federal Funds

Federal funds will be used to fund all of this Contract. The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the Contract.

### 1.3.10 Clean Air Act and Federal Water Pollution Control Act

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. The Contractor also agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

### 1.3.11 Data Sharing

#### **1.3.11.1 Unemployment Insurance Data**

To comply with 20 C.F.R. pt. 603, Wis. Stat. § 108.14(7) and Wisconsin Administrative Code ch. DWD 149 ("DWD 149"), the Contractor agrees to the provisions specified in the Agreement for Disclosure of Unemployment Insurance Data, which is incorporated into the Contract as Addendum A, for the use of all Unemployment Insurance data disclosed under this Contract.

#### **1.3.11.2 Federal Tax Information**

Under this Contract, DWD will not disclose to the Contractor any Federal Tax information (FTI), including tax returns or return information received directly from the Internal Revenue Service or obtained through an authorized secondary source, such as Social Security Administration (SSA).

#### **1.3.11.3 Social Security Administration-Provided Data**

**1.3.11.3.1** DWD receives certain data from the Social Security Administration (SSA) to assist DWD in administering its UI program. In performing services under this Contract, the Contractor will need access to some of this SSA-provided data. In order to access SSA data, the Contractor agrees to comply with all terms and conditions set forth in DWD's Information Exchange Agreement (IEA) with the SSA, which is hereby incorporated by reference. In particular, the Contractor agrees to the following:

**1.3.11.3.1.1** The Contractor shall only use the SSA data it accesses under this Contract for the purpose of assisting DWD in administering its UI program. The Contractor is prohibited from using SSA data for any other purpose.

**1.3.11.3.1.2** The Contractor shall comply with the minimally acceptable levels of security standards and controls to protect SSA data, which are found in the current Social Security Administration – Technical Systems Security Requirements (SSA-TSSR) and are hereby incorporated into this Contract by reference.

**1.3.11.3.1.3** The Contractor shall restrict access to SSA data to only those individuals who need such data to perform services under this Contract.

**1.3.11.3.1.4** The Contractor shall submit a list of all contractor and subcontractor personnel who will have access to SSA data to DWD as outlined in Section 1.3.13.

**1.3.11.3.2** Prior to DWD providing access to any SSA data, the Contractor shall also certify to DWD in writing that (1) it is in compliance with all applicable terms and conditions of DWD's IEA with the SSA, including complying with the minimally acceptable levels of security standards and controls to protect SSA data found in the SSA-TSSR and (2) that it will, upon SSA or DWD's request, provide audit reports and other documents to ensure compliance with the applicable terms and conditions and allow SSA or DWD to participate in an onsite review of its operations and/or security infrastructure.

**1.3.11.3.3** In the event that the Contractor becomes aware of a failure or breach by any of its employees or agents of security or confidentiality with regard to SSA data it has accessed or received or in the event it has reason to suspect that such a failure or breach of security or confidentiality has occurred, including any unauthorized use, disclosure, public exposure or loss of or unauthorized access to SSA data, the Contractor shall:

**1.3.11.3.3.1** Within one (1) hour, notify DWD of the failure or breach, known and suspected, and supply to DWD all available information concerning the nature and extent of such failure or breach. Notification of UI will be to: UI Data Sharing Coordinator Unemployment Insurance Division Department of Workforce Development UIDataSharingCoordinator@dwd.wisconsin.gov.

**1.3.11.3.3.2** In consultation with DWD and SSA, take prompt, reasonable steps to mitigate any harmful effects of such failure or breach and to prevent any additional failure or breach.

**1.3.11.3.3.3** Take reasonable corrective action prescribed by DWD or SSA.



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## 1.3.12 Cyber Liability Coverage

DWD requires Professional Liability (Errors and Omissions) with Cyber insurance coverage with the following minimums: five million dollars (\$5,000,000.00) each occurrence or claim, and ten million dollars (\$10,000,000.00) annual aggregate.

Professional Liability/Privacy Liability Insurance shall cover all acts, errors, omissions, negligence, and network risks including coverage for unauthorized access, failure of security, breach of privacy perils, as well as notification costs and regulatory defense in the performance

of service for the DWD and the State of Wisconsin. Such insurance shall be maintained in force at all times during the term of the Contract and for a period of three (3) years thereafter for services completed during the term of the Contract.

### 1.3.13 No Exclusivity

The Contractor shall not have exclusive rights to provide all products or services covered under this Contract during the term of the Contract or any renewal of the Contract.

### 1.3.14 Performance of Services in the United States

Pursuant to Wis. Stat. § 16.705, all services provided under this Contract must be performed in the United States.

### 1.3.15 Confidential Information

#### 1.3.15.1 Definitions

1.3.15.1.1 “Confidential Information” means all tangible and intangible information and materials, excluding any Unemployment Insurance Data as defined in the Confidentiality and Safeguard Agreement for Unemployment Insurance Data , being disclosed by one party to another hereunder in connection with this Contract, in any form or medium (and without regard to whether the information is owned by a party 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 State’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; or (iii) information qualifying as a trade secret, as defined in Wis. Stat. § 134.90(1)(c).

1.3.15.1.2 “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 that element is not publicly available information and is not encrypted, redacted, or altered in any manner that renders the element unreadable: (a) the individual’s Social Security number; (b) the individual’s driver’s license number or state identification number; (c) the number of the individual’s financial account, including a credit or debit card account number, or any security code, access code, or

password that would permit access to the individual's financial account; (d) the individual's DNA profile; or (e) the individual's unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical representation, and any other unique physical characteristic protected by applicable state or federal law. Such information shall be limited to the information that DWD provides to Contractor or Contractor otherwise acquires from or on behalf of DWD for the purpose of Contractor's use of such information in the performance of its Services pursuant to the Contract.

1.3.15.1.3 "Corrective Action Plan" means a plan mutually agreed upon by the Contractor and the DWD for the Contractor to follow in the event of any actual use or disclosure of any Confidential Information that is not authorized by this Contract, or in the event that any Confidential Information is lost (excluding an unintended deletion) by the Contractor.

**1.3.15.2 Duty of Non-Disclosure and Security Precautions**

1.3.15.2.1 Each party (each, a "receiving party") shall not use Confidential Information of the other party (each, a "disclosing party") for any purpose other than the limited purposes set forth in the Contract and all related and necessary actions taken in fulfillment of the obligations thereunder. The receiving party shall hold the Confidential Information of the disclosing party in confidence and shall not disclose such Confidential Information to any persons other than those directors, officers, employees, and agents of receiving party (and in the case of Contractor, the directors, officers, employees, and agents of its subcontractors, affiliates, and related entities, whether located within or outside of the United States) who have a business-related need to have access to such information in order to carry out their responsibilities under the Contract, except as otherwise permitted herein. Receiving party's employees with access must be apprised of, and agree to maintain, the confidential nature of such information in accordance with the terms of this Contract.

1.3.15.2.2 The prohibition on disclosure of the Contractor's Confidential Information does not apply to DWD to the extent that a third-party requests records obtaining such information and the records are required to be disclosed under the Wisconsin Public Records Law, Wis. Stat. §§ 19.31–19.39.

1.3.15.2.3 Each party shall institute and maintain such security procedures as are

reasonably required to maintain the confidentiality of the Confidential Information while in its possession or control and shall apply the same level of care as it employs to protect its own Confidential Information of like nature, but at least a reasonable degree of care. Each receiving party agrees that all written notations of confidentiality contained on or included in any item of Confidential Information provided to receiving party by the disclosing party shall be included by receiving party on any reproduction, modification, or translation of such Confidential Information. If requested by disclosing party, receiving party 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 receiving party, as directed.

1.3.15.2.4 The Contractor shall return all Personally Identifiable Information it maintains, possesses, or controls upon termination of this Contract, or as otherwise directed by DWD. Notwithstanding the foregoing, the Contractor may retain Confidential Information that has been redacted to eliminate Personally Identifiable Information for archival purposes to evidence Contractor's services under the Contract.

#### **1.3.15.3 Limitations on Obligations**

There shall be no obligation of confidentiality with respect to any information (excluding Personally Identifiable Information) that (a) is or becomes publicly available other than as the result of a disclosure in breach hereof by the receiving party; (b) becomes available to the receiving party on a nonconfidential basis from a source that the receiving party believes is not prohibited from disclosing such information to the receiving party; (c) is already known by the receiving party without any obligation of confidentiality with respect thereto; (d) is developed by the receiving party independently of any disclosures made to the receiving party hereunder; or (e) is required to be disclosed by receiving party by any law, regulation, judicial or administrative process, or in accordance with applicable professional standards or rules, or in connection with litigation or arbitration pertaining to this Contract.

#### **1.3.15.4 Unauthorized Use, Disclosure, or Loss**

Promptly upon becoming aware of any threatened or actual use or disclosure of any Confidential Information of the disclosing party that is in violation of this Contract, the receiving party shall notify the disclosing party promptly, but no later than three business days after receiving party becomes aware of such use or disclosure. Such

notice shall include, to the best of the Contractors knowledge at that time, the Confidential Information disclosed.

The receiving party shall take prompt steps to mitigate any harmful effects of the unauthorized use, disclosure, or loss of Confidential Information of the disclosing party. The receiving party shall reasonably cooperate with the disclosing party's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such threatened or actual breach, or to recover its Confidential Information, including complying with a Corrective Action Plan.

#### **1.3.15.5 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 DWD and the State, which injury will not be compensable by money damages and for which there is not an adequate remedy available at law. Accordingly, the parties specifically agree that the State, on its own behalf or on behalf of the affected individuals, shall be entitled to seek 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 this Contract or under applicable law.

#### **1.3.15.6 Compliance Reviews**

Upon reasonable advance written notice to the Contractor, DWD may conduct a compliance review of the Contractor's security procedures in place to protect its Confidential Information under this Contract. In exercising its rights under this Section, the State shall not interfere with Contractor's performance of services to the DWD.

#### **1.3.15.7 Survival**

The respective rights and obligations under this clause shall survive termination or expiration of this Contract.

### **1.3.16 Contractor Personnel Lists**

As soon as practicable after Contract award, the Contractor shall provide DWD a list of all Contractor personnel, including subcontractors, who will be performing work under this Contract. In this list, the Contractor must also note which personnel require access to DWD data or networks and the geographic region where they will be located.

The Contractor shall also notify DWD of the following changes:

- a. The Contractor shall notify DWD of any new Contractor personnel who will be performing work under the Contract a minimum of 5 business days prior to allowing them to begin performing work.
- b. The Contractor shall notify DWD of any personnel who will no longer be assigned to perform work under this Contract a minimum of 5 business days prior to making the personnel change for planned departures and within 8 business hours for unplanned departures.

### 1.3.17 Criminal Background Checks

The Contractor shall submit a validation of a criminal background check for each individual assigned to the Contract, including subcontractor personnel. In conducting these required background checks, the following provisions apply:

- a. DWD requires background checks of its contracted personnel for the same policy reasons the state legislature requires a criminal history background check prior to employment for any position that involves fiduciary responsibility per Wis. Stat. § 230.17(3).
- b. DWD has determined that these positions involve fiduciary responsibility and are thus subject to background check.
- c. The background check is to check whether a contracted personnel has a conviction record, defined as "information indicating that an individual has been convicted of any felony, misdemeanor or other offense, has been adjudicated delinquent, has been less than honorably discharged, or has been placed on probation, fined, imprisoned, placed on extended supervision or paroled pursuant to any law enforcement or military authority" per Wis. Stat. § 111.32(3).
- d. Prior to conducting work for DWD, the Contractor must run a conviction record background check of each contracted personnel they intend to assign to DWD and make a determination by comparing the position description to the elements of the crimes as to whether the conviction record is substantially related to the position and, therefore, a permitted reason to refuse to employ under Wis. Stat. § 111.335(2)(a).
- e. If the Contractor makes the determination an individual does not have a conviction record substantially related to the position, the Contractor must certify that to us for each contracted personnel assigned to DWD.

- f. If the Contractor makes the determination that the conviction is substantially related, then they must notify DWD of the results if they nonetheless want this individual to perform work under the Contract, so DWD can determine whether mitigating circumstance exist to allow the contracted personnel to perform work at DWD.

