



STATE OF WISCONSIN
Department of Employee Trust Funds
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 SECRETARY

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Correspondence Memorandum

Date: October 20, 2021

To: Group Insurance Board

From: Douglas Wendt, Supplemental Plans Program Manager
 Tom Rasmussen, Life Insurance and Dental Program Manager

Subject: Long-Term Care Standards and Supplemental Plan Guidelines Changes

The Department of Employee Trust Funds (ETF) requests the Group Insurance Board (Board) approve modifications to the Supplemental Insurance Plan Guidelines (ET-7422) for contracts effective for the 2023 plan year.

Background

The Board oversees several supplemental benefit plans, including supplemental dental, vision, accident, and long-term care (LTC). Supplemental plans are offered to state and local members with no employer contribution. Supplemental Insurance Plan(s) refers to “other group insurance plans” as provided for in Wisconsin § 40.03(6). This includes any insurance plan other than group health, life, income continuation, or long-term care insurance approved by the Board as a voluntary group plan. LTC insurance is an authorized plan offering in Wisconsin § 40.55 and is offered outside of the standard new hire/open enrollment benefit elections.

State agencies, excluding the University of Wisconsin System (UWS) and University of Wisconsin Hospital and Clinics (UWHC), are required to offer only Board-approved supplemental insurance plans. UWS and UWHC have the option to offer Board-approved supplemental insurance plans but may enter into their own agreements with vendors to offer different or additional supplemental insurance options.

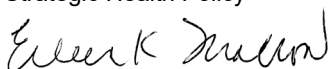
Local government employers can opt in to the supplemental dental, vision, and accident insurance plans.

All State and Local retirees are eligible to enroll in supplemental dental and vision. Retirees may convert to an individual accident plan if the retiree had coverage as an active employee.

Proposed Changes to Supplemental Insurance Plan Guidelines (ET-7422)

- Change contract period from two years to three years to provide a more consistent member experience.

Reviewed and approved by Eileen K Mallow, Director, Office of Strategic Health Policy
 Electronically Signed 11/04/2021



Board	Mtg Date	Item #
GIB	11.17.21	11

- Expand information on the requirement to be able to send claims information to the ETF Data Analytics and Insights (DAISI) data warehouse. This would include wording that implementation of data submissions to DAISI is expected for supplemental vision in 2024. This will result in extra work effort and costs for the vendor.
- Add requirement for vendors to be able to provide and receive repeatable, automatable data interchange with the Department and/or Benefitfocus' Benefitsplace, the new insurance administration system being implemented as part of ETF's modernization initiatives.
 - Enrollment data is not currently exchanged between ETF and the supplemental vendors
- Add deadline for a recommended vendor to sign contract within 30 days after the May Board meeting, which would allow for alternative contracting if a recommended vendor fails to sign a contract.
- Add language for non-recommended vendors to express concerns about the selection process.
- Add explicit wording of which types of plan proposals will be accepted for 2023 contracts.
- Add the following definitions:
 - Administration Manual
 - Calendar Day
 - Local Government
- Update proposal submission instructions, including payment of the actuarial review fee.
- Shorten the timeframe for notification to recommended vendor from 60 days to 30 days prior to the May Board meeting.
- Change the title of Attachment B from "Benefit Design" to "Benefit Design/Cost Proposal."
- Reformat Attachment C "Insurer Acknowledgment" to a check-list format.

Proposed Changes to Long-Term Care Insurance Standards (ET-7423)

- Set next contract period to two years.
 - This will allow for staggering of the LTC contract from vision and accident
- Add deadline for the recommended vendor to sign contract within 30 days after the May GIB meeting; this would allow for alternative contracting if the recommended vendor fails to sign a contract.
- Add a definition for "calendar day."
- Update proposal submission instructions.
- Change the submission deadline from "January 31" to "Last business day in January."
- Shorten the timeframe for notification to recommended vendor from 60 days to 30 days prior to the May Board meeting.
- Add language for non-recommended vendors to express concerns about the selection process.

Long-Term Care Standards and Supplemental Plan Guidelines Changes

October 20, 2021

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- Reformat Attachment C “Insurer Acknowledgment” to a check-list format.

Staff will be available at the Board meeting to answer any questions.

Attachment A: Supplemental Insurance 2023 - 2025 Plan Guidelines (ET-7422)

Attachment B: Long-Term Care Insurance Standards 2023-2024 Program Years (ET-7423)

Supplemental Insurance

2023 - 2025 Plan Guidelines



Effective for Plan Year January 1, 2023 through December 31, 2025

ONLY accepting proposals for: (1) Supplemental Vision (ETB0043) and

(2) Supplemental Accident with an Accidental Death & Dismemberment (AD&D) plans (ETB0044).

We are specifically *not* accepting proposals for a stand-alone Death & Dismemberment (AD&D) plan, hospital indemnity, or critical illness.

Department of Employee Trust Funds
Group Insurance Board
4822 Madison Yards Way Madison,
Wisconsin 53705-9100

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1. Purpose

This document, "Supplemental Insurance Plan Guidelines," or Guidelines, serves as a resource for Insurers interested in offering the State of Wisconsin, and in some cases local government employees, supplemental insurance plans. It sets forth the requirements Insurers must meet to offer these plans, provides the instructions Insurers must follow for submitting a proposal, and outlines the criteria the evaluators will review in making their contracting recommendation to the Group Insurance Board (Board), who will determine one (1) Insurer/Proposer to contract with for each type of supplemental insurance.

2. Definitions

- A. **Administration Manual (ET-1158)**: provides guidelines to the supplemental program vendors on how to administer the supplemental plans and is found on ETF's website here: <https://etf.wi.gov/resource/state-wisconsin-supplemental-benefit-plans-administration-manual>
- B. **Business Day**: Monday through Friday, excluding holidays observed by the Department of Employee Trust Funds.
- C. **Calendar Day**: A twenty-four (24) hour day from midnight to midnight denoted on a calendar. Calendar Days include Saturdays, Sundays and Holidays.
- D. **Contract**: Contract between an Insurer and the Board related to the offering of a Supplemental Insurance Plan(s) to State of Wisconsin Eligible Employees. Some Contracts may also include local government employees, state retirees and local retirees.
- E. **Eligible Employee**: Defined in [Wis. Stat. § 40.02\(25\)](#)
- F. **Group Insurance Board (Board)**: The eleven (11) member Board that sets policy and oversees administration of the group health, life insurance, supplemental, pharmacy, wellness, uniform dental and income continuation insurance plans for state employees, retirees and the local employers who choose to offer them. The Board's authority is governed by [Wis. Stat. § 40.03 \(6\)\(b\)](#). For more information on the Board, visit etf.wi.gov/boards/board_gib.htm
- G. **Insured**: The employee, retiree or their dependents that are covered by a supplemental, employee-pay-all policy offered by the Board.
- H. **Insurer**: For purposes of this document, Insurer refers to the company offering and underwriting the Supplemental Insurance Plan(s).
- I. **Local Government** means a State of Wisconsin government entity, other than a State agency or the University of Wisconsin System, that is eligible to participate in the Program.
- J. **State**: State of Wisconsin
- K. **Supplemental Insurance Plan(s)**: This term has the same meaning as, "other group insurance plans" as provided in [Wis. Stat. § 40.03 \(6\)\(b\)](#). It includes insurance plans that are approved by the Board as voluntary group plan offerings for state employees with 100% of the premium paid by employees through payroll deduction. Examples of insurance plans falling under this definition include but are not limited to: accidental death and dismemberment, accident, critical illness, hospital indemnity, vision and dental and specific disease. Note that group health insurance, life insurance, income continuation insurance and long-term care insurance are part of different programs.
- L. **Subscriber**: An Eligible Employee enrolled in a Supplemental, employee-pay-all, Insurance Plan.

3. Statutory and Administrative Authority

- A. The Board is given the following statutory and administrative authority related to Supplemental Insurance Plans:
1. The Board is given authority under [Wis. Stat. § 40.03 \(6\) \(b\)](#) to provide group insurance plans in addition to plans provided for in [Wis. Stats. Chapter 40](#) to retirees, employees and their dependents.
 2. The Board is charged by [Wis. Stat. § 20.921 \(1\) \(a\) \(3\)](#) and [Wis. Admin. Code § ETF 10.20](#) to approve or disapprove group insurance plans for which payment of premium is made through payroll deductions.
 3. Fees for program administration are authorized under [Wis. Stat. § 40.04 \(2\) \(c\)](#) (see administrative fee explanation under Insurer Responsibilities).

4. Supplemental Insurance Plan Requirements

In order to be considered for approval, each proposed plan must:

- A. Be approved as a policy by the State of Wisconsin Office of the Commissioner of Insurance (OCI) if applicable
- B. Be a group insurance plan; *not* individual policies marketed as a group plan.
 1. For rating purposes, the “group” consists of all Eligible Employees, their spouses and other dependents, and retired Eligible Employees within limits proposed by the Insurer.
- C. Meet all the requirements set forth in the Board approved in these Supplemental Plan Guidelines.
- D. Meet all applicable requirements listed in Attachments A through G.

5. Insurer Responsibilities

Insurers interested in offering a Supplemental Insurance Plan must meet and agree to the requirements as listed below.

A. General

1. The Insurer must hold a license from the State of Wisconsin OCI to conduct the business of insurance in this State.
2. The Insurer must have at least two years of operating experience in the State of Wisconsin
3. The Insurer must satisfy payment of the annual administrative fee. ETF will invoice the Insurer an administrative fee of one percent (1%) of the *estimated* total yearly premium collected by Insurer from Subscribers. By April 15 of each year, the Insurers will submit a Subscriber Report to ETFSMBInsuranceSubmit@etf.wi.gov which, among other things, includes Insurers’ actual first-quarter premiums, collected from Subscribers between January 1 through March 31 (see Attachment D Reporting and Performance Standards). ETF will multiply the actual first-quarter premium by four (4) quarters in a year, in order to calculate an *estimated* total yearly premium paid by Subscribers. One percent (1%) of the *estimated* total yearly premium will be invoiced to Insurer. Insurer will remit payment of invoice to ETF thirty (30) days after receipt.

B. Plan Administration

1. Each plan must maintain a minimum annual claim/premium loss ratio of 75%.
2. Each plan’s premium increase may not exceed 5% annually.
3. Each plan must offer an open enrollment opportunity every year.

4. Newly Eligible Employees must be allowed to enroll, provided an application is submitted within 30 days of eligibility.
5. The Insurer will work directly with ETF staff and assist payroll centers and employers with technical implementation and ongoing maintenance of each plan.
6. The Insurer must be able to accept eligibility file transmissions and offer an online enrollment portal for small employers.
7. Eligible Employees and his/her eligible dependents must be allowed to enroll without restrictions or benefit limitations due to a Health Insurance Portability and Accountability (HIPAA) qualifying event, such as loss of other comparable coverage, marriage, birth or adoption.
8. Retirees must be allowed to enroll in the plan unless the proposal can demonstrate negative impacts on premium rates, or substantial constraints for continuing to administer the plan if retirees are included. This must be approved by the Board.
9. Submit data regarding enrollment, provider networks, utilization, service level statistics and performance standards which must be reported on a quarterly basis, including an aggregate data submission annually.
10. Submit accurate claims and provider data to ETF's data analytics warehouse (DAISI) for internal business use. Note: ETF expects to implement this capability for the supplemental vision plan during the 2023-2025 contract period. The vision vendor must work with ETF and ETF's data warehouse vendor in the implementation and testing of this capability. See Attachment E – Data Warehouse File Requirements (example, using supplemental dental). The supplemental vision file requirements will be similar but unique to vision.
11. Incumbent vendor to submit historical cost and enrollment data for ETF to provide as an attachment to this document for the next proposal submission period.
12. The Department is in the process of implementing Benefitfocus' Benefitplace eligibility and enrollment software and service and the contracted supplemental vendors will need to submit and/or receive data to/from the Department and/or Benefitfocus. The supplemental insurer will be required to have the ability to provide and receive repeatable, automatable data interchange with the Department and/or Benefitfocus.

C. Marketing, Materials and Member Resources

1. A Contract with the Board must be in place prior to any marketing activity or distribution of materials to Eligible Employees. The Contract must be signed by the Insurer before the annual May Board meeting.
2. All marketing and informational materials provided to Eligible Employees must have *prior approval* from ETF, including materials distributed plan-wide every time the material is distributed. Approval of marketing materials by OCI is not a substitute for ETF approval.
3. The Insurer must have a phone number for Eligible Employees, staffed to adequately answer member, employer or payroll center calls with questions about enrollment, claims or benefits in a timely manner. See Attachment D for required times for answering member and payroll inquiries.
4. Upon ETF request, the Insurer must provide hard paper copies of brochures, applications, communications, notices and reporting forms to ETF staff, State of Wisconsin employers, Eligible Employees, agencies or payroll centers upon request. The Insurer must notify ETF of all requests for materials.
5. The Insurer must notify the ETF program manager of any requests for presentations to

employers, agencies or payroll centers. The Insurer must notify ETF of the request prior to accepting the invitation to present and provide ETF with the opportunity to review any presentation materials no less than five (5) Business Days prior to the materials being due.

6. The Insurer must provide a State of Wisconsin employer group-specific website available to Eligible Employees prior to the annual open enrollment period. This website must include the following at a minimum:
 - a. Information summarizing benefits and exclusions,
 - b. Provider directory or provider search function, where applicable,
 - c. Links or access to *all* plan forms for Eligible Employees and employers without requiring login,
 - d. Access to online processes for enrollment,
 - e. Information on continuation coverage and how to report status changes,
 - f. Customer service phone number and email address for Eligible Employees, and
 - g. Resources for Eligible Employees to file a grievance or appeal.

D. Member Complaints and Grievances

The Insurer agrees to provide the following to Eligible Employees:

1. A method whereby the Insured who filed the grievance, or the Insured's authorized representative, has the right to appear in person or by telephone before the grievance panel to present written or oral information.
2. A written notification to the Insured of the time, telephone number to use to appear via telephone and physical location of the grievance meeting at least seven (7) calendar days before the meeting.
3. A written acknowledgement to the Insured or the Insured's authorized representative confirming receipt of the grievance within five (5) Business Days of receipt of a grievance.
4. Detailed complaint and grievance process in the policyholder certificate. The [ETF Insurance Complaint Form \(ET-2405\)](#) details the ETF process.

6. Board Responsibilities

- A. In accordance with [Wis. Admin. Code § ETF 10.20 \(1\) \(a\)](#), the Board will determine whether an Insurer qualifies to offer a particular program through consideration of, but not limited to, the following factors:
 1. Number of employees affected.
 2. Amount and variation in premiums.
 3. Adequacy of other approved coverage providing the same or similar protection.
 4. History, performance and acceptance of the plan by the employees.
 5. Reference checks.
- B. The Board will limit the number of approved Insurers to **one plan for each plan type**.
- C. The Board reserves the right to deny an Insurer and/or plan proposal for up to three (3) years if the Insurer has in the past been unable to meet the minimum loss ratio. Any plan proposal from

an Insurer who has a history of not meeting the minimum loss ratio will need to include a detailed explanation of how the proposed plan will meet ETF's minimum loss ratio.