### 1.3.18 UI Security Checks

UI will conduct a security check of all Contractor personnel, including subcontractor personnel, who will have access Unemployment Insurance Data to perform work under this Contract. The Contractor agrees that any Contractor or subcontractor personnel who does not pass this UI security check will not be assigned to perform any work under this Contract.

### 1.3.19 Identity Verification

The Contractor is responsible for doing I-9/E-verify checks for all Contractor personnel who will be performing work under this Contract.

### 1.3.20 Technical Requirements

- a. All Contractor personnel assigned to this Contract shall complete DWD's annual IT Security Awareness Training.
- b. Contractor shall meet or exceed all DWD information security standards for users that are included in DWD's IT Security Standard Policy, Policy No. 516.03, and embedded policies from State of Wisconsin IT Security Handbook issued by the Department of Administration. The Contractor may request exceptions to these standards. Exceptions may be granted in writing at the DWD Chief Information Officer's discretion.
- c. The Contractor shall comply with all requirements for connecting to the state datacenter. DWD will provide connectivity to the DWD. The Contractor shall provide managed devices to all Contractor personnel performing services under this Contract. All equipment, to include workstations (devices), must run the most up-to-date version of Windows 10 operating system (or equivalent such as Chrome OS, Linux, Mac OS, IOS, etc.), anti-virus software, internet browser (preferably latest version of Chrome), headset software, etc.

### Addendum C. Written Clarifications or Representations

Contractor will be using Nelnet Diversified Solutions, LLC as a first-tier subcontractor to perform work under this Contract.

In signing or entering into this Contract, DWD is not accepting any of Contractor's recommendations for platforms/products including platforms/products recommended in the Contractor's proposal, but instead will have further discussions regarding those items. Those will be determined in consultation with DWD during Contract performance. DWD's selection of technology not specified in the Contractor's development proposal may result in additional Contractor learning time and may introduce project risk, lead to increased costs and/or delay the delivery of business value to DWD.

Contractor shall get approval from the Technical Lead prior to incorporating any software not first produced in the performance of this Contract into software delivered under this Contract, including software that is subject to a license and software that qualifies under Open Source Definition promulgated by the Open Source Initiative. Prior to implementing any software on DWD's system, Contractor shall work with DWD to complete information data security and architecture reviews and approval process.

Per the Contractor's Development Proposal, which is incorporated into this Contract through Addendum E, DWD anticipates that the initial System Modernization Planning, as discussed in Section 1.3 of the Contractor's Technical Proposal, will be limited to 6 weeks, and product deliverables and progress during the discovery phase will be shared with the DWD project team throughout that phase, no later than every two weeks.

System Modernization Planning is not a single planning event, but an ongoing process that is incorporated into each sprint.

DWD will identify the Product Owner(s) and Technical Lead(s) at the kickoff meeting for this Contract and will notify the Contractor of any changes to the DWD staff assigned to these positions throughout Contract performance.

Addendum D. ILA0050 - Request for Proposal

REQUEST FOR PROPOSAL (RFP)  
FOR  
Unemployment Insurance (UI) Modernization – Phase I  
**AMENDED - RFP #ILA0050**

Issued by:  
STATE OF WISCONSIN  
DEPARTMENT OF WORKFORCE DEVELOPMENT

**Proposals must be submitted  
No later than 5:00 PM CT  
July 16~~19~~, 2021**

**LATE PROPOSALS WILL BE REJECTED**

**There will ~~not~~ be a virtual public opening for this RFP ~~unless requested~~. Please see Addendum 1 for information on how to attend.**

**Requests for public opening must be received by the question submissions deadline on July 7, 2021 @ 5:00 PM CT.**

For further information regarding this  
RFP contact: Kurtis Bock  
Phone: 608.266.0533  
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# 1.0 Purpose, Background, and Problem

## 1.1 Purpose

The purpose of this Request for Proposals (RFP) is to seek a contractor or team of contractors (hereinafter "Contractor" is used interchangeably), who can provide the Department of Workforce Development (DWD) with a technical strategy for modernizing its unemployment insurance (UI) information technology system and then deliver in accordance with that strategy. Additionally, this Contractor will be responsible for effectively migrating DWD off DWD's existing system without compromising its current functionality to end users, using an encasement approach.

Modernizing DWD's legacy system may include a variety of solutions (e.g., commercial off the shelf (COTS) systems, customized components, etc.) that will provide DWD the flexibility and adaptability it needs to support a dynamic policy environment (e.g., new state or federal law, guidance, or policy that modifies, creates, or terminates benefits programs, changes charging to employers, or changes verification of participants or other requirements). DWD's approach to modernization will consist of several intersecting projects that may consist of various components that may run separately or at times overlap. Therefore, the Contractor will need to be flexible and agile in its approach. DWD's overall goal is to use a modular approach so its system can work in an ever-changing environment. For example, several federal UI programs emerged rapidly during the COVID-19 pandemic. Through this modernization project, DWD will be prepared to quickly implement program and policy changes at any time, while also maintaining its existing program applications without interruption or delay.

Ultimately, the work outlined below will seek to support the delivery of DWD's mission and vision for a future UI system:

*DWD customers (claimants and employers) can receive UI services end-to-end without delay or frustration. DWD staff can administer programs inclusively and efficiently, and do so with modern online tools. DWD's technology is up to date and adaptable for new or changing programs. Customers can easily get the support they need, how they need it, through an automated system or direct interaction with DWD staff.*

To achieve this product vision, DWD is seeking a Contractor who can provide iterative software development services in two areas of focus — (1) infrastructure and encasement of the existing systems and (2) modern application development.

The results of this RFP will be a single contract<sup>1</sup>. No proposal will be accepted that requires a minimum dollar amount or guarantee a quantity of purchase.

## 1.2 Background

### 1.2.1 About the Department of Workforce Development

DWD is a state agency charged with building and strengthening Wisconsin's workforce in the 21st century and beyond. DWD's overall mission is to efficiently deliver effective and inclusive services to meet Wisconsin's diverse workforce needs, and to advocate for the protection and economic advancement of all Wisconsin workers, employers, and job seekers.

### 1.2.2 About the DWD Unemployment Insurance Division

Under the direction of the DWD Secretary, Deputy Secretary, and Assistant Deputy Secretary, the Unemployment Insurance (UI) division is responsible for administering the unemployment insurance program (UI program) in the State of Wisconsin on behalf of DWD. This includes evaluating initial and weekly claims, paying timely and accurate UI benefits to claimants, and collecting tax payments, as well as wage and employment data, from employers.

The UI division is composed of [five bureaus](#) serving a variety of business functions to serve claimants and employers under the direction of the Division Administrator.

Relevant to this RFP, UI is further supported by the Division of Operations (DO) Bureau of Information Technology Services (BITS). BITS provides the technical support for the UI system environment in partnership with the Department of Administration Division of Enterprise Technology, which provides architecture, infrastructure, development, security, and operational support.

Under normal circumstances, the UI program provides claimants with up to 26 weeks of benefits in a benefit year. In response to the pandemic, the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act), as amended by the Continued Assistance Act and the American Rescue Plan Act, altered UI benefits in terms of the number of weeks benefits are available, the dollar amount of the benefit payment, and employer charging of those benefits. This has been done through several different [programs](#), a number of which are active until September 2021: Pandemic Emergency Unemployment Compensation (PEUC), Pandemic

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<sup>1</sup> At this time DWD is focused on the initial functionality and strategy included in the RFP. DWD may issue future solicitations if the needs arise and DWD determines that it is in the best interest of the state.

Unemployment Assistance (PUA), Federal Pandemic Unemployment Compensation (FPUC), and Mixed Earner Unemployment Compensation (MEUC), as well as through other federal programs to ease the burden on employers.

Additionally, during the pandemic, there were a set of other programs that were paid out, but that still require attention and work by the UI division. These programs include Extended Benefits, Lost Wages Assistance, and the first round of FPUC.

Likewise, the State of Wisconsin implemented law changes to address unemployment needs during the pandemic. The Governor issued an emergency order that was followed by DWD's emergency rules to temporarily ease eligibility requirements for unemployment benefits. Further, 2019 Wis. Act 185 and 2021 Wis. Act 4 provided charging relief for employers. These law changes also required changes to the system in order to implement them and work is still being done to complete the charging relief.

As discussed in the next section, the inability to quickly adapt DWD's computer programs to implement these federal and state law programs caused delay in getting benefits to claimants and relief to employers.

### 1.2.3 About the DWD Unemployment Insurance Application(s)

The UI division uses multiple systems that are largely written in COBOL and hosted on a mainframe to support programs for claimants and employers. DWD provided a [briefing on January 27, 2021](#) that walked through its complicated and antiquated system. In this demonstration, DWD explained how a relatively simple issue can slow down an unemployment claim and require the UI division to take multiple steps to resolve the issue. The use of multiple systems requires specialized and advanced knowledge to use the respective systems and leads to a steep learning curve when adding resources. These elements directly impact the experience of the end users, which include claimants, employers, and DWD staff. This has resulted in delays to the delivery of benefits and frustration during the pandemic. Additionally, because much of the system is still in COBOL, finding resources to code and support the system can be challenging, which can further impact the timeline to deliver new resources.

To accomplish its mission of administering the UI program in the state of Wisconsin, DWD and the UI division rely on a number of technical components that support its processes and workflows. DWD's current technical ecosystem is composed of several components:

- A COBOL system, whose development started around 50 years ago, runs on a z14 mainframe that serves as the heart of the ecosystem. It includes a DB2<sup>2</sup> database that is the system of record for UI Benefits system data. Staff use CICS transactions screens for data entry. Authorization is controlled by native mainframe (RACF) security.
- A DB2 schema that was ported from IDMS in 2011.
- A set of batch jobs managed with JCL that run nightly validate and transform data. These jobs implement much of the business logic for handling claims such as applying rules to calculate benefits and transferring a flat file to a bank for payment processing.
- Several .Net systems provide web-based interfaces for claimants and staff. These systems connect to Oracle<sup>3</sup> databases as application stores and include:
  - Claimant (public-facing web application) and Worker (staff web application) Portals, which are systems that share a similar code base and perform the following:
    - connect directly to the mainframe DB2 instance via a custom ORM library
    - call DB2 stored procedures
    - consume SOAP web services provided as wrappers to CICS transactions on the mainframe
    - perform batch processes for data and file transformation and transfer to other systems
  - SUITES — UI tax system, which focuses on employers
  - UIBNet — forms processing and claims management through identification of tasks associated with case issues
- Data connections to various Wisconsin and external systems that pull information needed for program administration via direct database connections or flat files.

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<sup>2</sup> DB2 - current version V12R1M505

<sup>3</sup> Oracle mix of versions 12.1, 12.2 & 18c. Migrating to DOA Exadata with either 12.2 or 8.1c.

- Active Directory for IAM for non-mainframe systems.

Other components staff use as part of their work include:

- A document management system (and fax OCR); and
- Various business intelligence tools for data visualization and analysis that are tied into a separate data warehouse.