- D. The Board may withdraw its approval if Insurers and the Supplemental Insurance Plans they offer fail to meet requirements detailed in these guidelines, its attachments, or the Contract.

7. Submitting a Proposal

The process for submitting a proposal is as follows:

- A. Insurer reviews this document and Attachments A - G thoroughly to understand all requirements and expectations.
- B. Insurer should contact ETF at ETF SMBInsuranceSubmit@etf.wi.gov with any questions about the Insurer's responsibilities and requirements *prior to submitting the signed proposal*.
- C. At a minimum, Insurer's submission shall include the following two (2) files:
1. Insurer's unredacted Proposal. The file name for this document should be “[Insurer name] Proposal – Supplemental [plan name]”. This file must contain all electronic, unredacted Proposal files in Microsoft Word/Microsoft Excel, and/or Adobe Acrobat 9.0 (or above) format. The Department requires that all files have optical character recognition (OCR) capability (not a scanned image). Do not include Attachment B – Benefit Design/Cost Proposal in this file.
 2. Insurer's Attachment B – Benefit Design/Cost Proposal. The file name for this document should be “[Insurer name] Attachment B – Benefit Design/Cost Proposal – Supplemental [plan name]”. This file must contain Insurer's completed Attachment B – Benefit Design/Cost Proposal. Costs provided in Insurer's Cost Proposal shall NOT be redacted for confidentiality.
- IF the Proposal includes confidential or proprietary information, include a file labeled “[Insurer name] Redacted Proposal – Supplemental [plan name]”. This file must contain all electronic Proposal files in Microsoft Word/Microsoft Excel, and/or Adobe Acrobat 9.0 (or above) format **EXCLUDING or REDACTING** all confidential and proprietary information/documents. Insurer should be aware that the Department may need to electronically send the redacted files to members of the public and other Proposers when responding appropriately to public records requests. Note that no matter what the method the Insurer uses to redact documents in this file, the Department is not responsible for checking that the redactions match the Proposer's Attachment G – Designation of Confidential and Proprietary Information. The Department is not responsible for checking that redactions, when viewed on-screen via electronic file, cannot be thwarted. The Department may post redacted Proposals on the Department's public website in exactly the same file format the Insurer provides, and the Department is not responsible if the redacted file is copied and pasted, uploaded, emailed, or transferred via any electronic means, and somehow loses its redactions in that process. **Do not include Attachment B – Benefit Design/Cost Proposal in this file.**
- Redact only material the Insurer authored.
 - Do not redact page numbers. Page numbers should remain visible at all times, even if the whole page is being redacted.
- D. Insurer must submit along with your proposal by the due date (see E. below) \$5,000 for *each* proposal submitted as payment for the independent third-party actuarial review fee. The check should be payable to Milliman, Inc., identified as payment for the actuarial review for the supplemental plan bid process, and mailed to ETF at the following address:
- Wisconsin Department of Employee Trust Funds
Attn: Supplemental Plan Actuarial Fee
c/o Department of Trust Finance, Accountant
P.O. Box 7931
Madison, WI 53707-7931

- E. All proposals are due no later than 2:00 p.m. CST on the last Business Day of January to ETFSMBInsuranceSubmit@etf.wi.gov AND ETFSMBProcurement@etf.wi.gov. Proposals received by the Department after this date and time may not be accepted and may be disqualified. All required parts of the Proposal must be submitted by the specified due date and time; if any portion of the Proposal is submitted late, the entire Proposal may be disqualified.

8. Review and Approval Process

- A. ETF notifies an Insurer within ten (10) Business Days that the submission has been received and whether it is deemed complete.
1. If ETF does not receive a complete proposal within five (5) Business Days of notification to the Insurer that a proposal is missing information, the proposal may not be considered.
- B. ETF reviews the proposal.
1. Review by the Board's consulting actuary is necessary and will range from brief to extensive, based on the features of the plan and clarity of the proposal submitted.
 2. The review process may include discussions between the Insurer and ETF, an evaluation committee of employer representatives and/or the consulting actuary.
 3. Any modifications by the Insurer to the proposal must be received electronically by ETF no later than six (6) weeks prior to the scheduled Board meeting where the proposal will be discussed
 4. ETF will contact all references provided in the proposal on behalf of the Board.
- C. ETF finalizes the review and prepares a recommendation for the Board.
1. ETF will notify the Insurer selected for each benefit type within thirty (30) days prior to the May Board meeting.
 2. ETF will provide the selected Insurer with the Contract for review with notification of their selection.
 3. The Insurer must provide an Insurer-signed copy of the Contract to ETF **prior to the May Board meeting**, for signature by the Board Chair if approved by the Board.
 4. ETF will provide advance notification of the recommendation to non-selected Insurers at least two (2) weeks prior to the May Board meeting.
- D. The Board will determine one (1) Insurer/Proposer to contract with for each type of supplemental insurance at a publicly noticed Board meeting.
1. A spokesperson for the Insurer should be present at the May Board meeting (by phone or in person).
 2. The agenda and documents for Board meetings are posted to etf.wi.gov prior to each meeting.
- E. If the Board selects the ETF recommended Insurer/Proposer, ETF will provide the Insurer-signed final version of the Contract to the Board Chair for signature after the May Board meeting and return a fully-executed copy to the Insurer for their records. If the Board selects a different Insurer/Proposer, the Insurer must provide an Insurer-signed copy of the Contract to ETF no more than thirty (30) calendar days after the May Board meeting, for signature by the Board Chair. ETF will then provide the Insurer-signed final version of the Contract to the Board Chair for signature and return a fully-executed copy

to the Insurer for their records. If Insurer does not provide an acceptable Insurer-signed copy of the Contract before thirty calendar days after the May Board meeting, the Board may contract with a different Insurer/Proposer.

- F. Any Insurer/Proposer who the Board chooses not to contract with may:
1. Request to virtually meet with the ETF supplemental project manager and ETF procurement staff to identify any concerns with the process or recommendation; and
 2. Write a letter to the Board to identify concerns with the selection and submit it electronically to ETFSMBBoardFeedback@etf.wi.gov

9. Additional Information

- A. Please send questions related to the Supplemental Plan approval process to: ETFSMBInsuranceSubmit@etf.wi.gov
- B. The attachments to these guidelines are:
1. Attachment A: Proposal Submission Checklist
 2. Attachment B: Benefit Design/Cost Proposal
 3. Attachment C: Insurer Acknowledgement
 4. Attachment D: Reporting and Performance Standards
 5. Attachment E: Data Warehouse File Requirements
 6. Attachment F: Department Terms and Conditions (version 7.1.2020)
 7. Attachment G: Designation of Confidential and Proprietary Information

Attachment A

Proposal Submission Checklist

Insurers must submit the following information electronically to the Department of Employee Trust Funds Office of Strategic Health Policy at ETFMSBInsuranceSubmit@etf.wi.gov and ETFMSBProcurement@etf.wi.gov

ETF reserves the right to request paper copies. Requested paper copies are expected within ten (10) Business Days of the request.

Tab 1: General Information

- Cover letter, including an executive summary of the proposal.
- Table of contents, clearly labeled with page numbers.
- This Attachment A: Proposal Submission Checklist, complete.
- Contact information for the representative(s) responsible for responding to follow up questions related to the proposal.

Name of Proposal Contact:	
Title:	
Mailing Address:	
Phone Number (direct):	
Email Address:	

- Provide the name, title, phone number and email address for the representative(s) who will manage Contract negotiation and administration.

Name of Account Manager:	
Title:	
Mailing Address:	
Phone Number (direct):	
Email Address:	

- Provide the name of the specific insurance plan the Insurer is interested in offering State employees. *Note:* this is the name of the plan presented within the proposal; other plans not listed will not be considered for approval. Also provide the Office of the Commissioner of Insurance (OCI) identification number and date the Insurer was most recently licensed by Wisconsin OCI.

Specific Name of Insurance Plan Proposed:	
OCI Identification Number:	
Date of Most Recent WI OCI license:	

- Provide *three (3), non-ETF*, client references below. Please be sure each Reference contact listed has experience with the insurance product for which vendor is submitting a proposal. References must include two (2) large-group employers and one public-sector group at minimum.

Reference 1

Organization Name:	
Contact First and Last Name:	
Contact Phone:	
Contact Email:	
Product Lines Offered:	
Number of Covered Lives:	
Contracted Years:	

Reference 2

Organization Name:	
Contact First and Last Name:	
Contact Phone:	
Contact Email:	
Product Lines Offered:	
Number of Covered Lives:	
Contracted Years:	

Reference 3

Organization Name:	
Contact First and Last Name:	
Contact Phone:	
Contact Email:	
Product Lines Offered:	
Number of Covered Lives:	
Contracted Years:	

Tab 2: Benefits and Materials

- Complete Attachment A for the corresponding type of plan(s) proposed.
- Provide an itemization of costs for any bundled benefit proposals, include a breakdown by benefit type and member type (active employee, retiree, etc.)
- Provide a sample brochure, specifically drafted plans available to the State of Wisconsin Group.
- Submit a marketing plan, detailing the electronic and print materials that will be available to Eligible Employees. For reference, the State of Wisconsin employee and annuitant benefit information is found at etf.wi.gov/benefits
- Submit a premium schedule for each plan. *Note:* A minimum loss ratio of 75% must be maintained annually. Insurers must submit actuarial data to justify any ratio below 75%. Include the forecasted loss ratio for each premium schedule submitted. Any loss ratio below 75% without actuarial data justifying the ratio and a plan in increase the lossratio may lead to a return of a portion or the entirety of premiums to Eligible Employees.

Tab 3: Actuarial Analysis

- Submit an actuarial analysis of the proposed plan for the State of Wisconsin Group.
- Submit a detailed description of the Insurer's rating process.
- Submit the following financial documents to demonstrate financial stability:
 - Balance sheet.
 - Statement of operations.
 - Audited financial statement by a certified public accountant in accordance with generally accepted accounting principles.
 - Utilization statistics.
 - Results from the most recent financial examination completed by the State insurance regulator.

Tab 4: Performance Standards & Reporting

- Submit current service level guarantees in the areas of:
 - Customer Service.
 - Grievances and Appeals.
 - Enrollment.
 - Claims Accuracy and Timeliness.
- Review and agree to meet the performance standards contained in Attachment D.
- Confirm whether the Insurer's service level guarantees currently align with the performance standards defined in Attachment D. If not, explain in detail how you intend to ensure those standards will be met within six (6) months of entering into a Contract with the Board. Include a list of steps you plan to take to meet these standards.

Attachment B - Benefit Design/Cost Proposal

State of Wisconsin
Supplemental Insurance Program

Use the Excel workbook at this link to complete Attachment B – Benefit Design/Cost Proposal:
etf.wi.gov/publications/GuidelinesAttachmentB-BenefitDesign-Page9.xlsx

For All Supplemental Plan Proposals:

- Complete one table for each plan proposed; use additional sheets if necessary.
- Incomplete Attachment B - Benefit Design/ Cost Proposal submissions will not be considered.
- If the proposed plan type does not appear in a tab within the spreadsheet, please email ETFSMBInsuranceSubmit@etf.wi.gov for further instruction.

Attachment C

Insurer Acknowledgment

State of Wisconsin Supplemental Insurance Program

Instructions:

1. Check "Agree" or "Disagree" to each requirement as appropriate.
2. Complete the "ACKNOWLEDGE AND ACCEPT" section:
 - Print company name.
 - Print the name of the representative signing this form (must be authorized to legally bind the company).
 - Sign and date.

Supplemental Insurance Requirements	Agree	Disagree
A. Insurer agrees to all Wisconsin Department of Employee Trust Funds (Department) terms and conditions in Attachment F of this document. Exceptions to the terms and conditions language will not be considered. Any clarifications to the terms and conditions must be sought and determined by ETF prior to the submission of the proposal.	<input type="checkbox"/>	<input type="checkbox"/>
B. Insurer understands that the Department is in the process of implementing Benefitfocus' Benefitplace eligibility and enrollment software and service and the contracted supplemental vendors will need to submit data to and/or receive data to/from the Department and/or Benefitfocus. Insurer understands that the supplemental vendors will be required to have the ability to provide and receive repeatable, automatable data interchange with the Department and/or Benefitfocus. Are you a part of the Benefitfocus Benefit Catalog Vendor program? If so, please provide us with your vendor or partner identification number.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Yes <input style="width: 50px; height: 15px;" type="text"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> No
C. Insurer agrees to all responsibilities and requirements outlined in this document, Supplemental Insurance Plan Guidelines (ET-7422) , including all Attachments A through G.	<input type="checkbox"/>	<input type="checkbox"/>
D. Insurer has the ability to exchange data electronically with existing or emerging State of Wisconsin benefits systems for payroll and annuities, including but not limited to: D.1. Exchange of enrollment data in the 834-eligibility file format. D.2. Reconciliation of premiums. D.3. Flexibility to accommodate retroactive enrollment changes which may result in premium and/or claim adjustments.	<input type="checkbox"/>	<input type="checkbox"/>
E. Insurer agrees not to modify benefits or premiums during the coverage period, unless such change is necessary to comply with state or federal law, regulation or court order.	<input type="checkbox"/>	<input type="checkbox"/>
F. Insurer agrees to satisfy payment of the annual administrative fee of one percent (1%) of the <i>estimated</i> total yearly premium collected by Insurer, assessed by ETF for administration of the plan within 30 days of receipt of invoice.	<input type="checkbox"/>	<input type="checkbox"/>
G. Insurer has submitted payment of \$5,000 to ETF for each proposal submitted as payment for the third-party actuarial review fee. Checks should be made out to ETF's third-party actuary Milliman,	<input type="checkbox"/>	<input type="checkbox"/>

Inc. and submitted along with Insurer's Proposal by 2:00 p.m. CST on the last Business Day in January.		
H. Insurer has no outstanding debts to ETF or ETF's third-party actuary.	<input type="checkbox"/>	<input type="checkbox"/>
I. Insurer agrees to submit accurate claims and provider data to ETF's data warehouse vendor for internal business use, upon ETF request.	<input type="checkbox"/>	<input type="checkbox"/>
J. Insurer agrees to provide all reports to ETF as laid out in Attachment D of this document with data from ETF subscribers, not the Insurer's book of business.	<input type="checkbox"/>	<input type="checkbox"/>
K. Insurer understands that Attachment E – Data Warehouse file requirements are a sample provided using supplemental dental data file requirements and agrees to provide similar data file requirements for supplemental vision and/or accident as agreed upon with ETF.	<input type="checkbox"/>	<input type="checkbox"/>
L. Insurer agrees to establish a website for ETF's Eligible Employees dedicated to providing information about the benefit being offered, how to apply for the benefit and any other applicable information for ETF's Eligible Employees.	<input type="checkbox"/>	<input type="checkbox"/>
M. Insurer agrees to send informational materials to Eligible Employees at ETF's discretion (i.e. in the event of a large-scale error or legislative change, upon the Insurer's acceptance into or termination from the program, etc.) via U.S. mail unless otherwise agreed to by ETF.	<input type="checkbox"/>	<input type="checkbox"/>
N. Insurer acknowledges that a contract must be signed by the Insurer prior to the annual May Board meeting where the Board will determine one (1) Insurer/Proposer to contract with for each type of supplemental insurance for the following plan year. Failure to sign the contract timely will disqualify the Insurer from consideration.	<input type="checkbox"/>	<input type="checkbox"/>

By signing hereunder, the Insurer hereby agrees to the responsibilities as outlined in Attachment C above.