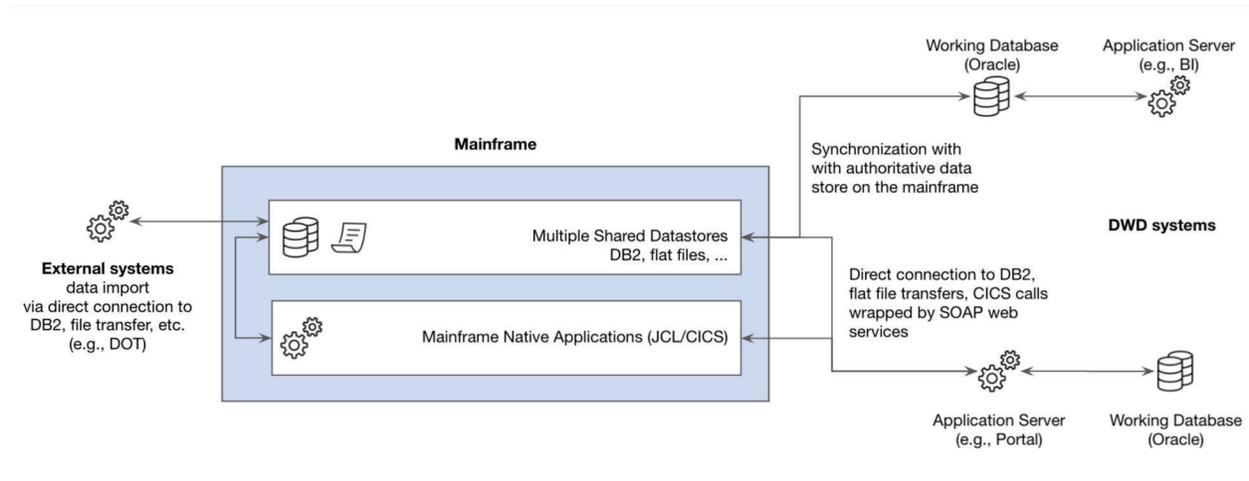


Figure 1: General System Architecture

This ecosystem has become difficult to maintain:

- The mainframe system contains about 8.6 million lines of code. The codebase's complexity, accrued over multiple eras, forces a developer to examine thousands of lines of code to make a bug-free change. Documentation exists but is limited. The relatively low level of documentation increases the time it takes to support and maintain the system or to ramp up new developers. The database contains about 5,000 tables and about 3.3 billion rows of data going back to the 1970s. The schema has few foreign key relationships and cryptic table and column names. The lack of relational structure is the result of a migration from IDMS. Some data is encoded to fit more data in a smaller space, left over from days of limited storage. SQL code within COBOL often uses cursors instead of select/update/insert/delete as a result of the migration from the set-based iterative nature of IDMS. The names, structure, encoding, calling pattern, and dependencies remaining from the IDMS migration make any database changes risky. The constellation of DWD systems that connect directly to the mainframe DB2 further complicates any DB2 database changes.

- Batch processing failures can cause production issues. Program changes and updates require frequent changes to the batch processes where the program is implemented. It is difficult to properly test these batch processes before they run in production; testing is a manual process and may not expose issues with data conditions that only exist in production.
- Batch processes have implicit interdependencies and assume the data is in the correct state for each segment of the workflow.
- Inflexibility means many new processes and programs need to be implemented manually by staff. For example, some staff export data to Excel in order to run common calculations to be later entered into the system.
- Because data is processed in the nightly jobs, it is not available in real time. Claims that need corrections are not identified until the day after they are submitted, adding extra steps for claimants and UI staff.
- Access to mainframe data is restricted during batch processing windows to prevent data corruption.
- Identifying fraud requires coordinated effort across teams, requiring manual work and constant monitoring.

As DWD begins to modernize its existing legacy systems, a new system will need to be developed in parallel with maintaining existing systems to reduce transition risks. COTS and/or SaaS products may be incorporated in places, but DWD needs a development team to ensure success because it will need to implement code for Wisconsin specific business rules and configurations that adapts current data to a new system.

### 1.3 Encasement strategy

To accomplish the mission and vision for a future UI system, DWD proposes to use an encasement strategy (also known as the [“strangler fig” pattern](#)) with a goal to minimize risk to production systems while gradually migrating to a modernized, easier to maintain system that is more adaptive to UI program needs.

Using this strategy, an encasement Application Programming Interface (API) will serve as a façade to hide the complexity of the existing DB2 data sources, provide services in support of existing and novel UI systems, and allow for transition between separate functional

implementations. DWD will be able to replace implementation of different functionalities behind the API as needs and technology evolve over time. The API can mitigate risks during functional transition by comparing results between the existing and new systems. The API is key to a modular, emergent architecture.

Under this strategy, delivering in the modernized system generally includes:

- Developing sufficient understanding and documentation of the data flows, code execution flows, policy and business processes related to a particular desired outcome — this understanding informs the transition strategy and helps to build a prioritized work inventory for design and development to include:
  - Documenting the mainframe-based UI COBOL software code and logic at a high level, understanding how the various components operate and interact including how and when the data is represented and modified during business processes,
  - Documenting the external systems dependencies and responsibilities, understanding how they interact, when, and why, and
  - Documenting the policy rules that govern the system and the claims process, identifying the legal requirements for operation.
- Determining the data exchange and/or interactions with the existing mainframe-based data sources such as DB2, file transfers, and web services calls needed to produce the desired outcome in the new system.
- Implementing and validating the desired outcome including data representation and transfer in the new system.
- Transitioning the functionalities from the mainframe-based and other legacy UI systems to the new system when the UI division decides a feature/function is ready to be made available for users— both systems will run concurrently for a while but only one will be the system of record at any given time for any particular functionality.

The *initial* implementation steps of this strategy involve:

- Defining a data model for UI data related to some user-facing feature because the overall goal for this work is to deliver value to end-users.
- Supporting the user-facing feature and downstream processes while continuing to support federal reporting requirements and functions (e.g., Benefit Accuracy Measurement (BAM); Benefits Timeliness and Quality (BTQ); data validation, etc.).

- Building an extraction layer to pull data from DB2, transform it into the updated data model, and providing it via an API for consumption by other applications for the desired user-facing feature. This API will be the core component between the mainframe system and its current dependencies to allow for migration to a modernized application.
- Using the transformed data to provide the user-facing feature in an existing or new interface.

Additional iterations can build on this foundation and repeat the process to migrate additional outcomes from the mainframe to the modernized application. Eventually, this work will tie together multiple DWD UI processes, including benefits, tax, and appeals. The timeline for the integration of the existing system and the modernized application is to be determined through the initial implementation in collaboration with DWD. DWD will provide existing technical and workflow process documentation and artifacts during the relevant discovery phase(s) implementing this strategy.

## 2.0 Scope

### 2.1 Product vision

For this modernization work, as stated above, DWD has defined an ambitious future state:

DWD customers (claimants and employers) can receive UI services end-to-end without delay or frustration. DWD staff can administer programs inclusively and efficiently, and do so with modern online tools. DWD's technology is up to date and adaptable for new or changing programs. Customers can easily get the support they need, how they need it, through an automated system or direct interaction with DWD staff.

The Contractor who implements applications to support this vision should address the following intended outcomes. These are described in more detail in the objectives section:

#### **Program Delivery**

- UI program delivery, claim processing, and benefit payments are seamless and delivered without delay
- DWD is ready for any future unanticipated and drastic increases in unemployment and existing staff can easily handle increased program and system demands

- UI is able to quickly implement new programs in order to pay benefits promptly and accurately when due
- The UI program is viewed as the gold standard across the country because service delivery is timely and accurate for all customers

#### **DWD Staff**

- DWD staff can be easily trained to do the job, significantly reducing the amount of time it takes to understand how to enter information into the system
- DWD staff are free to spend their time performing more impactful work than manually adjusting 100-250k claims each year
- DWD staff find that using the system is intuitive from the staff-person perspective

#### **System**

- System has a consistent look and feel across benefits, tax, and appeals systems for claimants, employers, and state employees
- The mainframe is retired and DWD puts technology to use to serve Wisconsin residents
- Fraudulent claims are more easily identified and dealt with appropriately
- System allows for secure and efficient querying of data

#### **End Users**

- Employers can correctly classify their employees to ensure they get the UI benefits they are entitled to
- Claimants may easily navigate the system and have their claims accurately and timely processed

## **2.2 Expectations**

**To achieve this product vision, DWD is seeking a Contractor that can provide iterative software development services in two focus areas — (1) infrastructure and encasement of the existing systems and (2) modern application development.**

This software development project will use agile development principles, with robust documentation, human-centered design, and an extensible infrastructure. Due to the frequency of policy changes, DWD prefers products that can be easily updated, especially by non-technical users. Additionally, DWD staff must be able to alter the codebases. DWD expects that the development process will be collaborative and iterative, with open, regular, and frequent communication between DWD and the Contractor. Throughout the period of performance, the Contractor should expect to work with various DWD staff in order to carry out the objectives.

DWD will identify an empowered Product Owner and Technical Lead to lead this project on behalf of DWD. The Product Owner and Technical Lead will work with DWD leadership, including the Executive Sponsor and Project leads, to set the overall direction of the project, prioritize and drive decision-making, update a long-term product roadmap, consider and address the business needs of DWD, and support the other members of the development team. The Contractor will engage with DWD on the delivery-focused side of product management and team facilitation.

In addition to the Product Owner and Technical Lead, DWD will make staff available as subject matter experts. This includes staff with UI expertise and historical system knowledge.

At the start of this project, the Product Owner and Technical Lead will work with the Contractor, as proposed by the Contractor, to enable delivery of the product vision and intended outcomes listed above in the following two areas:

- 1 . **infrastructure and encasement** with a specific focus on data extraction, API development, and system documentation, and
- 2 . **application development** with a specific focus on user research, new feature development, and policy documentation.

The goal of this structure is to create focus within areas while still allowing complementary, collaborative work across the modernization effort. While initially different in focus, these two focus areas will necessarily overlap at points of implementation.

DWD intends to deploy software as soon as it has been sufficiently developed to provide the minimal viable functionality, as defined by DWD. This is subject to change. DWD expects that regular, and frequent releases will follow the Minimum Viable Product (MVP). As new areas for developing additional functionality emerge, the team will continue to iteratively and incrementally expand work products and releases, with a sprint cycle that is mutually agreed

upon.<sup>4</sup> The software development and release process will be mutually agreed upon, with the goal of reaching a more mature DevSecOps<sup>5</sup> practice, such as the 12-factor app methodology.

DWD will be responsible for the hosting of the deployed product, as well as obtaining any necessary compliance authorizations. DWD requires FedRAMP certification for any cloud provider used for hosting the deployed product. DWD will determine which security controls are required and whether they have been satisfied. DWD expects to provide those security controls to the Contractor as either acceptance criteria or separate user stories. The Contractor is required to use best practices for security and compliance in writing, testing, and delivering code.

Currently, DWD has in-house proficiency with .NET programming languages. While there is a preference for a Contractor that would be able to continue use these languages, DWD is open to proposals that use other modern programming languages.

DWD will own the source code and all other artifacts developed under the contract resulting from this RFP (the "Contract"). The Contractor will provide recommendations to DWD for any software components or any other licensed products needed to develop the application. DWD will be responsible for procuring the selected software components or other licensed products. The Contractor must post to a source code management repository designated by DWD.

## 2.3 Anticipated period of performance, suggested team structure, and contract type

**The initial period of performance (POP) for the Contract is 12 months. There will also be three optional renewal periods (renewals) of 12 months, for a total period of performance of 48 months.** The POP will begin on the date of the Contract kickoff meeting.

For this project, DWD anticipates two teams of 5-7 Full Time Employees (FTE) each (10-14 FTE total), with a combination of product, research, design, and engineering roles. However, Contractors are encouraged to propose different team structures if it meets their technical and staffing plans. For additional information about mandatory roles, see the "Staffing plan" section of "Instructions for proposals." **The annual cost for these teams cannot exceed \$4 million, annually.**

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<sup>4</sup> Typically, on a 2-week sprint cycle, in accordance with agile software development.

<sup>5</sup> This is the practice of coordinating the work of development, security, and system operations to automate the work that goes into testing software and moving it to a live server where people can use it — merging software **development**, **security testing**, and system **operations**.

The Contractor may choose the location(s) within the United States from which to perform the required software development services. Work may not be performed outside of the United States. While DWD is open to supporting distributed teams, there are obstacles to providing remote access to existing code and systems. The Contractor should be prepared to work with DWD to create a successful distributed working environment. DWD's core working hours are 9 AM CDT to 5 PM Central Time, Monday through Friday.

DWD intends to award a time and material (T&M) type contract. All T&M rates shall be fully burdened and fixed at the time of award. The offeror must specify whether the fixed hourly rate for each labor category applies to labor performed by (1) the offeror; (2) subcontractors; and/or (3) divisions, subsidiaries, or affiliates or the offeror under a common control. DWD will include a not-to-exceed ceiling on the Contract that is commensurate with the Contractor's accepted price submission that the Contractor cannot exceed without prior written approval from DWD.

## 3.0 Objectives

### 3.1 Work Inventory

The set of **preliminary** epics, current state and user stories are set forth below and in more depth in Appendix A. These will be the starting point for the software development performed. These preliminary user stories are provided only for illustrative purposes and do not comprise the full scope or detail of the project.

DWD expects that the Contractor will work closely with the Product Owner to perform regular user research and usability testing and to develop and prioritize a full gamut of user stories as the project progresses.

Note: Individual user stories may be modified, added, retracted, or reprioritized by DWD at any time. DWD expects that the user stories will be continuously refined during the development process in collaboration with the Contractor's team.