ACKNOWLEDGE AND ACCEPT:

This form has been reviewed by me and shall become part of the final Contract. I am a duly authorized representative of my company and have the authority to legally bind my company. I hereby acknowledge and accept responsibility for the accuracy of the responses given above. I further accept that my company's Proposal *may* be rejected on the grounds that any item listed above is marked as "Disagree." I have specified and provided a reason for any answer marked as "Disagree" in my company's Proposal.

Proposer Company Name:	Click or tap here to enter text.
Name & Title of Authorized Representative:	Click or tap here to enter text.
Authorized Representative Signature:	
Signature Date:	Click or tap here to enter text.

ATTACHMENT D

Reporting and Performance Standards

Reporting requirements are specific to the data from the Supplemental Insurance Plan, not general data from the Insurer's book of business. Performance will be measured by ETF on a quarterly basis. ETF reserves the right to waive a penalty in certain circumstances when ETF determines it is warranted.

1. Claim Processing

Performance Standards	Penalties
<p>Processing Accuracy: At least ninety-seven percent (97%) incidence of claims processed without any error. Calculated as the total number of claims processed correctly divided by the total number of claims processed. Processed is defined as the handling of a claim by paying, denying or closing it through a request for additional information. The claims processing accuracy measure recognizes all claim errors, not just errors that result in an under or over payment.</p>	<p>Two thousand and five hundred (\$2,500) dollars for each percentage point for which the standard is not met each quarter.</p>
<p>Claims Processing Timeliness or Turnaround Time (TAT): At least ninety (90%) of claims correctly adjudicated within fourteen (14) calendar days. TAT is measured from the date a claim is received to the date it is adjudicated (paid, denied, or pending).</p>	<p>Two thousand and five hundred (\$2,500) dollars for each percentage point for which the standard is not met each quarter.</p>

2. Customer Service

Performance Standards	Penalties
<p>Call Abandonment Rate: No more than three percent (3%) of calls abandoned, measured by the number of total calls that are not answered by customer service (caller hangs up before answered) divided by the number of total calls received.</p>	<p>Two thousand and five hundred (\$2,500) dollars for each percentage point for which the standard is not met each quarter.</p>
<p>Open Call Resolution Turn-Around-Time: At least ninety percent (90%) of customer service calls that require follow-up or research will be resolved within two (2) Business Days of initial call. Measured by the number of issues initiated by a call and resolved (completed without need for referral or follow-up action) within two (2) Business Days, divided by the total number of issues initiated by a call.</p>	<p>Two thousand and five hundred (\$2,500) dollars for each percentage point for which the standard is not met each quarter.</p>
<p>Electronic Written Inquiry Response: At least ninety-eight percent (98%) of customer service issues submitted by email and website are responded to within two (2) Business Days.</p>	<p>Two thousand and five hundred (\$2,500) dollars for each percentage point for which the standard is not met each quarter.</p>
<p>Non-Disclosure: The vendor shall not use or disclose names, addresses, or other data for any purpose other than specifically provided in the Contract.</p>	<p>The return of a portion or the entirety of premiums to Eligible Employees.</p>

3. Expectations

- Telephone access for Eligible Employee Eligible Employees: Available 7:30 a.m. - 5:00 p.m. Central Time. Monday - Thursday and 7:30 a.m. - 4:30 p.m. Central Time Friday, except for legal State holidays and mutually agreed upon Insurer holiday which will be updated and provided to ETF yearly by email.
- Web portal availability: Portal cannot be unavailable for full member access for more than six (6) non-peak hours per month.
- During open enrollment period at least ninety-nine percent (99%) complete enrollment with fifteen (15) Business Days after close of open enrollment period.
- Outside of the open enrollment period when there are new hires or changes in eligibility at least ninety-nine percent (99%) complete enrollment within five (5) Business Days of receipt of completed paperwork.
- Census file accuracy: Reconciliation of agency payroll records must happen within five (5) Business Days of receipt
- Membership cards to members: Members who enroll during the designated open enrollment period must receive their cards no later than January 1 of each year:
 - New hire or life event changes: Must receive their ID card within ten (10) Business Days of processing enrollment or change
- Disenrollment: Processed within five (5) Business Days of receipt
- Inquiries from a payroll office or ETF staff must be acknowledged within one (1) Business Day and a completed response needs to be provided within five (5) Business Days ninety-five percent (95%) of the time.
- Direct member inquiries must be acknowledged within two (2) Business Days and be provided with a completed response within five (5) Business Days ninety-five percent (95%) of the time.
- Refunds: Accurate refunds must be issued within fifteen (15) days of receipt of complete documentation ninety-eight percent (98%) of the time.
- Member grievances must always follow the process and timeline in [Wisconsin Administrative Code INS Chapter 18](#).

4. Reports

Frequency	Description	Due Date	Penalty
Quarterly	Submit customer service and enrollment statistics spreadsheet to ETFSMInsuranceSubmit@etf.wi.gov and copy the supplement program manager.	Due 30 days after end of quarter	One thousand (\$1,000) dollars per Business Day for which the standard is not met.
Annually	<p>Submit Report to ETFSMInsuranceSubmit@etf.wi.gov, and copy the supplement program manager.</p> <p>Data in requested report from January 1 - December 31 of previous year</p> <ul style="list-style-type: none"> • Total number of subscribers (include active and retired) • Number of dependents • Subscriber gender • Number of subscribers per agency • Number of subscribers by state • Number of Wisconsin subscribers by county • Number of local government subscribers and dependents (if applicable) • Total premiums collected from subscribers • Total amount paid in claims; • Number of claims incurred; • Loss ratio submit • Report of member grievances and resolution 	No later than 2:00 PM CST on the last Business Day in January.	One thousand (\$1,000) dollars per Business Day for which the standard is not met.
Annually	<p>Submit Report to ETFSMInsuranceSubmit@etf.wi.gov and copy the supplement program manager.</p> <p>Data in submission is from January 1 - March 31 of current calendar year.</p> <p>Include:</p> <ul style="list-style-type: none"> • Total number of subscribers (include active and retired) • Number of dependents • Subscriber gender • Number of subscribers per agency • Number of subscribers by state • Number of Wisconsin subscribers by county • Total premiums collected from subscribers from January 1 - March 31 • Total amount paid in claims • Number of claims incurred • Loss ratio submit • Report of member grievances and resolution 	Due by April 15 of each year.	One thousand (\$1,000) dollars per Business Day for which the standard is not met.

ATTACHMENT E - Data Warehouse File Requirements

5. Data Warehouse File Requirements

The Contractor shall cooperate with the Department's designated data warehouse vendor by submitting the required data for Benefits provided to Participants under this Contract.

1) Data Submission Requirements

The Contractor shall comply with the Department's specifications for submission of the required data in the formats attached to this Contract, and as updated by the Department. To comply with the data submission requirements, the Contractor shall follow the specified data file layout and formatting of all data elements within the specified data file layout and the Department's specifications for data filtering and extraction. All file formats are subject to change as determined by the Department, to better serve the needs of the Program.

- a) Data submitted by the Contractor to the Department's data warehouse shall include all of the following:
 - i. Data for all claims processed for Participants for Benefits provided under this contract. Payment data shall include claim payments made or denied, capitation or per-member payments, administrative payments, and payments made after coordinating responsibility with third parties.
 - ii. Data on other financial transactions associated with the claim payments, including charged amount, allowed amount, per-claim rebates, discounts, payments made by third-party insurance, including Medicare, and charges to members as co-payments, coinsurance, and deductibles.
 - iii. Data on the providers of Benefits provided under this Contract.
 - iv. Data on all Participants enrolled for Benefits provided under this contract, including demographic and enrollment information.
 - v. Data for all In-Network providers including subcontracted providers, as specified by the Department.
 - vi. Other data, as specified by the Department.

- b) Data submitted to the Department's data warehouse shall meet all of the following requirements:
 - i. The Contractors shall submit, in the most recent file format specified by the Department, all claims processed for Participants.
 - ii. The Contractors shall submit, in the most recent file format specified by the Department, the specified data for all In-Network providers including subcontracted providers.
 - iii. The Contractors shall submit, in the most recent file format specified by the Department, the specified data for all Participants enrolled.
 - iv. The claim adjustment data the Contractor submits shall follow the logic the Department's data warehouse vendor defines in the data specifications.
 - v. On all files, the Contractors shall supply the 10-digit National Provider Identifier (NPI) as issued by the US Centers for Medicare and Medicaid Services' National Plan and Provider Enumeration System (NPPES), if applicable.

2) Data Transmission

The Contractor shall establish and maintain a secure data transfer with the Department's data warehouse. The Contractor shall follow the data transmission instructions provided by the Department's data warehouse vendor, which shall include industry-standard electronic transmission methods via secure Internet technology.

3) Submission Timeline

The Contractor shall submit the required data on a monthly basis, or other frequency agreed upon by the Contractor and the Department.

The Contractor shall submit data, and corrected data when necessary, by the dates indicated by the Department's data warehouse vendor. Specifically:

- a) All data for claims paid in the previous month shall be submitted in the correct file layout to the Department's data warehouse on the date of the month following the date of payment to the provider as approved by the Department, or another time period approved by the Department.
- b) All network provider enrollment data for the previous month shall be submitted to the Department's data warehouse in the correct file layout on the date approved by the Department of the month following the month of the provider's enrollment.
- c) All Participant data for the previous month shall be submitted to the Department's data warehouse in the correct file layout on the date approved by the Department in the month following the month of the Participant's enrollment.
- d) The Contractor shall communicate any delays in submitting the required program data to the Department's data warehouse vendor via email to the Department Program Manager or designee and the designated data warehouse vendor as soon as the delay is known, but at least one (1) Business Day before the scheduled transfer as described above.
- e) Within two (2) Business Days of notification, unless otherwise approved by the Department in writing, the Contractor shall resolve any data errors on the file as identified by the Department's data warehouse vendor or the Department and resubmit the data to the data warehouse.
- f) The Department shall charge the Contractor a penalty for each data file submitted after the deadlines established above. For files that are delayed by no more than five (5) calendar days and for which the Contractor provided the Department with notice of delay at least one (1) Business Day prior to the scheduled transfer date, the penalty shall be waived.

4) Data Dictionary

The Contractor shall submit documentation on its data files including a data dictionary. The data files must use the valid values specified in the Contractor's data dictionary.

5) Data Steward

The Contractors shall designate a Contractor employee as a data steward who is knowledgeable of its data and systems that generate it. The data steward shall attend data submission planning or status meetings scheduled by the Department's data warehouse vendor on the Department's behalf and shall be the key point of contact for the Department's data warehouse vendor on the submission of Contractor's data and the correction of data errors should they occur.

6) Data Quality

The quality of Contractor's data submission shall be assessed by the Department's data warehouse vendor for timeliness, validity, and completeness. If the Department's data warehouse vendors determines that the data submitted by the Contractor fails to meet the Department's data warehouse vendor's thresholds for data quality, the Contractor shall cooperate with the Department's data warehouse vendor in submitting corrected data.

As needed, the Department, in consultation with its data warehouse vendor and the Contractor, shall develop a data improvement plan which will identify specific areas for the Contractor to improve the quality and completeness of its data submission, along with the goals and timelines for improvement.

The Contractor agrees to financial penalties for failure to submit data in accordance with this Contract, and which are assessed by the Department's data warehouse vendor on behalf of the Department. Charges or penalties that are the direct result of the Contractor's failure to meet the Department's data submission requirements, timelines, or other requirements in this Contract that impact the Department's data warehouse vendor will either be invoiced to the Contractor and due within thirty (30) calendar days or deducted from a future payment(s) owed the Contractor.

During the implementation of the Department's data warehouse or a new Contractor, the Contractor will have two (2) chances to submit acceptable data. The Department will charge the Contractor a penalty for each data file submitted after the second submission not accepted by the Department's data warehouse vendor. See Attachment E, Section 6 – Data Warehouse Performance Guarantees below.

During the ongoing operation of the Department's data warehouse, if the Department's data warehouse vendor notified the Contractor of an error on its initial data submission, as describe in 3)d) above, the Contractor will have one opportunity to submit a corrected data file. If the Contractor requires additional submissions to correct identified errors, the Department will charge the Contractor a penalty for each data file submitted after the first corrected submission not accepted by the Department's data warehouse vendor. See Attachment E, Section 6 below.

No cap is applied to the penalties assessed in Attachment E, Section 5 Data Warehouse File Requirements and Section 6 Data Warehouse Performance Guarantees.

6. Data Warehouse Performance Guarantees

Data warehouse requirements are specific to the data from the Supplemental Dental Program not general data from the Contractor's book of business.

The penalties assessed in Attachment E, Sections 5 and 6 are not subject to an assessment maximum in any given quarter. The Department reserves the right to waive a penalty in certain circumstances when the Department determines it is warranted.

6A Data Warehouse Deliverable Requirements

The Contractor must report to the Department's data warehouse vendor in the file format specified by the Department.

1) Claims Data Transfer to the Data Warehouse	
Description	The Contractor submits to the Department's data warehouse, in the most recent file format specified by the Department, all claims processed for Participants. (See Attachment E, Section 5)
Frequency	Monthly
2) Provider Data Transfer to Data Warehouse	
Description	The Contractor submits to the Department's data warehouse, in the most recent file format specified by the Department, the specified data for all In-Network providers including subcontracted providers. (See Attachment E, Section 5)
3) Participant Data Transfer to Data Warehouse	
Description	The Contractor submits to the Department's data warehouse, in the most recent file format specified by the Department, the specified data for all members enrolled. (See Attachment E, Section 5.)
Frequency	Monthly

6B Data Warehouse Performance Standards

The Contractor shall submit data and corrected data when necessary by the dates indicated by the Department's data warehouse vendor. Performance standards for the data warehouse will be measured by the Department as needed.