Initial epics for the work. These are listed in order of priority, but do not imply a linear sequence. These may be worked on in parallel:

Priority level	Area of Focus	Description
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<p><b>0</b></p>	<p><b>Understand current state of system, unemployment insurance policy and the result of past DWD modernization efforts</b></p>	<p>By working closely with DWD staff and consuming in-depth documentation, the Contractor will need to get quickly up to speed on the current state of DWD's system to support a transition to a modern system. This will require migration of legacy data and encapsulating the legacy system without compromising current functionality and adherence to legal requirements, as determined by DWD.</p>
<p><b>1</b></p>	<p><b>Assess current state and begin to modernize manual workflows in Adjustments and Special Programs (ASP)</b>          To shift away from manual (non-automated) processing of claimant benefits, determine the cause of mainframe "Rejects" that create manual work for ASP staff. These also are the cause of many delays to claimants receiving benefits.</p> <p>Reduce the delay of payments to claimants by automating some manual workflows in ASP. Decreasing the time spent on manual workarounds will allow ASP staff to refocus their time and attention on more impactful work, reduce ramp-up time for new staff, and decrease the burden of</p>	<p>Currently, ASP staff must process an enormous volume of manual cases (250k last in 2020) to do something the system cannot perform. Outlier cases, changes to rules, and new programs are challenging to implement and require manual fixes. These rules are hardcoded and need to be adaptable to new programs.</p> <p><i>Example User Story (future state):</i>          "As a staff person in ASP, my claims work is more automated. Manual claims are lower in volume and "system audits" are less necessary so that my time would otherwise be spent on more impactful work (troubleshooting rare exceptions) and claimants can receive their benefits faster"</p>

	work management by senior ASP staff.	
<b>2</b>	<p><b>Begin to encase a legacy system, by building an API layer</b> Start by building an API layer for encasement. With these tools DWD can complete a controlled, low-risk, and iterative transition from the existing system. Further description of APIs can be found <a href="#">here</a>.</p>	<p>Specifically: Leverage DWD staff knowledge and documentation to draft enough of a data schema to begin building a bridge API.</p> <p>Build an encasement layer to transform data from the cryptic old format to a clean new format.</p> <p>Build another encasement layer for the API using lower-risk read-only connections to DB2 until the mainframe is further documented.</p>
<b>3a</b>	<p><b>Design and develop a modern front-end interface for a specific area of functionality, identified with DWD staff</b></p> <p>Design and deliver this functionality through user-centered design methods and agile software development. New functionality should deliver value to end users quickly and should be data-driven.</p> <p>Additionally, explore smaller, strategic, user experience changes to existing interfaces for quick, high-value wins with impact for users.</p>	<p>Working with DWD Product Owner and Technical Lead, determine a specific end-to-end (from the user interface to the data layer) slice of functionality ASP needs. Leverage existing user research and collaborate with the encasement team to implement.</p> <p>A working hypothesis for this area is to select a starting point that will be insulated from too many external dependencies such as cross-matching, data sharing, and banking integrations.</p>

	<p>Following initial design, test with end-users and receive early feedback. Use this feedback to help DWD identify development priorities and validate new application functionality early on in this modernization approach.</p>	
<p><b>3b</b></p>	<p><b>Develop new data model to support emergent functionality</b></p> <p>Initially the development team should begin to construct a new data model that supports the area of functionality identified in Area #3. This work will expand into additional areas of the database structure as new functionality is identified for modernization.</p> <p>Map the new data model to the existing data structure to reconcile these data models.</p>	<p>Existing data is not in a relational structure and is not sufficiently documented. The data structure requires special knowledge to understand; and no single person possesses all this knowledge.</p> <p>Eventually, the data model will need to support user-facing features and downstream processes as well. It should allow for the relationships of the claim through all of its possible stages and track changes to the claim over time. It will also need to be able to track data specific to special programs. It will also need to support federal reporting and other legally-required functions.</p> <p><i>Example User Story (future state):</i>      “As an application development team member, I need to be able to change logic and introduce new logic quickly (and without impacting other areas of the application) so that DWD can deliver new services to claimants and employers within a reasonable (and legally required) timeframe”</p>

4	<b>Allow for easy querying of the database</b>	<p>Meet data querying needs of integrated applications, business intelligence, and reporting.</p> <p><i>Example User Story (future state):</i>          “As a business analyst, I need to test with live data in regression testing to have confidence in the changes”</p>
5	<b>Support ongoing efforts to modernize software development practices within BITs/DWD (automated testing, Continuous integration [CI]/continuous delivery [CD], agile, user-centered design)</b>	<p>Put customer experience at the center of all development efforts to deliver value more quickly to end users. Improve time to delivery with an end-to-end path to production through continuous deployment and integration of code. Use automated testing to relieve manual processes conducted by staff and decrease production risks.</p> <p><i>Example User Stories (future state):</i></p> <p>“As a developer, I need to understand how the source data represents UI program needs so that I can build an automated method to verify if an alternate system with a different implementation is delivering an accurate outcome”</p> <p>“As a developer, I need automated testing within my CI/CD pipeline so that I can quickly update the system with bug fixes”</p> <p>“As a developer, I need documentation about the system and the responsibilities of its components so that I can get up to</p>

		speed quickly with unfamiliar components”
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## 3.2 Oversight Metrics

DWD will use the following oversight metrics to monitor the quality of Contractor’s performance and deliverables throughout the Contract. These metrics provide DWD with a proactive way to avoid unacceptable or deficient performance and provide the basis for addressing such issues.

Because there are many acceptable approaches to this Contract’s objectives, these metrics provide high-level performance standards and describe their purpose. As part of the contract kick-off process, the Contractor will work with DWD to create a detailed set of performance standards and accompanying methods of assessment, including the tools to support this oversight. Acceptance Criteria, located in Appendix B, shall serve as the default and starting point for creating these performance standards and accompanying assessment methods.

These metrics are:

- Work meets defined acceptance criteria, described within a work inventory
- Code is tested
- Code is properly styled and well-structured
- Product is accessible for all users
- Deployment is simple
- Code and development processes are documented
- Product is secure
- Meets the standards in Appendix B, Acceptance Criteria
- User research informs software development

- Code and artifacts are available to DWD

The Product Owner will perform the assessments, though they may choose to delegate tasks to another DWD staff member where that other staff member has relevant subject matter expertise. It is expected that assessment intervals will begin with a more frequent pace and can be gradually lengthened as the Contractor and DWD build a collaborative relationship.

The performance standards and methods of assessment may be updated at the discretion of DWD. Updates to these overarching procedures may be made by modification to the contract.

## 4.0 Instructions and Evaluation

### 4.1 Instructions for Proposals

#### 4.1.1 Contact with DWD during the procurement process

This RFP is issued by DWD, which is the sole point of contact for the State of Wisconsin during the selection process. The person responsible for managing the procurement process is the DWD Purchasing Director, Kurtis Bock. Any contact with other State employees concerning this RFP are prohibited, except as authorized by the Purchasing Manager, during the period from date of release of the RFP until the notice of intent to award is released. Contact with anyone other than the Purchasing Manager may disqualify your proposal.

The Contract resulting from this RFP will be administered by DWD. The Contract Administrator will be named at a later date.

#### 4.1.2 Reasonable Accommodations

DWD will provide reasonable accommodations, including the provision of informational material in an alternative format, for qualified individuals with disabilities upon request. If you think you need accommodations at a bid opening/offeror conference, contact Kurtis Bock, DWD Purchasing Director, at (608) 267-0533 (voice) or Wisconsin Telecommunications Relay System at 711.

### 4.1.3 General instructions

The evaluation and selection of the Contractor will be based on the information submitted in the proposal plus references and any required on-site visits, interviews/presentations, or demonstrations. Offerors should respond clearly and completely to all requirements. Failure to respond to each of the requirements in the RFP may be the basis for rejecting a proposal.

Elaborate proposals (e.g. expensive artwork), beyond that sufficient to present a complete and effective proposal, are not necessary or desired.

#### 4.1.3.1 Incurring costs

The State of Wisconsin is not liable for any cost incurred by Offerors in replying to this RFP.

#### 4.1.3.2 Submitting proposals

Offerors have two (2) options for submitting a proposal to this RFP. The Offeror can submit an electronic proposal using the State of Wisconsin's e-Supplier Portal, or they can submit a response via email of all required materials for acceptance of their proposal (noted below). **Electronic submission via eSupplier is PREFERRED but is not part of the consideration of the proposals.**

Development proposal and case studies submissions (collectively, the technical submissions) must be submitted separately from the price submission and required forms. If submitting via email, two separate emails must be submitted or your proposal will be considered incomplete: one email for the technical submissions and one email for the price submission and required forms. Including cost information in the technical submissions may disqualify your proposal.

**Development Proposal and Case Studies** must be typed and submitted via email to [DOProcurement@dwd.wi.gov](mailto:DOProcurement@dwd.wi.gov) .

In the subject line include the following information:

**ATTN: Kurtis Bock Response to ILA0050 Development Proposal & Case Studies**

**Price Submission** must be submitted via email to [DOProcurement@dwd.wi.gov](mailto:DOProcurement@dwd.wi.gov)

In the subject line include the following information:

**ATTN: Kurtis Bock Response to ILA0050 Price Submission & Required Forms**

#### 4.1.3.3 eSupplier registration

eSupplier is the preferred method of submitting a proposal. The State of Wisconsin's purchasing information and contractor notification service is available to all businesses and organizations that want to sell to the state. Anyone may access eSupplier on the Internet at [https://esupplier.wi.gov/psp/esupplier/SUPPLIER/ERP/h/?tab=WI\\_BIDDER](https://esupplier.wi.gov/psp/esupplier/SUPPLIER/ERP/h/?tab=WI_BIDDER) to get information on state purchasing practices and policies, goods and services that the state buys, and tips on selling to the state. Contractors may use the same Web site address for inclusion on the offerors list for goods and services that the organization wants to sell to the state. Registration guarantees the organization will receive an e-mail message each time a state agency, posts a request for proposal or a request for proposal in their specified commodity/service area(s) with an estimated value over \$50,000. It is recommended registrants provide an email address that is monitored centrally in the organization to ensure timely receipt of notifications. Organizations without Internet access may request paper copies in the mail. Increasingly, state agencies also are using eSupplier to post simplified proposals valued at \$50,000 or less. Contractors also may receive e-mail notices of these simplified proposal opportunities. If questions exist about eSupplier, call the STAR Support at (844) WIS-STAR (947-7827).

#### 4.1.3.4 Calendar of Events

Listed below are specific and estimated dates and times of actions related to this RFP. The actions with specific dates must be completed as indicated unless otherwise changed by DWD. In the event that DWD finds it necessary to change any of the specific dates and times, it will do so by issuing amendments to this RFP. Changes of the estimated dates and times will be communicated through an amendment to the RFP.

<u>DATE</u>	<u>EVENT</u>
06.29.2021	RFP issuance date
07.07.2021	Submit questions on or before 5:00 PM CT
07.09.2021	Responses to questions posted
<b>07.16.2021</b>	<b>Proposals due on or before 5:00 PM CT</b>

<b>08.11.2021</b>	Notification of intent to award sent to offerors (estimated)
<b>09.01.2021</b>	Contract start date <b>(estimated)</b>

#### **4.1.3.5 Communication, Clarification, and/or Revisions**

All communications and/or questions regarding this RFP must be submitted via email to the following email address on or before July 7, 2021 by 5:00 PM Central Time (CT).

DOProcurement@dwd.wi.gov

In the subject line include the following information:

ATTN: Kurtis Bock Questions to ILA0050

Offerors are expected to raise any questions, exceptions, or additions they have concerning the RFP document through the submission process described above. All questions must meet the deadline provided for responses to be included. However, if an offeror discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in this RFP, the offeror should notify the DWD Procurement Director named above immediately, in writing, of such error and request modification or clarification of the RFP.

Offerors shall stipulate that their proposals are predicated upon the requirements, terms, and conditions of this RFP and any supplements or revisions thereof. Any contact with State employees concerning this RFP are prohibited, except as authorized by the Purchasing Director Kurtis Bock, during the period from date of release of the RFP until the notice of intent to award is released.