<i>Performance Standards</i>	<i>Penalties</i>
<p>a) Claims Data Transfer: The Contractor must submit on a monthly basis to the Department's data warehouse vendor, in the most recent file format specified by the Department, all claims processed for Participants according to the schedule established in <i>Attachment E, Section 5 Part (3a)</i>.</p>	<p>One thousand (\$1,000) dollars per Business Day for which the standard is not met.</p>
<p>b) Provider Enrollment Data Transfer: The Contractor must submit on a monthly basis to the Department's data warehouse vendor in the most recent file format specified by the Department, the specified data for all In-Network providers including subcontracted providers according to the schedule established in <i>Attachment E, Section 5 Part (3b)</i>.</p>	<p>One thousand (\$1,000) dollars per Business Day for which the standard is not met.</p>
<p>c) Participant Data Transfer: The Contractor must submit on a monthly basis to the Department's data warehouse vendor in the most recent file format specified by the Department, the specified data for all enrolled members according to the schedule established in <i>Attachment E, Section 5 Part (3b)</i>.</p>	<p>One thousand (\$1,000) dollars per Business Day for which the standard is not met.</p>
<p>d) Data Warehouse Submission Delays: The Contractor must communicate any delays in submitting program data to the Department's data warehouse vendor via email to the Department Program Manager or designee and the designated data warehouse vendor as soon as the delay is known, but at least one (1) calendar day before the scheduled transfer. (<i>See Attachment E, Section 5. Part 3.c.</i>)</p>	<p>One thousand (\$1,000) dollars per Business Day for which the standard is not met.</p>
<p>e) Data File Corrections: Within two (2) Business Days of notification, unless otherwise approved by the Department in writing, the Contractor shall resolve any data errors on the file as identified by the Department's data warehouse vendor or the Department. (<i>See Attachment E, Section 5 Part 3.d</i>)</p>	<p>One thousand (\$1,000) dollars per Business Day for which the standard is not met</p>
<p>f) Two-Chance Rule: During the implementation of the Department's data warehouse or a new Contractor, the Contractor will have two (2) chances to submit acceptable data. The Department will charge the Contractor a penalty for each data file submitted after the second submission not accepted by the Department's data warehouse vendor. (<i>See Attachment E, Section 5 Part.6.</i>)</p>	<p>One thousand seven hundred fifty dollars (\$1,750) dollars for each submission after the allowed submissions.</p>
<p>g) One-Chance Rule: During the ongoing operation of the Department's data warehouse, if the Department's data warehouse vendor identifies an error with the Contractor's initial data submission, the Contractor will have one opportunity to submit a corrected data file. If the Contractor requires additional submissions to correct identified errors, the Department will charge the Contractor a penalty for each data file submitted after the first corrected submission not accepted by the Department's data warehouse vendor. (<i>See Attachment E, Section 5 Part 6.</i>)</p>	<p>One thousand seven hundred fifty dollars (\$1,750) dollars for each submission after the allowed submissions.</p>
<p>h) Pass-Through Data Warehouse Penalties: The Department will pass through any penalties assessed by the Department's data</p>	<p>The amount charged by the Department's data warehouse</p>

warehouse vendor for failure to submit data in accordance with this Contract. (See *Attachment E, Section 5 Part 6.*)

vendor for the Contractor's failure to meet data submission requirements not otherwise subject to a penalty as described above.

ATTACHMENT F - Department Terms and Conditions (v. 7.1.2020)

Department Terms and Conditions

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

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

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

In connection with the performance of work under the Contract, the Contractor agrees not to discriminate against employees or applicants for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in Wis. Stat. § 51.01(5); sexual orientation as defined in Wis. Stat. § 111.32(13m), 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.

Pursuant to 2019 Wisconsin Executive Order 1, the Contractor agrees it will hire only on the basis of merit and will not discriminate against any persons performing a contract, subcontract or grant because of military or veteran status, gender identity or expression, marital or familial status, genetic information or political affiliation.

Contracts estimated to be over fifty thousand dollars (\$50,000) require the submission of a written affirmative action plan by the Contractor. Contractors with an annual work force of less than fifty (50) employees are exempt from this requirement. Contractor shall provide the plan to the Department within fifteen (15) Business Days of the Department's request for such plan after the award of the Contract. The Contractor shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA) of 1990. Evidence of compliance with ADA shall be made available to the Department upon request.

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

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

- 3.0 LEGAL RELATIONS:** The Contractor shall at all times comply with and observe all federal and State laws, local laws, ordinances, and regulations which are in effect during the period of the Contract and which in any manner affect the work or its conduct. This includes but is not limited to laws regarding compensation, hours of work, conditions of employment and equal opportunities for employment.

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

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

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

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

None of the Services to be provided by the Contractor shall be subcontracted or delegated to any other organization, subdivision, association, individual, corporation, partnership or group of individuals, or other such entity without prior written notification to, and acknowledgement of, the Department. If the Department has concerns regarding the subcontractors a meeting will be scheduled to discuss a resolution.

After execution of the Contract, the Department and the Contractor will provide each other with the name of their designated contact persons.

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

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

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

Any notice required or permitted to be given shall be deemed to have been given on the date of delivery or three (3) Business Days

after mailing by the United States Postal Service, certified or registered mail-receipt requested. In the event the Contractor moves or updates contact information, the Contractor shall inform the Department of such changes in writing within ten (10) Business Days. The Department shall not be held responsible for payments delayed due to the Contractor's failure to provide such notice.

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

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

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

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

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

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

- 6.0 AUDIT PROVISION:** The Contractor and its authorized subcontractors are subject to audits by the State, the Legislative Audit Bureau (LAB), an independent Certified Public Accountant (CPA), or other representatives as authorized by the State. The Contractor will cooperate with such efforts and provide all requested information permitted under the law.

6.1 SOC 1/Type 2 Report: If the Department requires Contractor to provide a Service Organization Control (SOC) audit report, Contractor will furnish the Department with a copy of Contractor's annual independent service auditor's report on management's description of Contractor's system and the suitability of the design and operating effectiveness of controls (SOC 1, Type 2). This independent audit of the Contractor's controls must be completed in accordance with the American Institute of Certified Public Accountants' (AICPA) Statements on Standards for Attestation Engagements (SSAE) No. 18 (SOC 1, Type 2). The SSAE 18 (SOC 1, Type 2) annual audit will include all programs under the Contract and will be conducted at the Contractor's expense. If the Contractor's SSAE 18 (SOC 1, Type 2) audit covers less than twelve (12) months of a calendar year, the Contractor will provide a bridge letter to the Department, stating whether processes and controls have changed since the SSAE 18 (SOC 1, Type 2) audit. In addition, the Department requires Contractor to submit a letter of attestation indicating Contractor's receipt of management's assertion of control compliance from Contractor's subcontractors, when applicable.

6.2 SOC 2/Type 2 Report: If the Department requires Contractor to provide a SOC audit report, Contractor will furnish the Department with a copy of Contractor's annual independent service auditor's report on Contractor's controls relevant to security, availability, processing integrity, confidentiality, and privacy. The SOC audit report must be a type 2 report that includes management's description of Contractor's system and the suitability of the design controls set forth in AICPA Trust Services Criteria Section 100 (2017). This independent audit of the Contractor's controls must be completed in accordance with the AICPA SSAE No. 18 (SOC 2, Type 2). The SSAE 18 (SOC 2, Type 2) annual audit will include all programs under the Contract and will be conducted at the Contractor's expense. If the Contractor's SSAE 18 (SOC 2, Type 2) audit covers less than twelve (12) months of a calendar year, the Contractor will provide a bridge letter to the Department, stating whether processes and controls have changed since the SSAE 18 (SOC 2, Type 2) audit. In addition, the Department requires Contractor to submit a letter of attestation indicating Contractor's receipt of management's assertion of control compliance from Contractor's subcontractors.

6.3 Contract Compliance Audit: The Department may schedule and arrange for an independent certified public accountant to perform agreed upon procedures or consulting work related to the Contractor's compliance with the Contract on a periodic basis, as determined by the Department. The audit scope will be determined by the Department and may include recordkeeping, participant account activity, claims processing, administrative performance standards, and any other relevant areas to the programs under the Contract. The timeline of the audit will be mutually agreed upon by the Department and the Contractor. A minimum ten (10) Business Day notice is required.

6.4 Open Access: All Contractor books, records, ledgers, data, and journals relating to the programs under the Contract will be open for inspection and audit by the Department, its designees, or the State of Wisconsin Legislative Audit Bureau, at any time during normal working hours. A minimum ten (10) Business Day notice will be provided. Records or data requested shall be provided electronically in a format mutually agreed upon by the Department and Contractor. The Department shall have access to interview any employee and authorized agent of the Contractor involved with the Contract in conjunction with any audit, review, or investigation deemed necessary by the Department or the State.

6.5 LAB Audit: The Department is audited by the State of Wisconsin Legislative Audit Bureau annually, as required by Wis. Stat. § 13.94(1)(dd). The Contractor agrees to provide necessary information related to any such audit for all programs under the Contract, as requested by the Department or auditor.

7.0 CRIMINAL BACKGROUND VERIFICATION: The Department follows the provisions in the Wisconsin Human Resources Handbook Chapter 246, Securing Applicant Background Checks (see: https://dpm.wi.gov/Hand%20Book%20Chapters/WHRH_Ch_246.pdf). The Contractor is expected to perform background checks that, at a minimum, adhere to those standards. This includes the criminal history record from the Wisconsin Department of Justice (DOJ), Wisconsin Circuit Court Automation Programs (CCAP), and other state justice departments for persons who have lived in a state(s) other than Wisconsin. More stringent background checks are permitted. Details regarding the Contractor's background check procedures should be provided to the Department regarding the measures used by the Contractor to protect the security and privacy of program data and participant information. A copy of the results of the criminal background checks the Contractor conducted must be made available to the Department upon request. The Department reserves the right to conduct its own criminal background checks on any or all employees or subcontractors of and referred by the Contractor for the delivery or provision of Services.

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

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

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

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

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

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

12.0 DISCOUNT FOR LATE DELIVERY: The Contractor agrees to accept a discount in the fees due to the Contractor under the Contract in the event any of the major deliverables is delivered by Contractor more than twenty-five (25) Business Days after the delivery date set forth in the then-current project work plan. The parties agree that the Contractor shall discount its fees, beginning on the twenty-sixth (26th) Business Day after the delivery date set forth in the then current project work plan, by an amount of one thousand dollars (\$1,000) for each Business Day Contractor fails to deliver any or all major deliverables until such major deliverable is delivered as mutually agreed, up to a total of one hundred twenty thousand dollars (\$120,000) per major deliverable. Any such discount is not a penalty and shall be in addition to all other legal or equitable remedies that may be available to the Department. Notwithstanding the foregoing, Contractor shall not owe any discount to the extent that any late delivery of a major deliverable was the result of a Department-caused delay. In the event that Contractor provides a discount under this Section, then the timeline set forth in the project work plan for each subsequent major deliverable shall be extended by the number of days for which the discount was applied.

13.0 CONTRACT DISPUTE RESOLUTION: In the event of a dispute between the parties under the Contract, whether with respect to the interpretation of any provision of the Contract, or with respect to the performance of either party thereto, except for breach of Contractor's intellectual property rights, each party shall reserve the right to appoint a representative to meet for the purpose of endeavoring to resolve such dispute or negotiate for an adjustment to such provision.

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

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

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

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

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

14.0 CONTROLLING LAW: All questions as to the execution, validity, interpretation, construction and performance of the Contract shall be construed in accordance with the laws of the State of Wisconsin, without regard to any conflicts of laws or choice of law principles. Any court proceeding arising or related to the Contract or a party's obligations under the Contract shall be exclusively brought and exclusively maintained in the State of Wisconsin, Dane County Circuit Court, or in the District Court of the United States Western District (if jurisdiction is proper in federal court), or upon appeal to the appellate courts of corresponding jurisdiction, and Contractor hereby consents to the exclusive jurisdiction and exclusive venue therein and waives any right to object to such jurisdiction or venue. To the extent that in any jurisdiction Contractor may now or hereafter be entitled to claim for itself or its assets immunity from suit, execution, attachment (before or after judgment) or other legal process, Contractor, to the extent it may effectively do so, irrevocably agrees not to claim, and it hereby waives, the same.

15.0 RIGHT TO SUSPEND OPERATIONS: If, at any time during the period of the Contract, the Department determines that the best interest of the Department or its governing boards would be best served by the Contractor temporarily suspending all Services, the Department will promptly notify the Contractor. Upon receipt of such notice, the Contractor shall suspend all Services.

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

Upon termination, the Department's liability shall be limited to the prorated cost of the Services performed as of the date of termination plus expenses incurred with the prior written approval of the Department.

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

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

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

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

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

- (a) If the Contractor intentionally furnished any statement, representation, warranty, or certification, in connection with the Contract which is materially false, incorrect, or incomplete;
- (b) If applicable, if the Contractor fails to follow the sales and use tax certification requirements of Wis. Stat. § 77.66;
- (c) If the Contractor incurs a delinquent Wisconsin tax liability;
- (d) If the Contractor fails to submit a non-discrimination or affirmative action plan per the requirements of Wis. Stat. § 16.765 and Wis. Stat. § 111 Subchapter II, Wisconsin's Fair Employment Law, as required herein;
- (e) If the Contractor is presently identified on the list of parties excluded from State of Wisconsin procurement and non-procurement contracts;
- (f) If the Contractor becomes a state or federal debarred Contractor, or becomes excluded from State contracts;
- (g) If the Contractor fails to maintain and keep in force all required insurance, permits and licenses as required per the Contract;
- (h) If the Contractor fails to maintain the confidentiality of the Department's information that is considered to be Confidential Information or Protected Health Information;
- (i) If the Contractor files a petition in bankruptcy, becomes insolvent, or otherwise takes action to dissolve as a legal entity;

- (j) If at any time the Contractor's performance threatens the health or safety of a State employee, citizen, or customer;
- (k) If the Contractor violates any requirements in Section 22.0 below regarding Confidential Information; or
- (l) If the Department or State fails to appropriate funds for the project described in the Contract.

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

17.1 BREACH BY PATTERN OR PRACTICE: The Department has the right to terminate the Contract and/or pursue all available legal and equitable remedies if the Contractor, by pattern or practice, materially breaches any provision of the Contract. Actions that shall constitute a material breach include, but are not limited to, neglect, failure, or refusal to perform in accordance with any of the terms of the Contract. The Department may provide the Contractor with an opportunity to cure the material breach. Such cure period would be thirty (30) calendar days after the Contractor's receipt of the Department's written notice, as noted above. If Contractor's efforts to cure are unsuccessful, as determined by the Department in its sole discretion, the Department may terminate the Contract as soon as administratively feasible and/or pursue all available legal and equitable remedies.

18.0 REMEDIES OF THE DEPARTMENT: The Department shall be free to invoke any and all remedies permitted under Wisconsin law. In particular, if the Contractor fails to perform as specified in the Contract, the Department may issue a written notice of default providing for at least a thirty (30) Business Day period in which the Contractor shall have an opportunity to cure, provided that cure is possible, feasible, and approved in writing by the Department. Time allowed for cure of a default shall not diminish or eliminate the Contractor's liability. If the default remains, after opportunity to cure, then the Department may: (1) exercise any remedy provided in law or in equity and/or (2) terminate Contractor's Services.