#### **4.1.3.6 Withdrawal of proposals**

Proposals shall be irrevocable until Contract award unless the proposal is withdrawn. Offerors may withdraw a proposal, in writing, at any time. The written withdrawal notice must be received by the DWD Purchasing Director Kurtis Bock. The notice must be signed by an authorized representative of the Offeror. If a previously submitted proposal is withdrawn before the proposal due date and time, the Offeror may submit another proposal at any time up to the proposal due date and time. Once withdrawn, the proposal will not be considered for any reason.

#### 4.1.4 Proposal format and organization

The proposal consists of four sections:

- A development proposal, including a technical submission and staffing approach
- Answers to case studies
- A price submission; and
- Required forms

##### 4.1.4.1 Development proposal

The development proposal must consist of:

- A technical proposal of no more than 4 pages using 12-point type,
- A staffing plan of no more than 3 pages using 12-point type,
- Staff resumes for Mandatory Personnel must include a brief description of the experience and capability for each individual but cannot exceed one (1) page in length each, and
- Signed letters of intent for those Mandatory Personnel not currently employed by the Contractor

The development proposal may also include, as appendices, user research plans and design artifacts of no more than 30 single-spaced pages combined. The submission must use 12-point type. Offeror's may include user research plans and design artifacts with their original type sizes and formatting; these to not need to be single-spaced or in 12-point type.

##### 4.1.4.2 Answers to case studies

Responses to the case studies in Section 4.1.7 are limited to one page maximum per case study, for a maximum total of four five pages, using 12-point type.

#### 4.1.4.3 Price Submission

Price submission must be submitted in the Microsoft Excel spreadsheet provided as [Attachment E - Amended](#).

#### 4.1.4.4 Required forms

Offerors must complete and submit all of the following forms:

- a. Attachment A – Offeror Checklist
- b. Attachment B – Bidder Required Form (DOA-3832)
- c. Attachment C – Certification Regarding Debarment, Suspension, and Other Responsibility Matters
- d. Attachment D – Certification Regarding Lobbying

#### 4.1.5 Technical proposal

This technical approach submission must:

- Set forth the Offeror's proposed approach to providing the services required, including the base software (if any) and programming language(s) that the Offeror proposes to use.
- Make clear that the Offeror understands the details of the project requirements.
- Identify potential obstacles to efficient development and include plans to overcome those potential obstacles.
- Include a description of the Offeror's plans, if any, to provide services through a joint venture, teaming partner, or subcontractors.
- Include references to one or more source code samples, preferably open source.
- Refer to prior experience, both narratively and through links to source code and deliverables, if possible.

- Indicates an appropriate FedRAMP certification for any cloud provider used for hosting the deployed product.

Offerors may propose a technical approach that is different from the encasement strategy hypothesized in this RFP. If so, the Offeror should explain why they believe the alternate approach would be preferable to DWD.

References to source code samples must be either links to Git repositories (either credentialed or public) or to equivalent version-controlled repositories that provide DWD with the full revision history for all files. If an Offeror submits a link to a private Git repository hosted with GitHub, DWD will provide the Offeror with one or more GitHub user identities by email, and the Offeror will be expected to promptly provide the identified user(s) with access to the private Git repository.

The source code samples should be for projects that are similar in size, scope, and complexity to the project contemplated here. The source code must have been developed by either (i) the Offeror itself, (ii) a teaming partner that is proposed in response to this RFP, or (iii) an individual that is being proposed as Mandatory Personnel (see "Staffing Plan" section below) for this project. DWD would prefer that the source code samples have been for recent projects involving teams with similar personnel to the staffing proposed in the staffing plan.

If the references to source code samples provided do not include associated references to user research plans and design artifacts demonstrating how ongoing user research was incorporated into the project, then the Offeror must submit a user research plan and design artifacts relating to at least one (1) of the source code samples provided.

#### 4.1.6 Staffing plan

The staffing plan must set forth the Offeror's proposed approach to staffing the requirements of this project, including the titles of each of the labor categories proposed and proposed level of effort for each member of the Offeror's development team. As part of the plan, the Offeror must describe the anticipated timeline for staffing members to the team.

The staffing plan must also identify the proposed Project Manager and proposed Technical Lead by name and include a resume for each. These roles are designated as Mandatory Personnel for this project. The Project Manager will be a direct liaison to DWD product team and will be responsible for the supervision and management of all of the Contractor's personnel assigned to this project. The Technical Lead must have a full understanding of the technical approach to

be used by the Contractor's development team and will be responsible for ensuring that the Contractor's development team follows that approach.

Resumes for Mandatory Personnel must include a brief description of the experience and capability for each individual but cannot exceed one (1) page in length each. Offerors proposing Mandatory Personnel who are not currently employed by the Offeror or a teaming partner must include a signed letter of intent from the individual proposed as Mandatory Personnel that he/she intends to participate in this project for at least one (1) year.

The staffing plan must set forth and explain the extent to which the Offeror will provide individuals with experience in at least each of the following areas:

- Agile development practices
- Application Protocol Interface (API) development and documentation
- Automated (unit/integration/end-to-end) testing
- Building and testing public facing sites and tools
- Content design and copywriting
- Continuous Integration and Continuous Deployment
- Cloud deployment
- Data modeling and data architecture
- Data migration, especially for legacy systems
- Refactoring to minimize technical debt
- Open-source software development
- Open-source login/authentication services
- Product management and strategy
- Sketching, wireframing, and/or prototyping, and user-task flow development

- Usability research, such as (but not limited to) contextual inquiry, stakeholder interviews, and usability testing
- User experience design
- Visual design

The staffing plan must also set forth the extent to which the proposed team for this project was involved in the development of any source code provided with the technical submission.

#### 4.1.7 Case studies

For each case study, the Offeror must detail how it would respond to the situation described in the prompt. While Offerors are encouraged to refer to prior experience, it is most useful to understand the approach for a future situation.

##### **Case study 1**

Many requirements for this system come from Wisconsin and federal law and policy. Explain how you would:

- Translate law and policy rules into business logic within the application
- Design a system that can respond quickly to external policy changes

##### **Case study 2**

Authentication and authorization is a key component of this type of system. DWD will have choices between internal authentication systems and various COTS tools. Explain how you would:

- Assess the level of difficulty and work needed to integrate authentication services into the product
- Select the right fit for the product's needs
- Implement and test an authentication service

### Case study 3

As part of an encasement approach, APIs serve as connectors between loosely coupled components. Explain how you would:

- Design an API to allow components to be loosely coupled
- Scale an API from providing the minimum pieces of data to one component up to providing a full data model to multiple components

### Case study 4

In migrating from a legacy system to a more modern system, DWD will also be updating its practices and processes to support such a system. Explain how you would:

- Create and maintain technical standards for modern software development
- Collaborate with DWD to build alignment with those standards and capacity for long-term ownership of this system

### Case study 5

While developing this system, there will be many architectural decisions to make. Explain how you would:

- Determine the right time to make an architectural decision
- Document decisions for both internal consistency and stakeholder awareness

#### 4.1.8 Price Submission

~~Price submissions shall include~~ In the price submission, Offerors must provide (1) all labor and material costs ~~estimated for~~ associated with the life Offeror's performance of services under the Contract, including the initial period of performance and all renewal periods. ~~The ceiling price for the,~~ and (2) an estimate of the total cost of its proposed technical approach.

~~Under this~~ Contract, DWD will ~~include~~ pay the Contractor for labor hours and any Other Direct Costs (ODCs) associated with the Offeror's proposed approach. For ODCs, the Offeror shall include the material, licensing, and/or subscription costs ~~materials~~ associated with any software to be provided as part of the Offeror's approach.

Price submissions must set forth a single dollar amount that represents the Offeror's estimate of the total cost to DWD for the development services, ODCs, and travel expenses required for the period of performance, broken down by the initial contract period and each renewal. All prices must be quoted in U.S. Dollars. Travel costs will be limited to reimbursement cost as defined by the State performance of services, such as travel expenses, (collectively referred to as "labor costs"). The Contractor will be compensated at loaded hourly rates for labor. Reimbursement for travel will be limited to the amounts included in Wisconsin's uniform travel schedule. DWD will reimburse the Contractor for all other materials at their actual cost. DWD expects that the labor categories and staffing levels set forth by the Contractor in the Excel workbook (or convertible) will be consistent with the Offeror's staffing plan and may reject proposals where these are not consistent.

The Contractor will be compensated at loaded hourly rates. In addition to labor costs, DWD anticipates that many, if not all, technical approaches will require DWD to obtain non-labor related items, such as software, application hosting platform subscription and/or licensing, cloud solutions, etc., (collectively referred to as "ancillary items"). DWD will separately procure all ancillary items. Although these costs will be borne by DWD outside of this Contract, DWD wants to gain a better understanding of the total cost of each Offeror's technical approach. Therefore, DWD is asking Offerors to itemize the costs of all ancillary items **except the costs of obtaining a cloud solution** (collectively referred to as "non-labor costs") as part of its price submission. For example, Offerors should include the costs of a commercial logging library used in the code, but Offerors should not include subscription costs of a cloud hosting provider. Offerors should make their best efforts to provide accurate estimates of the non-labor costs. DWD understands that Offerors may only be able to provide a Rough Order of Magnitude (ROM) for some items and should note this in the price submission spreadsheet. Additionally, Offerors should only include ancillary items that are required elements of implementing their technical approach in the price submission. All optional elements that may enhance DWD's ultimate UI system but are not required to implement the Offeror's technical approach, do not need to be itemized in the price submission.

Price submissions must set forth a single dollar amount that represents the Offeror's estimate of the total cost to DWD for the labor and non-labor costs to implement the Offeror's technical approach. The labor and non-labor costs must be broken down by the initial contract period and each renewal. All prices must be quoted in U.S. Dollars. If Offerors mistakenly include the costs of obtaining the cloud solution as non-labor costs, DWD will remove these cost items and adjust the Offeror's total cost estimate before conducting its price evaluation.

DWD intends to evaluate proposals and award based on initial proposals, and therefore the Offeror's initial proposal should contain the Offeror's best terms. Responses that state DWD must guarantee a specific quantity or dollar amount of services may be disqualified.

All prices, labor costs, and conditions outlined in the price submission shall remain fixed and valid for acceptance for ninety (90) days starting on the due date for proposals.

The Contractor must also hold the accepted prices and/or labor costs for the entire contractContract period. Any adjustment to prices and/or costs at the beginning of a Contract renewal period will be negotiated between DWD and the Contractor. Any price increases must be justified with supporting documentation of industry-wide increases.

DWD reserves the right to add new products/services to this Contract based on technology changes or changes to standards unknown at the time of this proposal. The Contractor's Vendor(s) prices must be (in line with) or (comparable to) current Contract pricing for like products/services. Contractor should promptly notify the Contract Administrator of new or discontinued products.

#### 4.1.9 Offeror References

On **Attachment B** (DOA-3832, Section 3), Offerors must supply references of three (3) organizations to which similar services have been provided during the past five (5) years to a comparable-sized institution or company. If contacted, all of those references must verify that a high level of satisfaction was provided. Use form DOA-3238, Section 3, to list references.

## 4.2 Basis of Award and Evaluation Factors

### 4.2.1 Preliminary Evaluation

The proposals will be initially reviewed by the Procuring Manager to determine if mandatory requirements are met. Failure to meet mandatory requirements shall result in the proposal being rejected. In the event that all offerors fail to meet one or more of the mandatory requirements, DWD reserves the right to continue the evaluation of the proposals that most closely meet the mandatory requirements of this RFP.

#### 4.2.2 Evaluation Committee

DWD's evaluation committee will consist of members who have been selected because of their special expertise and knowledge of the services that are the subject of this RFP. Offerors may not contact members of the evaluation committee except at the DWD's request.

#### 4.2.3 Proposal scoring

Accepted proposals and all supplemental proposal materials (such as code samples and resumes) will be reviewed by an evaluation committee and scored against the stated criteria. The committee may review references, request interviews/presentations, conduct demonstrations, and/or conduct on-site visits. The resulting information will be used to score the proposals. The evaluation committee's scoring will be tabulated and proposals will be ranked based on the numerical scores received.

Each submission received by DWD will be evaluated for technical acceptability. Submissions that are determined to not be technically acceptable may not be evaluated further. At DWD's discretion the Offeror may be provided an opportunity to make clarifications.

Proposals must be realistic with respect to technical approach, staffing approach, and total price. Proposals that indicate a lack of understanding of the project requirements may not be considered for award. Proposals may indicate a lack of understanding of the project requirements if the staffing plan does not use a realistic mix of labor categories and hours, or if any proposed hourly labor rates are unrealistically high or low.

DWD will evaluate proposals that are technically acceptable on a competitive best value basis using scoring that weights each of the technical evaluation factors and price factors according to relative importance. Technically acceptable submissions will be evaluated based on four (4) evaluation factors. These factors and their respective weights are:

- Technical approach (30%)
- Staffing approach (30%)
- Responses to case studies (30%)
- Price Submission (10%)

## 4.2.4 Evaluation Factors

### 4.2.4.1 Technical Approach

In evaluating an Offeror's technical approach, DWD will consider (a) the quality of the Offeror's plans to provide the open source, agile development services required, including user research and design, (b) the extent of the Offeror's understanding of the details of the project requirements, and (c) the extent to which the Offeror has identified potential obstacles to efficient development, and has proposed realistic approaches to overcome those potential obstacles.

### 4.2.4.2 Staffing Approach

In evaluating an Offeror's staffing approach, DWD will consider (a) the skills and experience of the Mandatory Personnel and other individuals that the Offeror plans to use to provide the required services, (b) the mix of labor categories that will comprise the Offeror's proposed development team, and (c) the Offeror's proposed number of hours of services to be provided by each member of the Offeror's proposed development team.

### 4.2.4.3 Case studies

In evaluating an Offeror's case studies, DWD will consider (a) the quality of Offeror's responses to needs identified in the prompts, (b) the completeness of the Offeror's responses to the prompts, and (c) the compatibility of the responses with the technical approach proposed by the Offeror.

### 4.2.4.4 Price

In evaluating an Offeror's price, DWD will consider the total of the Offeror's estimated costs for the development services, ODCs, and travel expenses proposed for the full period of performance. DWD will evaluate the total estimated cost of each Offeror's technical approach, including labor and non-labor costs. As defined in Section 4.1.8, labor costs include labor and any materials associated with the Offeror's performance of services, such as travel, and non-labor costs include all other ancillary items necessary to implement the Offeror's technical approach, except the costs of obtaining a cloud solution.

Labor costs will not be independently scored, however, DWD may review the labor rates for reasonableness. At its discretion, DWD may also reject proposals that have unrealistically low pricing.

The DWD Purchasing Director will score the price submissions by prorating with the lowest price submission given the highest score. The formula is as follows: Calculation of points awarded to subsequent proposals will use the lowest dollar proposal amount as a constant numerator and the dollar amount of the firm being scored as the denominator. This number is then multiplied by the number of points given to the cost section of the RFP, resulting in the price submission score.

#### 4.2.5 Oral (Interview) Presentations

The Offerors with the most highly rated written submissions will each be invited to participate in an interview as part of the evaluation process. Each interview will be conducted remotely via video connection and/or teleconference. DWD will communicate with certain Offerors to schedule the dates and times of interviews.

Each interview will include an unstructured question and answer session, during which Offerors will be asked questions about the technical aspects of their proposal, including and their approach to software development more generally and for this project specifically, their staffing plan, and their answers to the case studies . DWD expects these interviews will assist DWD to assess the technical abilities of the proposed development team and to better understand the proposed technical approach described in the Offeror's written submission. Both of the Offeror's proposed Mandatory Personnel must participate in the interview.

The Introductions phase of each interview will last approximately 5 minutes, during which the Offeror and DWD interview team members will introduce themselves.

The Open Technical Session of each interview will last approximately 45 minutes, during which the Offeror interview team will respond to DWD's questions related to the technical aspects of the Offeror's proposal, including the Offeror's technical approach, staffing plan, and answers to case studies. Offerors will NOT be able to use or present any slides, graphs, charts, or other written presentation materials, including handouts.

There will be no follow-up session for further questions after this part of the interview.

The Closing Remarks phase of each interview will last approximately 5 minutes, during which the Offeror may make a short presentation summarizing the Offeror's responses to DWD's questions.

Interviews will not constitute discussions. Statements made during an interview will not become part of the agreement.

## 4.2.6 Contract Award

### 4.2.6.1 Award and Final Offers

DWD may award to the highest scoring responsive and responsible Offeror. Alternatively, DWD may request that the highest scoring Offeror or Offerors submit best and final offers. If best and final offers are requested by DWD and submitted by the Offeror(s), they will be evaluated against the stated criteria, scored, and ranked by the evaluation committee. DWD will then make an award to the highest scoring Offeror. However, the Offeror(s) shall not expect that DWD will request a best and final offer.

DWD reserves the right to reject any and all proposals. DWD may negotiate the terms of the Contract, including the award amount, with the selected Offeror prior to entering into a Contract. If Contract negotiations cannot be concluded successfully with the highest scoring Offeror, DWD may negotiate a Contract with the next highest scoring Offeror.

### 4.2.6.2 Notification and Intent to Award

All Offerors who respond to this RFP will be notified in writing of the State's intent to award the Contract(s) as a result of this RFP.

### 4.2.6.3 Appeals Process

Notices of intent to protest and protests must be made in writing to DWD. Protestors should make their protests as specific as possible and should identify statutes and Wisconsin Administrative Code provisions that are alleged to have been violated.

Any written notice of intent to protest the award of a contract must be emailed or mailed to and received no later than five (5) working days after the notices of intent to award are issued:

- Mail: DWD Deputy Secretary

201 E. Washington Ave.,  
P.O. Box 7946  
Madison, WI 53707

- Email: [DOProcurement@dwd.wi.gov](mailto:DOProcurement@dwd.wi.gov)

Subject Line: ATTN: Kurtis Bock ILA0050 Intent to Protest

Any written protest must be sent to the address noted above within ten (10) working days after the notice of intent to award is issued.

The decision by DWD may be appealed to the Secretary of DOA within five (5) working days of issuance, with a copy of such appeal filed with DWD. The appeal must allege a violation of an applicable section of the Wisconsin Statutes or Wisconsin Administrative Code.

## 5.0 Contract Terms and Conditions

The State reserves the right to negotiate terms and conditions when it is in the best interest of the State to do so. The Offeror shall not submit its own contract document as a substitute for the Special Terms and Conditions, the State of Wisconsin's Standard Terms and Conditions, and/or the State of Wisconsin's Supplemental Terms and Conditions.

Offeror's shall accept all terms and conditions included in this Section or submit point-by-point exceptions along with proposed alternative language for each point with its Price submission. The State may or may not consider any of the Offeror's suggested revisions. Any changes or amendment to any of the terms and conditions will occur only if the change is in the best interest of the State.

Please note that the State of Wisconsin's Standard Terms and Conditions are written to cover contracts for goods, and are used along with the Supplemental Terms and Conditions to cover contracts for services. Therefore, not all terms and conditions included in the Standard Terms and Conditions will apply to the provision of services.

### 5.1 Standard Terms and Conditions (DOA-3054)

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

**2.0 DEVIATIONS AND EXCEPTIONS:** Deviations and exceptions from original text, terms, conditions, or specifications shall be described fully, on the bidder's/offers letterhead,

signed, and attached to the request. In the absence of such statement, the bid/proposal shall be accepted as in strict compliance with all terms, conditions, and specifications and the bidders/offerors shall be held liable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A good faith dispute creates an exception to prompt payment.

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

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

**13.0 GUARANTEED DELIVERY:** Failure of the Contractor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the contractor liable for all

costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include the administrative costs.

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

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

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

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

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

**19.0 NONDISCRIMINATION / AFFIRMATIVE ACTION:** In connection with the performance of work under this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation as

defined in s. 111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Contractor further agrees to take affirmative action to ensure equal employment opportunities.

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

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

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

**19.4** Effective October 27, 2017, consistent with 2017 Wisconsin Executive Order 261, Contractor agrees it is not engaged in a boycott of the State of Israel and further, Contractor will not during the term of the contract engage in a boycott of the State of Israel. State agencies may not execute a contract and reserve the right to terminate an existing contract with a business entity that is not compliant with this provision. This provision applies to all contracts of all values.

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

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

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

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

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

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

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

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

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

**26.0 PUBLIC RECORDS ACCESS:** It is the intention of the state to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Bid/proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract. Pursuant to §19.36 (3), Wis. Stats., all records of the Contractor that are produced or collected under this contract are subject to disclosure pursuant to a public records request. Upon receipt of notice from the State of Wisconsin of a public records request for records produced or

collected under this contract, the Contractor shall provide the requested records to the contracting agency. The Contractor, following final payment, shall retain all records produced or collected under this contract for six (6) years.

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

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

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

**28.0 DISCLOSURE:** If a state public official (s. 19.42, Wis. Stats.), a member of a state public official's immediate family, or any organization in which a state public official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to this agreement, and if this agreement involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, this contract is voidable by the state unless appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before signing the contract. Disclosure must be made to the State of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123).

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

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

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

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

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

**33.0 FOREIGN CORPORATION:** A foreign corporation (any corporation other than a Wisconsin corporation) which becomes a party to this Agreement is required to conform to all the requirements of Chapter 180, Wis. Stats., relating to a foreign corporation and must possess a certificate of authority from the Wisconsin Department of Financial Institutions, unless the corporation is transacting business in interstate commerce or is otherwise exempt from the requirement of obtaining a certificate of authority. Any foreign corporation which desires to apply for a certificate of authority should contact the Department of Financial Institutions, Division of Corporation, P. O. Box 7846, Madison, WI 53707-7846; telephone (608) 261-7577.

**34.0 WORK CENTER PROGRAM:** The successful bidder/offeror shall agree to implement processes that allow the State agencies, including the University of Wisconsin System, to satisfy the State's obligation to purchase goods and services produced by work centers certified under the State Use Law, s.16.752, Wis. Stat. This shall result in requiring the successful bidder/offeror to include products provided by work centers in its catalog for State agencies and campuses or to block the sale of comparable items to State agencies and campuses.

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

but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.

## **5.2 Supplemental Terms and Conditions (DOA-3681)**

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

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

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

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

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

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

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

### **3.0 DISCLOSURE OF INDEPENDENCE AND RELATIONSHIP:**

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

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

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

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

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

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

The contracting agency shall have the right to audit, review, examine, copy, and transcribe any pertinent records or documents relating to any contract resulting from this bid/proposal held by the Contractor.

It is the intention of the state to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Bid/proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract. Pursuant to §19.36 (3), Wis. Stats., all records of the Contractor that are produced or collected under this contract are subject to disclosure pursuant to a public records request. Upon receipt of notice from the State of Wisconsin of a public records request for records produced or collected under this contract, the Contractor shall provide the requested records to the contracting agency. The Contractor, following final payment, shall retain all records produced or collected under this contract for six (6) years.

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

## 5.3 Special Terms and Conditions

### 5.3.1 Order of Precedence

The RFP, the Contractor's proposal response, written clarifications or representations between the parties, and the Contract, shall constitute the entire agreement between the parties. In the event of any conflict, contradiction, or ambiguity between the terms and conditions in these documents, the order of precedence is as follows:

- Laws, regulations and policies of the State and Federal government;
- The signed Contract, inclusive of appendices and exhibits and any subsequent amendments;
- The Request for Proposal (ILA0050), inclusive of DWD's Special Terms and Conditions, the State of Wisconsin's Standard Terms and Conditions, and the Supplemental Terms

and Conditions (Section 9.0), any other appendices and exhibits, and any amendments or addenda to the RFP;

- The Contractor's proposal and any written clarifications or representations incorporated into the Contractor's proposal; and
- Other documents specifically incorporated by reference into any of the above, specifically including operating rules or policy documents that are developed to support this initiative.

### 5.3.2 Payment Terms and Invoicing

Contractor agrees that all invoices shall reflect the contracted price(s) as detailed in the applicable pricing attachments or addendums.

The Contractor shall invoice DWD for services performed in accordance with the Contract on a monthly basis. Only properly submitted invoices will be processed for payment. Prompt payment requires that Contractor invoices be clear and in conformity with the instructions below.

All invoices must be itemized showing:

Contractor name;  
Remit to address;  
Purchase order number; and  
Number of hours worked broken down by labor category and date.

The original invoice must be sent to the applicable DWD address which will be provided to the Contractor prior to Contract start date.