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

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

19.0 TRANSITIONAL SERVICES: Upon cancellation, termination, or expiration of the Contract for any reason, the Contractor shall provide reasonable cooperation, assistance and Services, and shall assist the Department to facilitate the orderly transition of the work under the Contract to the Department and/or to an alternative contractor selected for the transition upon written notice to the Contractor at least thirty (30) Business Days prior to termination or cancellation, and subject to the terms and conditions set forth in the Contract.

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

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

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

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

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

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

22.0 CONFIDENTIAL INFORMATION, PRIVACY AND HIPAA BUSINESS ASSOCIATE AGREEMENT: This Section is intended to cover handling of Confidential Information under State and federal law, including, where applicable, the requirements of the Health Insurance Portability and Accountability Act (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH), the Genetic

Information Nondiscrimination Act (GINA), and the federal implementing regulations for those statutes requiring a written agreement with business associates.

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

- (1) Business Associate. "Business Associate" has the meaning ascribed to it at 45 CFR 160.103 and refers to the Contractor.
- (2) Confidential Information. "Confidential Information" means all tangible and intangible information and materials being disclosed in connection with the Contract, in any form or medium without regard to whether the information is owned by the State of Wisconsin or by a third party, which satisfies at least one of the following criteria: (i) Individual Personal Information; (ii) Personally Identifiable Information under Wis. Stat. § 19.62(5); (iii) Protected Health Information under HIPAA, 45 CFR 160.103; (iv) proprietary information; (v) non-public information related to the State of Wisconsin's employees, customers, technology (including databases, data processing and communications networking systems), schematics, specifications, and all information or materials derived therefrom or based thereon; (vi) information expressly designated as confidential in writing by the State of Wisconsin; (vii) all information that is restricted or prohibited from disclosure by state or federal law, including Individual Personal Information and Medical Records as governed by Wis. Stat. §§ 40.07, ETF 10.70(1) and ETF 10.01(3m); or (viii) any material submitted by the Contractor in response to a Department solicitation that the Contractor designates confidential and proprietary information and which qualifies as a trade secret, as provided in Wis. Stat. § 19.36(5) or material which can be kept confidential under the Wisconsin public records law.
- (3) Covered Entity. "Covered Entity" has the meaning ascribed to it at 45 CFR 160.103 and refers to the Department of Employee Trust Funds.
- (4) HIPAA Rules. "HIPAA Rules" mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- (5) Individual Personal Information. "Individual Personal Information" has the meaning ascribed to it at Wis. Admin. Code ETF § 10.70 (1).
- (6) Medical Record. "Medical Record" has the meaning ascribed to it at Wis. Admin. Code ETF § 10.01(3m).
- (7) Protected Health Information. "Protected Health Information" has the meaning ascribed to it under 45 CFR 160.103.

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

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

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

- (1) Not use or disclose Confidential Information for any purpose other than as permitted or required by the Contract or as required by law. Contractor shall not use or disclose member or employee names, addresses, or other information for any purpose other than specifically provided for in the Contract;
- (2) Make uses and disclosures and requests for any Confidential Information following the minimum necessary standard in the HIPAA Rules;
- (3) Use appropriate safeguards to prevent use or disclosure of Confidential Information other than as provided for by the Contract, and with respect to Protected Health Information, comply with Subpart C of 45 CFR Part 164;
- (4) Not use or disclose Confidential Information in a manner that would violate Subpart E of 45 CFR Part 164 or Wis. Stat. § 40.07;
- (5) If applicable, be allowed to use or disclose Confidential Information for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor, provided the disclosures are required by law, or Contractor obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Contractor of any instances of which it is aware the confidentiality of the information has been or is suspected of being breached;
- (6) Not use for its own benefit Confidential Information or any information derived from such information; and
- (7) If required by a court of competent jurisdiction or an administrative body to disclose Confidential Information, Contractor will notify the Department in writing immediately upon receiving notice of such requirement and prior to any such disclosure, to give the Department an opportunity to oppose or otherwise respond to such disclosure (unless prohibited by law from doing so).

(e) **REQUIREMENT TO KEEP CONFIDENTIAL INFORMATION WITHIN THE UNITED STATES:** The Contractor's transmission, transportation or storage of Confidential Information outside the United States, or access of Confidential Information from outside the United States, is prohibited except on prior written authorization by the Department.

- (f) **COMPLIANCE WITH ELECTRONIC TRANSACTIONS AND CODE SET STANDARDS:** The Contractor shall comply with each applicable requirement of 45 C.F.R. Part 162 if the Contractor conducts standard transactions, as that term is defined in HIPAA, for or on behalf of the Department.
- (g) **MANDATORY REPORTING:** Contractor shall report to the Department in the manner set forth in Subsection 22(m) any use or disclosure or suspected use or disclosure of Confidential Information not provided for by the Contract, of which it becomes aware, including breaches or suspected breaches of unsecured Protected Health Information as required at 45 CFR 164.410.
- (h) **DESIGNATED RECORD SET:** Contractor shall make available Protected Health Information in a designated record set to the individual as necessary to satisfy the Department's obligations under 45 CFR 164.524.
- (i) **AMENDMENT IN DESIGNATED RECORD SET:** Contractor shall make any amendment to Protected Health Information in a designated record set as directed or agreed to by the Department pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy the Department's obligations under 45 CFR 164.526.
- (j) **ACCOUNTING OF DISCLOSURES:** Contractor shall maintain and make available the information required to provide an accounting of disclosures to the individual as necessary to satisfy the Department's obligations under 45 CFR 164.528.
- (1) Contractor shall keep all HIPAA logs (logs of any systems that have information relating to HIPAA) for six (6) years.
- (k) **COMPLIANCE WITH SUBPART E OF 45 CFR 164:** To the extent Contractor is to carry out one or more of the Department's obligations under Subpart E of 45 CFR Part 164, Contractor shall comply with the requirements of Subpart E that apply to a covered entity in the performance of such obligation.
- (l) **INTERNAL PRACTICES:** Contractor shall make its internal practices, books, and records available to the Secretary of the United States Department of Health and Human Services for purposes of determining compliance with the HIPAA Rules.
- (m) **CONTRACTOR REPORTING OF BREACH OR SUSPECTED BREACH OR DISCLOSURE TO THE DEPARTMENT:**
- (1) Within twenty-four (24) hours after Contractor becomes aware of a suspected breach, impermissible use, or impermissible disclosure, Contractor shall notify in writing the Department Privacy Officer at ETFSMBPrivacyOfficer@etf.wi.gov, and the [Department](#) Program Manager. A suspected breach, impermissible use, or impermissible disclosure is considered to be discovered as of the first day on which such occurrence is known to Contractor, or, by exercising reasonable diligence, would have been known to Contractor. The notification must contain details sufficient for the Department Program Manager and Privacy Officer to determine the Department's response. Sufficient details include, without limitation:
- The nature of the unauthorized access, use or disclosure;
 - A list of any persons affected (if available);
 - A description of the information included in the breach, impermissible use, or impermissible disclosure;
 - The date or dates of the suspected breach, impermissible use, or impermissible disclosure;
 - The date of the discovery by Contractor;
 - A list of the proactive steps taken by Contractor and being taken to correct the breach, impermissible use or impermissible disclosure; and
 - Contact information at Contractor for affected persons who contact the Department regarding the issue.
- (2) Not less than one (1) Business Day before Contractor makes any external communications to the public, media, federal Office for Civil Rights (OCR), other governmental entity, or persons potentially affected by the breach, impermissible use, or impermissible disclosure, provide a copy of the planned communication to the Department Program Manager and Privacy Officer.
- (3) Within thirty (30) Business Days after Contractor makes the initial report under this Section, Contractor shall research the suspected breach, impermissible use, or impermissible disclosure of Confidential Information and provide a report in writing to the Department Program Manager. The report must contain, at a minimum:
- A complete list of any persons affected (whose Confidential Information was supplied to Contractor by the Department) and their contact information;
 - Copies of correspondence or notifications provided to the public, media, OCR, other governmental entity, or persons potentially affected;
 - Whether Contractor's Privacy Officer has determined there has been a reportable breach under HIPAA, or an unauthorized acquisition under Wis. Stat. §134.98 and the reasoning for such determination;
 - If Contractor determines there has been a breach, impermissible use, or impermissible disclosure, an explanation of the root cause of the breach, impermissible use, or impermissible disclosure;
 - A list of the corrective actions taken to mitigate the suspected breach, impermissible use, or impermissible disclosure; and
 - A list of the corrective actions taken to prevent a similar future breach, impermissible use, or impermissible disclosure.
- (n) **COORDINATION OF BREACH RESPONSE ACTIVITIES:**
- (1) Contractor will fully cooperate with the Department's investigation of any breach of Confidential Information involving Contractor, including but not limited to making witnesses, documents, HIPAA logs, systems logs, video recordings, or other pertinent or useful information available immediately upon Contractor's reporting of the breach and throughout the investigation. Contractor's full cooperation will include but not be limited to Contractor:
- Immediately preserving any potential forensic evidence relating to the breach, and remedying the breach as quickly as circumstances permit;
 - Within forty-eight (48) hours designating a contact person to whom the Department will direct inquiries, and who will communicate Contractor responses to Department inquiries; Contractor will designate a Privacy Officer and Security Officer to serve as contacts for the Department;

- c. As rapidly as circumstances permit, applying appropriate resources to remedy the breach condition, investigate, document, restore the Department service(s) as directed by the Department, and undertake appropriate response activities such as working with the Department, its representative, and law enforcement to identify the breach, identify the perpetrator(s), and take appropriate actions to remediate the security vulnerability;
 - d. Providing status reports to the Department at least every two (2) hours until the root cause of the breach is identified and a plan is devised to fully remediate the breach;
 - e. Once the root cause of the breach is identified and a plan is devised to fully remediate the breach, providing status reports to the Department daily or at mutually agreed upon timeframes, to the Department on breach response activities, findings, analyses, and conclusions;
 - f. Coordinating all media, law enforcement, or other breach notifications with the Department in advance of such notification(s), unless expressly prohibited by law; and
 - g. Ensuring that knowledgeable Contractor staff is available on short notice, if needed, to participate in Department-initiated meetings and/or conference calls regarding the breach.
- (o) **CLASSIFICATION LABELS:** Contractor shall ensure that all data classification labels contained on or included in any item of Confidential Information shall be reproduced by Contractor on any reproduction, modification, or translation of such Confidential Information. Contractor shall make a reasonable effort to add a proprietary notice or indication of confidentiality to any tangible materials within its possession that contain Confidential Information of the Department, as directed by the Department.
- (p) **SUBCONTRACTORS:** If applicable, in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), Contractor shall ensure that any subcontractors that create, receive, maintain, or transmit Confidential Information on behalf of Contractor agree to the same restrictions, conditions, and requirements that apply to Contractor with respect to such information.
- (q) **NOTICE OF LEGAL PROCEEDINGS:** If Contractor or any of its employees, agents, or subcontractors is legally required in any administrative, regulatory or judicial proceeding to disclose any Confidential Information, Contractor shall give the Department prompt notice (unless it has a legal obligation to the contrary) so that the Department may seek a protective order or other appropriate remedy. In the event that such protective order is not obtained, Contractor shall furnish only that portion of the information that is legally required and shall disclose the Confidential Information in a manner reasonably designed to preserve its confidential nature.
- (r) **MITIGATION:** The Contractor shall take immediate steps to mitigate any harmful effects of the suspected or actual unauthorized use, disclosure, or loss of any Confidential Information provided to Contractor under the Contract. The Contractor shall reasonably cooperate with the Department's efforts to comply with the breach notification requirements of HIPAA, to seek appropriate injunctive relief or otherwise prevent or curtail such suspected or actual unauthorized use, disclosure or loss, or to recover its Confidential Information, including complying with a reasonable corrective action plan, as directed by the Department.
- (s) **COMPLIANCE REVIEWS:** The Department may conduct a compliance review of the Contractor's security procedures before and during the Contract term to protect Confidential Information.
- (t) **AMENDMENT:** The parties agree to take such action as is necessary to amend the Contract as necessary for compliance with the HIPAA Rules and other applicable law.
- (u) **SURVIVAL:** The obligations of Contractor under this Section shall survive the termination of the Contract.
- (v) **RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION:** Upon termination of the Contract for any reason, Contractor, with respect to Confidential Information received from the Department, another contractor of the Department, or created, maintained, or received by Contractor on behalf of the Department, shall:
- (1) Retain only that Confidential Information which is necessary for Contractor to continue its proper management and administration or to carry out its legal responsibilities;
 - (2) Return to the Department or, if agreed to by the Department, destroy the remaining Confidential Information that Contractor still maintains in any form;
 - (3) Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this Subsection, for as long as Contractor retains the Protected Health Information;
 - (4) Not use or disclose the Confidential Information retained by Contractor other than for the purposes for which such Confidential Information was retained and subject to the same conditions set out under Subsection 22(d) which applied prior to termination;
 - (5) Return to the Department or, if agreed to by the Department, destroy the Protected Health Information retained by Contractor when it is no longer needed by Contractor for its proper management and administration or to carry out its legal responsibilities; and
 - (6) If required by the Department, transmit the Confidential Information to another contractor of the Department.
- (w) **ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS:** Contractor will make itself and any employees, subcontractors, or agents assisting Contractor in the performance of its obligations available to the Department at no cost to the Department to testify as witnesses, or otherwise, in the event of a breach or other unauthorized disclosure of Confidential Information caused by Contractor that results in litigation, governmental investigations, or administrative proceedings against the Department, its directors, officers, agents or employees based upon a claimed violation of laws relating to security and privacy or arising out of these Terms and Conditions or the Contract.

23.0 INDEMNIFICATION:

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

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

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

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

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

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

- 27.0 IDENTIFICATION OF KEY PERSONNEL AND PERSONNEL CHANGES:** The Department will designate a contract administrator, who shall have oversight for performance of the Department's obligations under the Contract. The Department shall not change the

person designated without prior written notification to the Contractor.

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

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

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

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

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

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

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

For any unauthorized change by the Contractor of any contracted personnel designated as key personnel, the Contractor will pay the Department a replacement fee of ten thousand dollars (\$10,000) per occurrence.

28.0 INFORMATION SECURITY AGREEMENT

(a) **PURPOSE AND SCOPE OF APPLICATION:** This Information Security Agreement ("Agreement") is designed to protect the Department's Confidential Information (defined above in Section 22.0) and Department Information Resources (defined below). This Agreement describes the information security obligations of Contractor, its employees, contractors and third-party users that connect to Department Information Resources and/or gain access to Confidential Information.

(b) **DEFINED TERMS:**

(1) Department Information Resources. "Department Information Resources" means those devices, networks and related infrastructure that the Department has obtained for use to conduct Department business. Devices include but are not limited to, Department-owned devices; devices managed or used through service agreements; storage, processing, and communications devices and related infrastructure on which Department data is accessed, processed, stored, or communicated; and may include personally owned devices. Data includes, but is not limited to, Confidential Information, other Department-created or managed business and research data, metadata, and credentials created by or issued on behalf of the Department.

(c) **ACCESS TO DEPARTMENT INFORMATION RESOURCES:** In any circumstance when Contractor is provided access to Department Information Resources, it is solely Contractor's responsibility to ensure that its access does not result in any access by unauthorized individuals to Department Information Resources. Contractors who access the Department's Information Resources from any Department location must at a minimum conform with Department security standards that are in effect at the Department location(s) where the access is provided. Any Contractor technology and/or systems that gain access to Department Information Resources must comply with, at a minimum, the elements in the Information Security Plan Requirements set forth in this Agreement.

(d) **COMPLIANCE WITH APPLICABLE LAWS:** Contractor agrees to comply with all applicable state and federal laws, as well as industry best practices, governing the collection, access, use, disclosure, safeguarding and destruction of Confidential Information.

(e) **SAFEGUARD STANDARD:** Contractor agrees to protect the security of Confidential Information according to all applicable laws and regulations by generally accepted information risk management security control frameworks, standards or guidelines such as the ISO/IEC 27000-series, NIST800-53, CIS Critical Security Controls for Effective Cyber Defense or HIPAA Security Rule – 45 CFR Part 160 and Subparts A and C of Part 164 and no less rigorously than it protects its own confidential information, but in no case less than reasonable care. Contractor will implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of the Confidential Information. Contractor will ensure that all security measures are regularly reviewed including ongoing monitoring, monthly vulnerability testing and annual penetration and security incident response tests, revised, no less than annually, to address evolving threats and vulnerabilities while Contractor has responsibility for the Confidential Information under the terms of this Agreement.

(f) **INFORMATION SECURITY PLAN:**

- (1) Contractor acknowledges that the Department is required to comply with information security standards for the protection of Confidential Information as required by law, regulation and regulatory guidance, as well as the Department's internal security program for information and systems protection.
- (2) Contractor shall develop, implement, and maintain a comprehensive Information Security Plan that contains administrative, technical, and physical safeguards designed to ensure the privacy, security, integrity, availability, and confidentiality of the Confidential Information. Contractor must provide evidence to the Department of one or more of the following for the plan:
 - a. Certification in, or compliance with, generally accepted information risk management security control frameworks, standards or guidelines such as:
 - i. ISO/IEC 27000-series;
 - ii. NIST800-53;
 - iii. CIS Critical Security Controls for Effective Cyber Defense; or
 - iv. HIPAA Security Rule - 45 CFR Part 160 and Subparts A and C of Part 164; and
 - b. Compliance with any state or federal regulations by which the person or entity who owns or licenses such information may be regulated; or
 - c. At a minimum, include the elements listed in the Information Security Plan Requirements set forth below.
- (3) Upon the Department's request, Contractor shall submit one of the following documents to the Department:
 - a. Independent attestation of certification;
 - b. Information Security Plan scope statement;
 - c. Information Security Plan statement of applicability; or
 - d. SOC 2, Type 2 audit and letter of attestation indicating Contractor's receipt of management's assertion of control compliance from Contractor's subcontractors as described in Section 6 Audit Provision.

The Department reserves the right to require the Contractor to provide more than one of the above documents. If Contractor is unable to produce one of the above documents, Contractor may satisfy the requirement by providing the assurances in Section 28.0(h) below.

- (4) Annually, or upon a significant change in risk posture, Contractor will review its Information Security Plan and update and revise it as needed. If at any time there are any material reductions to Contractor's Information Security Plan, Contractor will notify the Department within two weeks of the completion of the review and prior to implementation. In such instances, the Department will require an explanation of the reductions. At the Department's request, Contractor will make modifications to its Information Security Plan or to the procedures and practices thereunder to conform to the Department's security requirements as defined herein.

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

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

If Contractor cannot provide evidence of its Information Security Plan as required in Section 28.0(f)(2)a above, Contractor shall provide the following assurances to the Department:

(1) **Security Policies:**

- a. Contractor's security policy is documented, has obtained management approval, is reviewed no less frequently than annually and is maintained to ensure its continuing suitability, adequacy and effectiveness; and
- b. Contractor's operational, technical and administrative policies, standards and guidelines are documented, have obtained management approval, are reviewed no less frequently than annually and are maintained to ensure their continuing suitability, adequacy and effectiveness.

(2) **Security Organization:**

- a. The Contractor's security organization is governed and overseen by Contractor's senior leadership;
- b. Contractor's security organization includes representation from across Contractor's organization with defined roles and responsibilities;
- c. Contractor has clearly defined information security responsibilities;

- d. Contractor has confidentiality or non-disclosure agreements in place with the appropriate external entities;
- e. Contractor's management and implementation of information security (i.e. control objectives, controls, policies, processes, and procedures for information security) are reviewed independently at planned intervals, or when significant changes to the implementation of information security occur; and
- f. Contractor's agreements with third parties involving accessing, processing, communicating or managing the Contractor's information or information processing facilities, cover all relevant security requirements.

(3) Asset Management:

- a. Contractor has identified, inventoried, assigned ownership and established rules for acceptable use for information and associated assets; and
- b. Contractor has a process in place to classify information in terms of its value, legal requirements, sensitivity and criticality to Contractor.

(4) Human Resources:

- a. Security roles and responsibilities of Contractor's employees, contractors and third-party users have been defined and documented in accordance with Contractor's information security policy;
- b. Contractor performs background verification checks on all candidates for employment, contractors, and third-party users in accordance with relevant laws, regulations and ethics, and proportional to the business requirements, the classification of the information to be accessed, and the perceived risks;
- c. All Contractor's employees and, where relevant, contractors and third-party users, shall receive appropriate security awareness training and regular updates regarding Contractor's security policies and procedures, as relevant for their job function;
- d. Contractor has a formal disciplinary process in place for employees who have committed a security breach;
- e. Contractor's employees' responsibilities for performing employment terminations and changes of employment status are clearly defined and assigned;
- f. All Contractor's employees, contractors and third-party users shall return all Contractor's and the Department's assets in their possession upon termination of their employment, contract or agreement; and
- g. The access rights of all Contractor employees, contractors and third-party users to information and information processing facilities are removed upon termination of their employment, contract or agreement, or adjusted upon a status change.

(5) Physical and Environmental Security:

- a. **Secure Areas**
 - i. Contractor has a physical and environmental policy in place, with standards and guidelines that have been documented and obtained management approval, that is reviewed no less frequently than annually and is maintained to ensure its continuing suitability, adequacy and effectiveness;
 - ii. Contractor's secure areas are protected by appropriate entry controls to ensure that only authorized personnel are allowed access; and
 - iii. Contractor's physical protection and guidelines for working in secure areas have been adequately designed and applied.
- b. **Equipment security**
 - i. Contractor's equipment, and the equipment Contractor may utilize in its operations that is owned by a third party, is maintained to ensure its continued availability and integrity; and
 - ii. Contractor's security measures have been applied to off-site equipment to address the risks of working outside the Contractor's premises.
- c. **Operations management**
 - i. Contractor's operating procedures have been documented, maintained, and made available to all users who require them;
 - ii. Contractor controls changes to information processing facilities and systems; and
 - iii. Contractor has segregated duties and areas of responsibility to reduce opportunities for unauthorized or unintentional modification or misuse of Contractor's assets.
- d. **Third party service delivery management**
 - i. Security controls, service definitions and delivery levels included in Contractor's third-party service delivery agreements are implemented, operated, and maintained by the third party; and
 - ii. The services, reports and records provided by third parties are regularly monitored, reviewed and audited by Contractor.
- e. **Back-up**
 - i. Contractor regularly makes and tests back-up copies of information and software in accordance with Contractor's backup policy.
- f. **Network security management**
 - i. Networks are managed and controlled, either by Contractor or a third party under contract with Contractor; and
 - ii. Security features, service levels, and management requirements of all Contractor's network services have been identified and included in any network services agreement, whether these services are provided in-house by Contractor or outsourced.
- g. **Media handling**
 - i. Contractor has procedures in place to prevent unauthorized disclosure, modification, misuse, removal or destruction of assets, and interruption to business activities; and
 - ii. Contractor has procedures in place for the management of removable media, including the secure and safe disposal of media when no longer required.
- h. **Exchange of information**
 - i. Contractor has established agreements for the secure exchange of information and software between Contractor and appropriate external parties;

- ii. Contractor shall ensure information involved in electronic messaging is protected;
- iii. Contractor has developed and implemented policies and procedures to protect the exchange of information; and
- iv. Contractor shall ensure the integrity of information being made available on a publicly available system is protected to prevent unauthorized modification.

i. Monitoring

- i. Contractor shall produce and keep a rolling twelve (12) consecutive months of audit logs recording user activities, exceptions, and information security events to assist in future investigations and access control monitoring;
- ii. Contractor's logging facilities and log information are protected against tampering and unauthorized access; and
- iii. Contractor's system administrator and system operator activities are logged.

(6) Access Management:

a. Access control

- i. Contractor has an established and documented access control policy that is reviewed regularly based on business and security requirements for access;
- ii. Contractor has a formal user registration and de-registration procedure in place for granting and revoking access to all information systems and services;
- iii. Contractor restricts and controls the allocation and use of access privileges;
- iv. Contractor controls the allocation of passwords through a formal management process; and
- v. Contractor's management reviews users' access rights at regular intervals using a formal process.

b. User responsibilities

- i. Users are required to follow good security practices in the selection and use of passwords;
- ii. Users shall ensure that unattended equipment is protected; and
- iii. Users shall adopt a clear desk policy for papers and removable storage media and a clear screen policy for information processing facilities.

c. Network access control

- i. Contractor's users shall only be provided with access to the services that they have been specifically authorized to use;
- ii. Contractor has implemented appropriate authentication methods to control access by remote users;
- iii. Contractor has segregated groups of information services, users, and information systems on networks;
- iv. For shared networks, especially those extending across Contractor's boundaries, Contractor has restricted the capability of users to connect to the network, in line with Contractor's access control policy; and
- v. Contractor has implemented routing controls for networks to ensure that computer connections and information flows do not breach Contractor's access control policy.

(7) Security Requirements of Information Systems:

a. Correct processing in applications

- i. Contractor shall validate data input to applications to ensure the data is correct and appropriate, and incorporate validation checks to detect any corruption of information through processing errors or deliberate acts;
- ii. Contractor has identified the requirements for ensuring authenticity and protecting message integrity in applications, and identified and implemented appropriate controls; and
- iii. Contractor has validated the data output from an application to ensure that the processing of stored information is correct and appropriate to the circumstances.

b. Cryptographic controls

- i. Contractor has a cryptographic controls policy in place that is documented, has obtained management approval, is reviewed no less frequently than annually and is maintained to ensure its continuing suitability, adequacy and effectiveness.

c. Security of system files

- i. Contractor has procedures in place to control the installation of software on operational systems;
- ii. Contractor selects test data carefully, and the test data is protected and controlled; and
- iii. Contractor restricts access to program source code.

d. Security in development and support processes

- i. Contractor has implemented procedures to maintain the security of application system software and information;
- ii. Contractor utilizes formal change control procedures to implement changes; and
- iii. Contractor supervises and monitors outsourced software development.

e. Technical Vulnerability Management

- i. Contractor documents the technical vulnerabilities, the exposure evaluated, and the appropriate measures taken to address the associated risk.

(8) Information Security Incident Management:

- a. Contractor communicates information security events and weaknesses associated with information systems in a manner allowing timely corrective action to be taken;
- b. All Contractor's employees, contractors and third-party users of information systems and services are provided awareness training on reporting an observed or suspected incident; and
- c. **Management of information security incidents and improvements**

- i. The responsibilities and procedures of Contractor's management have been established to ensure timely, effective, and orderly response to information security incidents;
- ii. Contractor has mechanisms in place to enable the security incidents to be quantified and monitored; and
- iii. Where a follow-up action against a person or organization after an information security incident involves legal action (either civil or criminal), Contractor shall collect, retain and present evidence in conformance with the rules for evidence established in the relevant jurisdiction(s).

(9) Business Continuity Management:

- i. Contractor has implemented one or more business continuity plans, including an information security plan, to maintain or restore operations and ensure availability of information at the required level and in the required timeframe following interruption to, or failure of, critical business processes;
- ii. Contractor tests and updates its business continuity plans regularly to ensure that they are up to date and effective; and
- iii. Contractor shall include the Department's designated contact in Contractor's business continuity plans for notification concerning any disruption that may impact the Services.

(10) Compliance:

a. Identification of applicable legislation

- i. Contractor understands all relevant statutory, regulatory and contractual requirements under the Contract, and Contractor's approach to meet these requirements has been explicitly defined, documented, and kept up to date;
- ii. Contractor has implemented appropriate procedures to ensure compliance with legislative, regulatory, and contractual requirements under the Contract on the use of material which may be afforded intellectual property rights;
- iii. Contractor shall ensure that important records are protected from loss, destruction and falsification, in accordance with the statutory, regulatory, contractual, and business requirements under the Contract; and
- iv. Contractor shall ensure the protection and privacy of data as required in relevant legislation, regulations, and, as applicable, the Contract.

29.0 DISCLOSURE: If a State public official (Wis. Stat. § 19.42), a member of a State public official's immediate family, or any organization in which a State public official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to the Contract, and if the Contract involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, the Contract is voidable by the Department unless appropriate disclosure is made according to Wis. Stat. § 19.45(6), before the Contract is signed. Disclosure must be made to the Department or the State of Wisconsin Ethics Commission, P.O. Box 7125, Madison, Wisconsin 53703 (telephone: 608-266-8123; fax: 608-264-9319; email: Ethics@wi.gov).

30.0 DISCLOSURE OF INDEPENDENCE AND RELATIONSHIP:

30.1 Contractor certifies that no relationship exists between Contractor and the Department that interferes with fair competition or is a conflict of interest, and no relationship exists between the Contractor and another person or organization that constitutes a conflict of interest with respect to a State contract. The Department may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interests of the State.

30.2 Contractor agrees that during performance of the Contract, the Contractor will neither provide contractual services nor enter into any agreement to provide services to a person or organization that is regulated or funded by the Department or has interests that are adverse to the Department. The Department may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interests of the State.

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

32.0 EMPLOYMENT: The Contractor will not engage the services of any person or persons now employed by the State, including any department, commission or board thereof, to provide services relating to the Contract without the written consent of the employing agency of such person or persons and of the Department.

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

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

The State is exempt from payment of Wisconsin sales or use tax on its purchases. The State may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Contractors performing construction activities are required to pay State use tax on the cost of materials.

35.0 VENDOR TAX DELINQUENCY: The State may offset Contractor's payments if Contractor has a delinquent State tax liability. If such

action is taken by the State, the Department will not be liable for any impact sustained by the Contractor due to any delay, or total offset, of any payment owed to the Contractor under the Contract by the Department.