The State shall meet a statutory mandate to pay or reject invoices within 30 days of receipt by the agency. Before payment is made, the agency shall verify that all invoiced charges are correct as per this Contract. Only properly submitted invoices shall be officially received for payment. Prompt payment requires that invoices be clear and complete.

The Contractor is limited to providing the services contracted for in the terms of the Contract. Services provided outside the terms of the Contract will be considered "out of scope." DWD will only pay for services within the scope of this Contract. DWD may authorize expanding the scope of services over and above what is specified in the Contract. DWD's authorization to expand the scope of services must be in writing and must be approved by the Contract Administrator

prior to the addition of services. Invoices sent to DWD for items not covered by the Contract will be denied for payment.

### 5.3.3 Data Rights and Ownership of Deliverables

Unless otherwise agreed to by DWD and the Contractor, all software and documentation delivered by the Contractor will be owned by DWD and free of copyright by either using an open source license or committing the work to the public domain. This software and documentation includes, but is not limited to, data, documents, graphics, code, plans, reports, schedules, schemas, metadata, architecture designs, and the like; all new open source software created by the Contractor and forks or branches of current open source software where the Contractor has made a modification; and all new tooling, scripting configuration management, infrastructure as code, or any other final changes or edits to successfully deploy or operate the software.

To the extent that the Contractor seeks to incorporate any software that was not first produced in the performance of this Contract in the software delivered under this Contract, DWD encourages the Contractor to incorporate either software that is in the public domain or free and open source software that qualifies under the Open Source Definition promulgated by the Open Source Initiative. In any event, the Contractor must promptly disclose to DWD in writing, and list in the documentation, any software incorporated in the delivered software that is subject to a license.

If software delivered by the Contractor incorporates software that is subject to an open source license that provides implementation guidance, then the Contractor must ensure compliance with that guidance. If software delivered by the Contractor incorporates software that is subject to an open source license that does not provide implementation guidance, then the Contractor must attach or include the terms of the license within the work itself, such as in code comments at the beginning of a file, or in a license file within a software repository.

In addition, the Contractor must obtain written permission from DWD before incorporating into the delivered software any software that is subject to a license that does not qualify under the Open Source Definition promulgated by the Open Source Initiative. If DWD grants such written permission, then the Contractor's rights to use that software must be promptly assigned to DWD.

### 5.3.4 Subcontractors

The Contractor is responsible for Contract performance when subcontractors are used. When subcontractors are used, they must abide by all terms and conditions of the Contract.

All subcontractors shall be approved in writing by DWD. Any proposed substitution of an approved subcontractor shall be submitted in writing to the Product Owner 30 days prior to implementation of the substitution, and include the substitute's qualifications, the reason for the change, and the intended effective date of the substitution. Failure to notify the Product Owner may result in cancellation of the Contract without notice and without penalty to the State.

### 5.3.5 Mandatory Personnel

The Project Manager and Technical Lead are designated as Mandatory Personnel for this Contract. Any change to the Mandatory Personnel identified in the Contractor's proposal and accepted by DWD must be approved in advance and in writing by the Product Owner. Personnel changes that are not approved by DWD may be grounds for DWD to terminate the Contract. In requesting to make a change to the Mandatory Personnel, the Contractor must provide the Product Owner the resume of the proposed substitute and any other information requested by the Product Lead or needed by DWD to approve or disapprove of the substitution.

### 5.3.6 Contract Amendments

This Contract may be amended upon the written mutual agreement of the Contractor and DWD.

### 5.3.7 Termination for Cause

DWD may terminate the Contract for cause if the Contractor breaches its terms. DWD's right to terminate for cause may only be exercised if the Contractor fails to cure its breach of this Contract within 10 calendar days of receiving written notice of said breach from DWD. In the event of termination for cause by DWD, the Contractor shall only be entitled to receive compensation for any payments owed under the Contract at the time of termination.

### 5.3.8 Termination for Convenience

Either party may terminate this Contract at any time, without cause, by providing a written notice to the other party at least 30 days in advance of the intended date of termination. In the event of termination for convenience by the Contractor or DWD, the Contractor shall be entitled to receive compensation for any services it provided prior to the date of termination.

### 5.3.9 Suspension and Debarment

This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The Contractor must comply with 2 C.F.R. pt. 180, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

### 5.3.10 Use of Federal Funds

Federal funds will be used to fund all of this Contract. The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the Contract.

### 5.3.11 Clean Air Act and Federal Water Pollution Control Act

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. The Contractor also agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

### 5.3.12 Data Sharing

To comply with 20 C.F.R. pt. 603, Wis. Stat. § 108.14(7) and Wisconsin Administrative Code ch. DWD 149 ("DWD 149"), the Contractor agrees to the provisions specified the Confidentiality and Safeguards Agreement for Unemployment Insurance Data, which is incorporated herein by reference, for the use of all Unemployment Insurance data disclosed under this Contract.

Note: DWD will providehas provided the draft Confidentiality and Safeguards Agreement for Unemployment Insurance Data (Agreement) for review by Offerors with the finalized RFP as Attachment D. The Contractor shall be required to sign an Agreement upon Contract award.

Under this Contract, DWD will not disclose to the Contractor any Federal Tax information (FTI), including tax returns or return information received directly from the Internal Revenue Service or obtained through an authorized secondary source, such as Social Security Administration (SSA). DWD will also not disclose to the Contractor any information it has received or accessed from the SSA under its Information Exchange Agreement with the SSA. If DWD identifies the need for the Contractor to have access to SSA-provided data during the period of performance,

DWD and the Contractor shall mutually agree to the terms for that data sharing through an amendment to the Contract.

### 5.3.13 Cyber Liability Coverage

DWD requires Professional Liability (Errors and Omissions) with Cyber insurance coverage with the following minimums: five million dollars (\$5,000,000.00) each occurrence or claim, and ten million dollars (\$10,000,000.00) annual aggregate.

Professional Liability/Privacy Liability Insurance shall cover all acts, errors, omissions, negligence, and network risks including coverage for unauthorized access, failure of security, breach of privacy perils, as well as notification costs and regulatory defense in the performance of service for the DWD and the State of Wisconsin. Such insurance shall be maintained in force at all times during the term of the Contract and for a period of three (3) years thereafter for services completed during the term of the Contract.

### 5.3.14 No Exclusivity

The Contractor shall not have exclusive rights to provide all products or services covered under this Contract during the term of the Contract or any renewal of the Contract.

### 5.3.15 Performance of Services in the United States

Pursuant to Wis. Stat. § 16.705, all services provided under this Contract must be performed in the United States.

### 5.3.16 Confidential Information

#### 5.3.16.1 Definitions

5.3.16.1.1 “Confidential Information” means all tangible and intangible information and materials, excluding any Unemployment Insurance Data as defined in the Confidentiality and Safeguard Agreement for Unemployment Insurance Data , being disclosed by one party to another hereunder in connection with this Contract, in any form or medium (and without regard to whether the information is owned by a party 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 State’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; or (iii)

information qualifying as a trade secret, as defined in Wis. Stat. § 134.90(1)(c).

- 5.3.16.1.2 “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 that element is not publicly available information and is not encrypted, redacted, or altered in any manner that renders the element unreadable: (a) the individual’s Social Security number; (b) the individual’s driver’s license number or state identification number; (c) the number of the individual’s financial account, including a credit or debit card account number, or any security code, access code, or password that would permit access to the individual’s financial account; (d) the individual’s DNA profile; or (e) the individual’s unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical representation, and any other unique physical characteristic protected by applicable state or federal law. Such information shall be limited to the information that DWD provides to Contractor or Contractor otherwise acquires from or on behalf of DWD for the purpose of Contractor’s use of such information in the performance of its Services pursuant to the Contract.
- 5.3.16.1.3 “Corrective Action Plan” means a plan mutually agreed upon by the Contractor and the DWD for the Contractor to follow in the event of any actual use or disclosure of any Confidential Information that is not authorized by this Contract, or in the event that any Confidential Information is lost (excluding an unintended deletion) by the Contractor.

#### **5.3.16.2 Duty of Non-Disclosure and Security Precautions**

- 5.3.16.2.1 Each party (each, a “receiving party”) shall not use Confidential Information of the other party (each, a “disclosing party”) for any purpose other than the limited purposes set forth in the Contract and all related and necessary actions taken in fulfillment of the obligations thereunder. The receiving party shall hold the Confidential Information of the disclosing party in confidence and shall not disclose such Confidential Information to any persons other than those directors, officers, employees, and agents of receiving party (and in the case of Contractor, the directors, officers, employees, and agents of its subcontractors, affiliates, and related entities, whether located within or outside of the United States) who have a business-related need to have access to such

information in order to carry out their responsibilities under the Contract, except as otherwise permitted herein. Receiving party's employees with access must be apprised of, and agree to maintain, the confidential nature of such information in accordance with the terms of this Contract.

- 5.3.16.2.2 The prohibition on disclosure of the Contractor's Confidential Information does not apply to DWD to the extent that a third-party requests records obtaining such information and the records are required to be disclosed under the Wisconsin Public Records Law, Wis. Stat. §§ 19.31–19.39.
- 5.3.16.2.3 Each party shall institute and maintain such security procedures as are reasonably required to maintain the confidentiality of the Confidential Information while in its possession or control and shall apply the same level of care as it employs to protect its own Confidential Information of like nature, but at least a reasonable degree of care. Each receiving party agrees that all written notations of confidentiality contained on or included in any item of Confidential Information provided to receiving party by the disclosing party shall be included by receiving party on any reproduction, modification, or translation of such Confidential Information. If requested by disclosing party, receiving party 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 receiving party, as directed.
- 5.3.16.2.4 The Contractor shall return all Personally Identifiable Information it maintains, possesses, or controls upon termination of this Contract, or as otherwise directed by DWD. Notwithstanding the foregoing, the Contractor may retain Confidential Information that has been redacted to eliminate Personally Identifiable Information for archival purposes to evidence Contractor's services under the Contract.

### **5.3.16.3 Limitations on Obligations**

There shall be no obligation of confidentiality with respect to any information (excluding Personally Identifiable Information) that (a) is or becomes publicly available other than as the result of a disclosure in breach hereof by the receiving party; (b) becomes available to the receiving party on a nonconfidential basis from a source that the receiving party believes is not prohibited from disclosing such information to the receiving party; (c) is already known by the receiving party without any obligation of confidentiality with respect thereto; (d) is developed by the receiving party

independently of any disclosures made to the receiving party hereunder; or (e) is required to be disclosed by receiving party by any law, regulation, judicial or administrative process, or in accordance with applicable professional standards or rules, or in connection with litigation or arbitration pertaining to this Contract.

#### **5.3.16.4 Unauthorized Use, Disclosure, or Loss**

Promptly upon becoming aware of any threatened or actual use or disclosure of any Confidential Information of the disclosing party that is in violation of this Contract, the receiving party shall notify the disclosing party promptly, but no later than three business days after receiving party becomes aware of such use or disclosure. Such notice shall include, to the best of the Contractor's knowledge at that time, the Confidential Information disclosed.

The receiving party shall take prompt steps to mitigate any harmful effects of the unauthorized use, disclosure, or loss of Confidential Information of the disclosing party. The receiving party shall reasonably cooperate with the disclosing party's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such threatened or actual breach, or to recover its Confidential Information, including complying with a Corrective Action Plan.

#### **5.3.16.5 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 DWD and the State, which injury will not be compensable by money damages and for which there is not an adequate remedy available at law. Accordingly, the parties specifically agree that the State, on its own behalf or on behalf of the affected individuals, shall be entitled to seek 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 this Contract or under applicable law.

#### **5.3.16.6 Compliance Reviews**

Upon reasonable advance written notice to the Contractor, DWD may conduct a compliance review of the Contractor's security procedures in place to protect its Confidential Information under this Contract. In exercising its rights under this Section, the State shall not interfere with Contractor's performance of services to the DWD.

#### 5.3.16.7 Survival

The respective rights and obligations under this clause shall survive termination or expiration of this Contract.

#### 5.3.17 Contractor Personnel Lists

As soon as practicable after Contract award, the Contractor shall provide DWD a list of all Contractor personnel, including subcontractors, who will be performing work under this Contract. In this list, the Contractor must also note which personnel require access to DWD data or networks.