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

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

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

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

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

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

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

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

42.0 FORCE MAJEURE: Neither the Contractor nor the Department shall be in default by reason of any failure in performance of the Contract in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the non-performing party.

43.0 SURVIVAL: The obligations and terms listed in this Section shall survive termination of the Contract in perpetuity unless otherwise noted. Contractor's duty to cooperate with audits under Sections 6.3 and 6.4 shall survive for one year after termination of the Contract or until the resolution of any Contract dispute, whichever is longer. Contractor's duties under Section 28.0 shall survive for as long as the Contractor has access to Department Information Resources and Department data. Payment obligations that accrue prior to the date of termination, or as part of a transition plan, shall survive termination of the Contract. Section 1.0, Section 10.0, Section 11.0, Section 13.0, Section 14.0, Section 18.0, Section 21.0, Section 22.0, Section 23.0, Section 25.0, Section 31.0, Section 35.0, Section 37.0, Section 39.0, and this Section 43.0 shall also survive termination of the Contract.

Attachment G - Designation of Confidential and Proprietary Information

The material my company has submitted in response to *Supplemental Insurance Plan Guidelines* (ET-7422) includes proprietary and confidential information that qualifies as a trade secret, as provided in § 19.36 (5), Wis. Stats., or is otherwise material that can be kept confidential under the Wisconsin Open Records Law. As such, my company requests that certain pages of our proposal, as indicated below, be treated as confidential material and not be released without our written approval. I understand other information cannot be kept confidential unless it is a trade secret.

Trade secret is defined in § 134.90 (1) (c), Wis. Stats. as follows: “Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique or process to which all the following apply:

- The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
- The information is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.

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

Failure to include this form with your proposal may mean that all information provided as part of your proposal will be open to examination and copying. The State of Wisconsin (State) will consider other markings of confidentiality in your proposal to be insufficient. **If you are not including any confidential or proprietary materials with your proposal, please write “none” in the first row below.**

My company requests the following documents/sections/pages not be released:

Proposal Section/Attachment Name	Page #	Topic

Attach additional copies of this form if necessary.

In the event the designation of confidentiality of the above-listed information is challenged, my company hereby agrees to provide legal counsel or other necessary assistance to defend the designation of confidentiality and to hold the State harmless for any costs or damages arising out of the State withholding the materials. My company agrees to hold the State harmless for any damages arising out of the release of any materials unless they are specifically identified above.

Proposer Company Name:	
Name & Title of Authorized Representative:	
Authorized Representative Signature:	
Signature Date:	

Long-Term Care Insurance Standards 2023-2024 Program Years



Department of Employee Trust Funds
Group Insurance Board
4822 Madison Yards Way
Madison, Wisconsin 53705-9100

Effective for contracts signed covering 2023-2024 Program Years

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1. Purpose

This document, “Long-Term Care Insurance Standards,” serves as a resource for insurers and, if applicable, their agents interested in offering state employees and retirees a discounted individual long-term care insurance (LTCI) policy. It sets forth the requirements insurers and, if applicable, their agents must meet to offer these plans, provides the instructions for submitting a proposal, and outlines the criteria the evaluators will review in making their contracting recommendation to the Group Insurance Board (Board), who will determine one or more Insurer, and if applicable, Agent(s) to contract with for LTCI.

2. Definitions

- A. **Agent:** For purposes of this document, the Agent refers to any individual or organization that markets, solicits, or sells insurance policies underwritten by the insurer for compensation. This includes, but is not limited to, brokers, marketing agents, selling agents, managing general agents, and any other intermediary. Agents must meet requirements as defined in [Wis. Stat. Ch. 628](#).
- B. **Business Day:** Monday through Friday, excluding weekends, and holidays observed by the Department of Employee Trust Funds.
- C. **Calendar Day:** A twenty-four (24) hour day from midnight to midnight denoted on a calendar. Calendar Days include Saturdays, Sundays and Holidays.
- D. **Confidential Information:** All tangible and intangible information and materials being disclosed in connection with the contract, in any form or medium without regard to whether the information is owned by the State of Wisconsin or by a third party, which satisfies at least one of the following criteria: (i) Individual Personal Information; (ii) Personally Identifiable Information under Wis. Stat. § 19.62(5); (iii) Protected Health Information under HIPAA, 45 CFR 160.103; (iv) proprietary information; (v) non-public information related to the State of Wisconsin’s employees, customers, technology (including data bases, data processing, and communications networking systems), schematics, specifications, and all information or materials derived therefrom or based thereon; (vi) information expressly designated as confidential in writing by the State of Wisconsin; (vii) all information that is restricted or prohibited from disclosure by State or federal law, including Individual Personal Information and Medical Records as governed by Wis. Stats. § 40.07, Wis. Admin. Code ETF 10.70(1) and 10.01(3m); or (viii) any material submitted by the proposer designated confidential and proprietary information and which qualifies as a trade secret, as provided in Wis. Stat. § 19.36 (5) or material which can be kept confidential under the Wisconsin public records law, and identified on a Designation of Confidential and Proprietary Information form (Attachment C) and submitted to ETF. Pricing information cannot be held confidential.
- E. **Contract:** Contract between an insurer and, if applicable, Agent, and the Board related to the offering of long-term care insurance to state employees.
- F. **Eligible Employee:** Defined in Wis. Stat. § [40.02\(25\) \(b\)](#). It includes state employees eligible for the WRS, elected state officials, and graduate assistants employed at least one-third time who are expected to be employed for at least six months.
- G. **Group Insurance Board (Board):** Eleven (11) member board that sets policy and oversees administration of the group health, life insurance, and income continuation insurance plans for state employees, retirees, and the local employers who choose to offer them. The Board also can provide other insurance plans, if employees pay the entire premium. The Board’s authority is governed by [Wis. Stat. § 40.03 \(6\)](#). For more information on the Board, visit etf.wi.gov/boards/board_qib.htm
- H. **Insured:** The employee, retiree, or their spouses and parents that are covered by an individual long-term care insurance policy offered by the Board.
- I. **Insurer:** For purposes of this document, the Insurer refers to the company offering and

underwriting the long-term care insurance policy. The Insurer assumes the risk for the long-term care insurance policies.

- J. **Long-Term Care Insurance (LTCI):** Board-approved LTCI plans as defined under [Wis. Admin. Code § Ins 3.46](#). The Board may offer plans to eligible employees and retirees, and to their spouses and parents. The LTCI plan may be made available based on underwriting to establish each subscriber's initial eligibility and premium levels. The state does not contribute to LTCI plan premiums; subscribers pay 100% of the premium.
- K. **LTCI Eligible Individuals:** Eligible employees, their spouses, and parents; State of Wisconsin retirees, their spouses, and parents.
- L. **Retirees:** A person who is receiving or eligible for a retirement annuity, disability annuity, long-term disability insurance, or has retired and accepted a lump-sum payment from the Wisconsin Retirement System and who was eligible for group health insurance while employed.
- M. **Spouse:** Person in a marriage recognized in the State of Wisconsin
- N. **State:** The State of Wisconsin
- O. **Wisconsin Office of the Commissioner of Insurance (OCI):** OCI is a cabinet level office under the executive branch that performs a variety of tasks to protect insurance consumers and ensure a competitive insurance environment.

3. Statutory and Administrative Authority

- A. The Board has the following statutory and administrative authority related to LTCI plans:
 - a. [Wis. Stat. § 40.03\(6\)\(h\)](#) and [Wis. Stat. § 40.55](#) direct the Board to offer long-term care insurance for LTCI-eligible individuals.

4. Long-Term Care Insurance (LTCI) Plan Requirements

In order to be considered for approval, each proposed LTCI plan must:

- A. Be approved by OCI prior to submitting a proposal.
- B. Be an individual long-term care insurance policy issued by an Insurer or its affiliates and made available for purchase generally by LTCI-eligible individuals in the various states in which individuals reside at the time of purchase with the discounted rate agreed upon by the Board, Insurer and if applicable, Agent. All policies shall be owned by the individual to whom the policy is issued.
- C. Meet all applicable requirements listed in these long-term care insurance standards and attachments A-D.

5. Insurer and, If Applicable, Agent Responsibilities

The Insurer and Agent will be responsible for the requirements listed below. If the Insurer does not have an Agent, the Insurer will assume both Agent and Insurer responsibilities. An Agent shall provide ETF with a copy of any agreement between an Insurer and the Agent.

Insurers and, if applicable, Agents, interested in offering or marketing an LTCI plan must meet and agree to the following:

- A. General
 - 1. The Insurer shall hold a license to sell LTCI from OCI and be in good standing, including compliance with duties outlined in [Wis. Admin. Code § Ins 42.05](#).
 - 2. The Insurer and, if applicable, the Agent, shall comply with all applicable state and federal laws and regulations concerning the confidentiality, privacy, or security of personally identifiable information created, received, or otherwise accessed by the Insurer.
 - 3. All Agents are licensed under [Wis. Stat. § 628.04](#) and adhere to the terms of the Contract.

4. The Insurer and Agent shall only sell LTCI plans to LTCI-eligible individuals that have been approved by the Board. The introduction or sale of any other insurance plan or product, where the Insurer or Agent access to referral was gained through marketing an approved LTCI plan, is prohibited without prior Board approval.
5. The Board reserves the right to withdraw its approval if Insurers and, if applicable, Agents and the LTCI plans they offer, fail to meet requirements detailed in these standards or its attachments A-D, or the contract.

B. LTCI Plan Administration

1. The LTCI plan must be filed with OCI and meet all statutory requirements including those related to benefit design, inflation protection, the WI Partnership Program, and premium increases. (Examples: [Wis. Admin. Code § Ins 3.45](#), [Wis. Admin Code § Ins 3.455](#), [Wis. Admin. Code § Ins 3.465](#), [Wis. Admin. Code § Ins 3.46](#)).
2. The LTCI plan offers a discount to the insured, including State of Wisconsin eligible employees, their spouses, and parents; State of Wisconsin retirees, their spouses, and parents.
3. The Insurer and, if applicable, the Agent, through the references provided with the proposal, demonstrates a history of performance and acceptance by eligible participants and/or a record of positive assessment by other public or private entities that make the same or similar plan available to their employees.
4. Enrollment will begin not less than eight weeks after Board approval.

C. Marketing, Materials and Member Resources

1. A contract with the Board must be in place prior to any marketing activity or distribution of materials to LTCI-eligible individuals. The contract must be signed by the Insurer and, if applicable, an Agent before the annual May Board meeting.
2. All marketing and informational materials provided to LTCI-eligible individuals must have *prior approval* by ETF staff, including materials distributed plan wide every time the material is distributed. Approval of marketing materials by OCI is not a substitute for ETF approval.
3. The Insurer and, if applicable, the Agent, agrees to the OCI provisions relating to privacy to maintain the confidentiality of any LTCI-eligible individual's information. Prohibited sales techniques, high pressure sales, unsolicited emails, or cold calls to LTCI-eligible individuals is specifically not permitted.
4. The Agent must provide an internet web page including a toll-free phone number to allow LTCI-eligible individuals to obtain descriptive materials and applications. This phone number shall also be available for any questions, complaints, requests, or other concerns relating to the LTCI program. The Agent shall be required to arrange to meet with LTCI-eligible individuals only when invited to do so by telephone or written request.
5. A Board-approved LTCI plan may be marketed to LTCI-eligible individuals, defined as state employees, who are defined by [Wis. Stat. § 40.02\(25\)\(bm\)](#) as:
 - a. Any employee of the State who received a salary or wages in the previous Calendar Year.
 - b. State retirees under [Wis. Stat. § 40.02\(54m\)](#).
 - c. Any participant who was formerly employed by the state who received a lump-sum payment if paid as an annuity.
 - d. Any employee who is a resident of Wisconsin and has filed an application for an immediate annuity, regardless of whether final administration has been taken.
6. ETF will facilitate Insurer or, if applicable, Agent outreach to members by:
 - a. Providing an annual review, approval, and distribution of informational or outreach messaging

provided by the Insurer, or if applicable, its Agent.

b. Annually preparing census list for direct marketing, if requested by the Insurer or Agent.

D. Reporting

1. Year-end enrollment report: The Insurer or, if applicable, the Agent, must submit a year-end enrollment report electronically to ETFSMBInsuranceSubmit@etf.wi.gov and copy the LTCI program manager no later than January 15. The report shall include the following information from the entire previous year:

- a. Number of Member inquires.
- b. Number of policies sold.
- c. Number of claims.
- d. Dollar amount of claims paid.
- e. Number of policies lapsed.
- f. Number of claims denied
- g. Average discount offered on each policy sold to LTCI-eligible individual.
- h. Average discount offered to LTCI-eligible individuals compared to overall book of business.
- i. Other data elements as requested by ETF.

Late or incomplete reporting may result in a \$100 a day penalty for every day the year-end enrollment report is received late and may result in not recommending the LTCI plan to the Board.

6. Submitting a Proposal

The process for submitting an LTCI proposal is as follows:

- A. Insurer reviews this document and attachments A-D thoroughly to understand all requirements and expectations.
- B. Insurer should contact ETF at ETFSMBInsuranceSubmit@etf.wi.gov with any questions about the Insurer and, if applicable, Agent, responsibilities and requirements prior to submitting the signed proposal.
- C. Insurer submits a completed unredacted proposal, including attachments A-D, signed where applicable. The file name for this document should be “[Insurer/Agent name] - LTCI Proposal”. This file must contain all electronic, unredacted Proposal files in Microsoft Word/Microsoft Excel, and/or Adobe Acrobat 9.0 (or above) format. The Department requires that all files have optical character recognition (OCR) capability (not a scanned image).
- D. **IF** the Proposal includes confidential or proprietary information, include a file labeled “[Insurer/Agent name] – LTCI REDACTED Proposal.” This file must contain all electronic Proposal files in Microsoft Word/Microsoft Excel, and/or Adobe Acrobat 9.0 (or above) format **EXCLUDING or REDACTING** all confidential and proprietary information/documents. Insurer should be aware that the Department may need to electronically send the redacted files to members of the public and other Proposers when responding appropriately to public records requests. Note that no matter what the method the Insurer uses to redact documents in this file, the Department is not responsible for checking that the redactions match the Proposer’s Attachment C – Designation of Confidential and Proprietary Information. The Department is not responsible for checking that redactions, when viewed on-screen via electronic file, cannot be thwarted. The Department may post redacted Proposals on the Department’s public website in exactly the same file format the Insurer provides, and the Department is not responsible if the redacted file is copied and pasted, uploaded, emailed, or transferred via any electronic means, and somehow loses its redactions in that process.
 - Redact only material the Insurer authored.