The Contractor shall also notify DWD of the following changes:

- c. The Contractor shall notify DWD of any new Contractor personnel who will be performing work under the Contract a minimum of 5 business days prior to allowing them to begin performing work.
- d. The Contractor shall notify DWD of any personnel who will no longer be assigned to perform work under this Contract a minimum of 5 business days prior to making the personnel change for planned departures and within 8 business hours for unplanned departures.

#### 5.3.18 Criminal Background Checks

The Contractor shall submit a validation of a criminal background check for each individual assigned to the Contract, including subcontractor personnel. In conducting these required background checks, the following provisions apply:

- g. DWD requires background checks of its contracted personnel for the same policy reasons the state legislature requires a criminal history background check prior to employment for any position that involves fiduciary responsibility per Wis. Stat. § 230.17(3). DWD has determined that these positions involve fiduciary responsibility and are thus subject to background check.
- h. The background check is to check whether a contracted personnel has a conviction record, defined as "information indicating that an individual has been convicted of any felony, misdemeanor or other offense, has been adjudicated delinquent, has been less than honorably discharged, or has been placed on probation, fined, imprisoned, placed on extended supervision or paroled pursuant to any law enforcement or military authority" per Wis. Stat. § 111.32(3).

- i. Prior to conducting work for DWD, the Contractor must run a conviction record background check of each contracted personnel they intend to assign to DWD and make a determination by comparing the position description to the elements of the crimes as to whether the conviction record is substantially related to the position and, therefore, a permitted reason to refuse to employ under Wis. Stat. § 111.335(2)(a).
- j. If the Contractor makes the determination an individual does not have a conviction record substantially related to the position, the Contractor must certify that to us for each contracted personnel assigned to DWD.
- k. If the Contractor makes the determination that the conviction is substantially related, then they must notify DWD of the results if they nonetheless want this individual to perform work under the Contract, so DWD can determine whether mitigating circumstance exist to allow the contracted personnel to perform work at DWD.

#### 5.3.19 UI Security Checks

UI will conduct a security check of all Contractor personnel, including subcontractor personnel, who will have access Unemployment Insurance Data to perform work under this Contract. The Contractor agrees that any Contractor or subcontractor personnel who does not pass this UI security check will not be assigned to perform any work under this Contract.

#### 5.3.20 Identity Verification

The Contractor is responsible for doing I-9/E-verify checks for all Contractor personnel who will be performing work under this Contract.

## Addendum E. Proposal



## Addendum F. Acceptance Criteria

### **Work meets defined acceptance criteria**

Together with the product owner, this team will be comfortable building and maintaining a work inventory. This work inventory keeps the team on track towards the product vision, and serves as a way for stakeholders to track the team's progress.

At the beginning of each sprint, the Product Owner and development team will collaborate to define a set of user stories to be completed during the sprint. Acceptance criteria for each story will also be defined. The development team will deliver code and functionality to satisfy these user stories.

#### Project tasks are meaningful and well-scoped

Performance standard:

- Tasks and user stories are based on user research and feedback
- Tasks are able to be accomplished within one sprint
- Tasks have defined acceptance criteria

Method of assessment:

- Manual review of completed tasks and the work inventory, such as whether tasks tend to be completed within one sprint, performed once per month

#### Work makes progress towards the project's goal

Performance standard:

- Work delivered meets defined acceptance criteria
- New features ship within expected time
- Project roadmap has clear next steps

Method of assessment:

- Manual review of completed tasks and the roadmap, performed once per month

### **Code is tested**

As part of a robust software development practice, the Contractor will ensure that code is working properly. Testing is a key part of this.

#### Code delivered to DWD meets a high standard of code coverage

Performance standard:

- 90% code coverage for all code
- All areas of code are meaningfully tested
- Tests include unit tests, integration tests, and end-to-end tests
- Tests run as part of an automated continuous integration pipeline
- Failing tests are written before coding begins and pass when the feature is complete

Method and frequency of assessment:

- Automated code coverage tool runs as part of Continuous Integration (CI) pipeline. Overall results are reviewed once per sprint.
- Manual review of tests for completeness, performed once per sprint.

Tests simulate the variation in data without using production data

Performance standard:

- Test suite uses randomized data
- Randomized data generation is updated as the data model grows

Method and frequency of assessment:

- Manual review of test suite, performed at its initiation and when new pieces of data are added to the system

Tests simulate the conditions of the production environment

Performance standard:

- The staging environment is able to pass a load test of a representative number of requests per minute

Method and frequency of assessment:

- Manual test using a load-testing tool, performed once per month

## **Code is properly styled and well-structured**

For maintainability and predictability, the Contractor will ensure that code uses a consistent and thoughtful style.

Code is properly styled according to a style guide

Performance standard:

- 0 linting errors

Method and frequency of assessment:

- Automated results from a tool designed for the project's core language, reviewed once per sprint
- Manual review of code exempted from linting, re-assessed once per month

Code is well-structured for maintainability and sustainability

Performance standard:

- 0 warnings from a static analysis tool
- Passing grade from code analysis tool

Method and frequency of assessment:

- Automated results from a tool designed for the project's core language, reviewed once per sprint

## Product is accessible for all users

Users will be able to use the product easily with temporary or permanent disabilities. Section 508 provides minimum standards, and Web Content Accessibility Guidelines 2.1 AA standards supply best practices beyond those. Minimum standards are provided below.

Accessibility is continuously ensured

Performance standard:

- Meets the requirements of the Workforce Innovation Opportunity Act's access requirements for individuals with disabilities found at 29 CFR § 38.15(5). At a minimum, provide electronic and information technologies, applications, or adaptations that:
  - Incorporate accessibility features for individuals with disabilities that are consistent with modern accessibility standards, such as Section 508 Standards (36 CFR part 1194); and
  - Have 0 errors for the Web Content Accessibility Guidelines (WCAG) 2.1 AA or higher standards.

Method and frequency of assessment:

- Automated results from an a11y scanner as part of the CI pipeline, such as [pa11y](#) or [aXe](#), reviewed once per sprint
- Perform manual testing once a month with tools equivalent to [Accessibility Insights](#) and/or U.S. Department of Homeland Security (DHS) Trusted Tester process
- Manual testing of new features using assistive technology, performed once per month

## Product has multilingual support

### Performance standard:

- Provide meaningful access to individuals with limited English proficiency (LEP) in their primary language for all languages encountered by the program or required by law
- User testing includes tests with LEP individuals in their primary language or qualified human translators or interpreters to ensure the translation or interpretation of vital information is accurate

### Method and frequency of assessment:

- Manual review of providing meaningful access to LEP end product users, performed once per month

## Deployment is simple

Code should be deployed frequently, and doing so should be an automated process. Deploying to production should be a minor event. With the recognition that even the best-laid plans go awry, rolling back to the previous version should be simple and fast.

### Code must successfully build and deploy into a staging environment

#### Performance standard:

- Automatic deployment to staging environment completes when code is merged to the relevant branch

#### Method of assessment:

- Manual review of deployment status, performed once per month

### Code is able to be deployed to any environment with a single command

#### Performance standard:

- Deployment to production environment occurs when code is merged to the production branch or when a release is created

#### Method of assessment:

- Manual review of deployment method, performed once per month

### Releases can be rolled back quickly and easily

#### Performance standard:

- Rolling back a release to the previous version takes less than 10 minutes

Method of assessment:

- Practice runs of release rollbacks, performed once per quarter

## **Code and development processes are documented**

Clear, usable documentation is critical to the success of this work. Having a collaborative plan for creating, updating, and assessing documentation is an important part of this work, and empowering the DWD team. Specific documentation types may include:

- System documentation, including all elements required by security compliance processes
- Software development documentation, including installation and instructions for use
- Process documentation for any repeated processes, such as software deployments

As a general guide, any work that is tracked will be documented in some form.

Documentation is up-to-date and available

Performance standard:

- Documentation has prominent timestamps
- Documentation is reviewed for gaps or outdated information
- Documentation is stored in a system owned by DWD and can be directly accessed by DWD staff

Method of assessment:

- Completion of user stories includes updating relevant documentation
- Manual review of documentation, performed once per quarter

Process documentation is easily usable by new team members

Performance standard:

- Documentation is written in plain language for both non-technical users and readers unfamiliar with the project
- Documentation follows a logical step-by-step flow from the perspective of a learner

Method of assessment:

- User testing of documentation, performed once per quarter

Code documentation includes all major functionality in the source code

Performance standard:

- Repository includes narrative documentation of the major components and architectural decisions
- Code includes inline method documentation for all methods
- System diagrams are available for the entire system

Method of assessment:

- All new features include relevant documentation, assessed once per sprint
- Manual review of code documentation, performed once per quarter

## **Product is secure**

Development will follow best practices for application security. Particular care will be taken to tackle security features early in the development process, rather than attempting to add them in later.

Code is free of known vulnerabilities

Performance standard:

- 0 errors from automated static security scanner
- 0 errors from dependency vulnerability scanner
- 0 high or medium errors from a dynamic scanner
- Scan artifacts are stored in a location available to DWD

Method of assessment:

- Automated scans as part of CI pipeline using tools for the project's core programming language, reviewed once per sprint
- Automated scans as part of CI pipeline using OWASP ZAP, reviewed once per sprint
- Manual review of any false positives, re-assessed once per month

## **Product is compliant**

This product will have oversight from DWD's security team as well as the state legislature and federal agencies. The team is encouraged to take a "shift left" approach to compliance requirements in order to avoid unexpected delays.

Compliance tasks are prioritized

Performance standard:

- Team is familiar with the compliance standards, such as the NIST 800-53 baseline and IRS Publication 1075

- Compliance documentation is produced at the same time as the features that they cover

Method of assessment:

- Manual review of work inventory and roadmap, performed once per month

System is positioned to pass audits

Performance standards:

- Compliance documentation is available and up-to-date
- Compliance requirements that are not yet completed are tracked in the work inventory

Method of assessment:

- Practice audit, performed once per quarter

## User research

The work inventory is built from actual user needs. To do this, the team will conduct user research throughout the project. For this, “user” is defined broadly and may include anybody who interacts with the system, including DWD staff and members of the public.

User research is guided by a research plan

Performance standards:

- Research plan covers method and purposes of user research
- Research plan is updated continuously throughout the project
- Research plan is written in plain language for non-expert readers
- User research is performed at regular intervals, not just the beginning and end of the project

Method of assessment:

- Manual review of initial research plan at the end of the second sprint
- Manual re-assessment of research plan, performed once per quarter

Research artifacts are available to all team members

Performance standards:

- Artifacts are either stored in the code repository or linked to from project documentation
- Discussion of research and development is cross-functional rather than siloed by role

Method of assessment:

- Manual review of artifacts, performed as research tasks are completed

## **Code and artifacts are available to DWD**

The trust needed in a collaborative environment is supported by working in the open and being transparent. The COR will have administrative rights to all tools and locations, which may include:

- Task tracking
- Custom code
- Infrastructure-related metrics and data (e.g. uptime, estimated costs)

### **Tools are accessible by DWD**

- The team's task work inventory is accessible to DWD staff
- DWD has administrative rights to any SaaS tools in use by the team
- Any tools or data in use can be easily transferred to DWD at the end of the contract

Method of assessment:

- Manual review of tools in use, performed once per month

### **Code is available and usable by DWD**

Performance standards:

- Custom code is stored in a repository accessible to DWD staff
- Custom code is licensed for continued use by DWD

Method of assessment:

- Manual review of repository, performed once per month

Proposer's Name: Flexion Inc

**TOTAL PROPOSED COST OF  
TECHNICAL APPROACH**

*Complete all tabs. Refer to ILA0050 RFP Section  
4.1.8 Price Submission for detailed instructions.*

<b>Period</b>	<b>Estimated Cost</b>
Base Year	\$ 3,999,006.26
Option Year 2	\$ 4,077,937.46
Option Year 3	\$ 4,158,327.86
Option Year 4	\$ 4,240,542.26
<b>Total Proposed Cost</b>	<b>\$ 16,475,813.84</b>

This is the single dollar figure that you  
are submitting as your price proposal.

IMPORTANT: The figures above will be auto-populated based on the information  
provided on the other tabs. *Complete all tabs.*

**No proposal will be accepted that requires a minimum dollar amount or guarantee a quantity of purchase.**