- Do not redact page numbers. Page numbers should remain visible at all times, even if the whole page is being redacted.
- E. All proposals are due no later than 2:00 p.m. CST on the last Business Day of January to ETFSMBInsuranceSubmit@etf.wi.gov AND ETFSMBProcurement@etf.wi.gov. Proposals received by the Department after this date and time may not be accepted and may be disqualified. All required parts of the Proposal must be submitted by the specified due date and time; if any portion of the Proposal is submitted late, the entire Proposal may be disqualified.

7. Review and Approval Process

- A. ETF notifies an Insurer and/or Agent within ten (10) business days of the submission of the proposal to ETF that the submission has been received and whether it is deemed complete.
1. If incomplete, ETF will notify the Insurer and/or Agent. The Insurer and/or Agent will have five (5) business days from notification to complete the proposal. If not completed timely after notification, the proposal shall not be recommended to the Board for approval.
- B. ETF reviews the proposal.
1. The review process may include discussions between the Insurer, Agent, and ETF, an advisory committee of employer representatives, and/or the actuary.
Any modifications to the proposal must be received electronically by ETF no later than six (6) weeks prior to the scheduled May Board meeting where the proposal will be discussed.
 2. ETF will contact all references provided in the proposal on behalf of the Board.
- C. ETF finalizes the review and prepares a recommendation for the Board.
1. ETF will notify those Insurers, and Agents if applicable, it plans to recommend within thirty (30) days prior to the May Board meeting.
 2. ETF will provide the recommended Insurers, and Agents if applicable, with the Contract for review with notification of their selection.
 3. The recommended Insurers, and Agents if applicable, must provide an Insurer/Agent-signed copy of the Contract to ETF **prior to the May Board meeting**, for signature by the Board Chair if approved by the Board.
 4. ETF will provide advance notification of the recommendation to non-recommended Insurers/Agents at least two (2) weeks prior to the May Board meeting.
- D. The Board will determine whether to approve the proposal at a publicly noticed Board meeting.
1. A spokesperson for the Insurer and/or Agent should be present at the May Board meeting (by phone or in person).
 2. The agenda and documents for Board meetings are posted to etf.wi.gov prior to each meeting.
- E. If the Board selects the Insurer(s)/Agent(s) being recommended by ETF, ETF will provide the partially-signed contract(s) to the Board Chair for signature after the May Board meeting and return a fully-executed copy of the Contract to all the parties. If the Board selects a different Agent(s)/Insurer(s) than that being recommended by ETF, the selected Agent(s)/Insurer(s) must provide their Contract signatures to ETF no more than thirty (30) Calendar Days after the May Board meeting, for signature by the Board Chair. ETF will then provide a fully-executed copy of the Contract to all the parties. If Agent/Insurer does not provide an acceptable Agent/Insurer-signed copy of the Contract before thirty calendar days after the May Board meeting, the Board may contract with a different Agent/Insurer.
- F. Any Insurer/Agent who the Board chooses not to contract with may:
1. Request to virtually meet with the ETF supplemental project manager and ETF procurement

- staff to identify any concerns with the process or recommendation; and
2. Write a letter to the Board to identify concerns with the selection and submit it electronically to ETFSMBBoardFeedback@etf.wi.gov

8. Additional Information

- A. Please send questions related to the long-term care insurance approval process to: ETFSMBInsuranceSubmit@etf.wi.gov
- B. The attachments to these LTCI standards are:
 1. Attachment A: Proposal Submission Checklist
 2. Attachment B: Insurer/Agent Acknowledgement
 3. Attachment C: Designation of Confidential and Proprietary Information
 4. Attachment D: Sample Contract Cover Page

Attachment A

Proposal Submission Checklist

Insurers must submit the following information electronically to the Department of Employee Trust Funds Office of Strategic Health Policy at ETFSMBInsuranceSubmit@etf.wi.gov and ETFSMBProcurement@etf.wi.gov

A completed proposal that includes all elements required by the LTCI standards must be *received* by ETF by 2:00 PM on the last Business Day of January. ETF reserves the right to request paper copies. If requested, paper copies will be delivered to ETF within ten (10) Business Days of the request.

General Information

- Cover letter, including an executive summary of the proposal.
- Table of Contents, clearly labeled with page numbers.
- This Attachment A: Proposal Submission Checklist, completed.
- Attachment B: Insurer/Agent Acknowledgement, completed and signed by the Insurer and, if applicable, the Agent.
- Attachment C: Designation of Confidential and Proprietary Information, completed and signed by the Insurer and, if applicable, the Agent.

Name of Proposal Contact	
Title	
Mailing Address	
Phone Number (direct)	
Email Address	

- Provide the name, title, phone number, and email address for the representative(s) who will manage contract negotiation and administration, if different from above.

Name of Account Manager	
Title	
Mailing Address	
Phone Number (direct)	
Email Address	

- Provide the name of the specific insurance plan the Insurer is interested in offering LTCI-eligible individuals. *Note:* this is the name of the LTCI plan presented within the proposal; other plans not listed will not be considered for approval.

Also provide the Office of the Commissioner of Insurance (OCI) identification number and date of OCI registry.

Specific Name of LTCI Plan Proposed	
Plan's Marketing Title, if different	
OCI Plan Identification Number	
Date of OCI registry	

- List functional web addresses for the Insurer and Agent, with links to related plans if possible.

Insurer Website	
Agent Website	
Additional Relevant Links	

- List all selling Agents relevant to the proposed plan. Attach additional sheets if needed.

Agent (Entity) Name	Agency Contact Name, Phone, Email	Agent Website

- Provide at least two Insurer references and, if applicable, at least two Agent references. References should be from current or recent public or private employers (not including ETF) from which the Insurer collects LTCL premiums via electronic fund transfer, including name and contact information for the employee benefits office. Agent references should be from at least one insurer with whom they've worked and at least one policy holder. References of Agent should be able to speak to the customer service received from Agent. These references can be familiar with other products offered by Agent.

If unable to supply references from public/private employers please attach a sheet explaining why the reference cannot be provided and the full names, telephone numbers, and email addresses of two (2) clients ETF may contact to ask about their experience. These clients must have had the policy for at least two (2) years, not be related to or in a relationship with anyone employed by the Insurer or Agent and never held a state level elected position in Wisconsin.

Reference 1: Insurer Reference (public or private employer) OR client

Organization Name	
Contact First and Last Name	
Contact Phone	
Contact Email	
Product Offered	
Number of Covered Lives	
Contracted Years	

Reference 2: Insurer Reference (public or private employer) OR client

Organization Name	
Contact First and Last Name	
Contact Phone	
Contact Email	
Product Offered	
Number of Covered Lives	
Contracted Years	

Reference 3: Agent Reference of an insurer or policy holder

Organization Name	
Contact First and Last Name	
Contact Phone	
Contact Email	
Product Offered	
Number of Covered Lives	
Contracted Years	

Reference 4: Agent Reference policy holder

Organization Name	
Contact First and Last Name	
Contact Phone	
Contact Email	
Product Offered	
Number of Covered Lives	
Contracted Years	

Benefits and Materials

- Complete Attachment A: Proposal Submission Checklist.
- Complete Attachment B: Insurer/Agent Acknowledgement.
- Complete Attachment C: Designation of Confidential and Proprietary Information.
- Review Attachment D: Sample Contract Cover Page.
- Provide a detailed list of any exclusions and limitations for the proposed LTCI Plan.
- Provide a sample brochure, specifically drafted for the State of Wisconsin.
- Submit a marketing plan, detailing the electronic and print materials that will be available to State of Wisconsin members. For reference, the State of Wisconsin employee and annuitant benefit information is found at etf.wi.gov.
- Documentation that the LTCI plan meets necessary requirements for sale in the state. Include completed copies of OCI's required yearly Long-Term Care Reporting forms numbers 26-301, 26-301H, 26-304, 26-304H, 26-305, 26-306, 26-307, 26-307H and 26-308 from the previous year. If unable to supply the forms attach a sheet explaining why the forms cannot be provided.
- Submit a detailed description of the discount the Insurer and/or Agent is prepared to offer LTCI-eligible individuals
- Summary of the proposed LTCI plan, suitable for comment from member advisors. This maybe a mock-up of a brochure but must accurately depict the proposed LTCI plan presented to the Board.
- Sample application and sample policy agreement between the Insurer and Insured.
- If applicable, the agreement between the Insurer and Agent.

Attachment B

Insurer and, if applicable, Agent Acknowledgement

If there is an Agreement between the Insurer and Agent, provide a copy to ETF and include the Agent's signature in the designated space below.

State of Wisconsin Long-Term Care Program

Instructions:

1. Check "Agree" or "Disagree" to each requirement as appropriate.
2. Complete the "ACKNOWLEDGE AND ACCEPT" section:
 - Print company name.
 - Print the name of the representative signing this form (must be authorized to legally bind the company).
 - Sign and date.

Long-Term Care Insurance Requirements	Agree	Disagree
A. Insurer and, if applicable, Agent agrees to all responsibilities and requirements outlined in the <i>Long-Term Care Standards (ET-7423)</i> , including attachments A-D.	<input type="checkbox"/>	<input type="checkbox"/>
B. Insurer and, if applicable, Agent agree to submit a year-end eligibility report by January or be subject to the penalties described herein.	<input type="checkbox"/>	<input type="checkbox"/>
C. Insurer and, if applicable, Agent, agree to send informational materials to members at ETF's discretion (i.e. in the event of a large-scale error or legislative change, upon the insurer's acceptance into or termination from the program, etc.) via U.S. Mail unless otherwise agreed to by ETF.	<input type="checkbox"/>	<input type="checkbox"/>
D. Insurer and, if applicable, Agent acknowledges and understands all applicable laws that govern this program, including specific requirements and restrictions under Wis. Stat. Ch. 40 .	<input type="checkbox"/>	<input type="checkbox"/>
E. Insurer and, if applicable, Agent acknowledges that a complete contract must be executed prior to the annual May Board meeting, at which the Board will approve or deny plan proposals. Failure to timely sign the contract may disqualify the Insurer or agent from consideration.	<input type="checkbox"/>	<input type="checkbox"/>

By signing ET-7423 Attachment B, the Insurer hereby agrees to the responsibilities as outlined in Attachment B above.

ACKNOWLEDGE AND ACCEPT:

This form has been reviewed by me and shall become part of the final Contract. I am a duly authorized representative of my company and have the authority to legally bind my company. I hereby acknowledge and accept responsibility for the accuracy of the responses given above. I further accept that my company's Proposal *may* be rejected on the grounds that any item listed above is marked as "Disagree." I have specified and provided a reason for any answer marked as "Disagree" in my company's Proposal.

INSURER Company Name:	Click or tap here to enter text.
Name & Title of Authorized Representative:	Click or tap here to enter text.
Authorized Representative Signature:	
Signature Date:	Click or tap here to enter text.

If applicable, by signing ET-7423 Attachment B, the Agent hereby agrees to the responsibilities as outlined in Attachment B above. If not applicable, Insurer should mark N/A.

AGENT Company Name:	Click or tap here to enter text.
Name & Title of Authorized Representative:	Click or tap here to enter text.
Authorized Representative Signature:	
Signature Date:	Click or tap here to enter text.

Attachment C: Designation of Confidential and Proprietary Information

The material my company has submitted in response to *Long-Term Care Insurance Standards* (ET- 7423) includes proprietary and confidential information that qualifies as a trade secret, as provided in Wis. Stat. § 19.36(5) or is otherwise material that can be kept confidential under the Wisconsin Open Records Law. As such, my company requests that certain pages of our proposal, as indicated below, be treated as confidential material and not be released without our written approval. I understand other information cannot be kept confidential unless it is a trade secret.

Trade secret is defined in Wis. Stat. § 134.90(1)(c) as follows: “Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique or process to which all the following apply:

- The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
- The information is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.

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

Failure to include this form with your proposal may mean that all information provided as part of your proposal will be open to examination and copying. The State of Wisconsin (State) will consider other markings of confidentiality in your proposal to be insufficient. **If you are not including any confidential or proprietary materials with your proposal, please write “none” in the first row below.**

My company requests the following documents/sections/pages not be released:

Proposal Section/Attachment Name	Page #	Topic

Attach additional copies of this form if necessary.

In the event the designation of confidentiality of the above-listed information is challenged, my company hereby agrees to provide legal counsel or other necessary assistance to defend the designation of confidentiality and to hold the State harmless for any costs or damages arising out of the State withholding the materials. My company agrees to hold the State harmless for any damages arising out of the release of any materials unless they are specifically identified above.

Insurer/Proposer Company Name	
Name & Title of Authorized Representative	
Authorized Representative Signature	
Signature Date	

If applicable, Agent, Name	
Name & Title of Authorized Representative	
Authorized Representative Signature	
Signature Date	

Attachment D: Sample Contract Cover Page

State of Wisconsin
Department of Employee Trust Funds
4822 Madison Yards Way
Madison, WI 53705-9100
P. O. Box 7931
Madison, WI 53707-7931



Contract by Authorized Board

Commodity or Service:

Individual long-term care insurance for an eligible employee-pay-all basis as defined by Wis. Stat. § 40.02 (40m)

Contract No./Request for Proposal No:

ETB0045

Authorized Board: State of Wisconsin Group Insurance Board

Contract Period: January 1, 2023 - December 31, 2024

1. This contract is entered into by the State of Wisconsin Department of Employee Trust Funds on behalf of the Group Insurance Board (Board), and [*vendor name*] (Contractor), whose address and principal officer appear below. ETF is the sole point of contact for this contract.
2. Whereby ETF agrees to direct the purchase and contractor agrees to supply the contract requirements in accordance with the documents specified in the order of precedence below, which are hereby made a part of this contract by reference.
3. For purposes of administering this Contract, the order of precedence is:
 - (a) This Contract;
 - (b) *Long-Term Care Insurance Standards* (ET-7423) as approved by the Board on November __ x, 2021; and
 - (c) Contractor's proposal dated January x, 2022 including contractor's signed Attachment B: Insurer/Agent Acknowledgement; contractor's signed Attachment C: Designation of Confidential and Proprietary Information; a sample Insurer-Insured agreement; and if applicable, a sample Agent-Insurer agreement.

Continued on next page.

Contract Number and Service: ETB0045 individual long-term care insurance for an eligible employee-pay-all basis as defined by Wis. Stat. § 40.02 (40m)

This contract shall become effective upon the date of last signature below (the “effective date”).

State of Wisconsin Department of Employee Trust Funds
Authorized Board: Group Insurance Board
By (Name): Board Chair
Signature:
Date of Signature:

Contractor/Insurer
Legal Company Name:
Trade Name:
Taxpayer Identification Number:
Contractor Address (Street Address, City, State, Zip):
Name & Title (print name and title of person authorized to legally sign for and bind Contractor):
Signature:
Date of Signature:
Email: _ Phone:

Agent
Legal Company Name:
Trade Name:
Taxpayer Identification Number:
Contractor Address (Street Address, City, State, Zip):
Name & Title (print name and title of person authorized to legally sign for and bind Contractor):
Signature:
Date of Signature:
Email: _ Phone: