



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:**

Third Party Administration of the Section 125 Cafeteria Plan, Employee Reimbursement Account and Commuter Fringe Benefit Account Programs

**Contract No./Request for Proposal No:**

ETD0053

**Authorized Board:** Group Insurance Board

**Contract Period:** the date of last signature below (the Effective Date) through December 31, 2028 with the option to renew the Contract for two, two-year periods

1. This Contract is entered into by the State of Wisconsin Department of Employee Trust Funds (Department) on behalf of the State of Wisconsin Group Insurance Board (Board), and Total Administrative Services Corporation (**TASC**) (Contractor), whose address and principal officer appear below. The Department is the sole point of contact for the Contract.
2. Whereby the Department 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, if not attached hereto, are hereby made a part of the Contract by reference.
3. For purposes of administering the Contract, the order of precedence is:
  - (a) This Contract signature page;
  - (b) RFP Appendix 2 – Department Terms and Conditions revised March 17, 2025;
  - (c) RFP Appendix 7 – Program Agreement – ETD0053 Section 125 Cafeteria Plan, Employee Reimbursement Account Benefit Program and Commuter Fringe Benefit Program revised April 10, 2025;
  - (d) FORM H – Cost Proposal – Contractor's Best and Final Offer dated November 11, 2024;
  - (e) Report Requirements dated April 2, 2025;
  - (f) ETF Request for Proposals (RFP) ETD0053 dated April 25, 2024, as amended with Addendum No. 1 dated May 30, 2024, and Addendum No. 2 dated June 25, 2024; and,
  - (g) Contractor's Proposal dated August 1, 2024.

<b>State of Wisconsin Department of Employee Trust Funds</b>
Authorized Board: State of Wisconsin Group Insurance Board
By (Name): Herschel Day, Chair
Signature: /s/
Date of Signature: 4/29/2025

Email [ETFsmbProcurement@etf.wi.gov](mailto:ETFsmbProcurement@etf.wi.gov) should questions arise regarding this document.

<b>Contractor</b>
Legal Company Name: <b>Total Administrative Services Corporation (TASC)</b>
Taxpayer Identification Number: 39-1561025
Contractor Address (Street Address, City, State, Zip): 2302 International Lane, Madison WI 53704
Name & Title (print name and title of person authorized to legally sign for and bind Contractor): Derrick Daniel, Regional Vice President, Large Markets
Signature: /s/
Date of Signature: 4/29/2025

## 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. Wis. Stat. § 16.765 (1). The Contractor agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause; Wis. Stat. § 16.765 (2).

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; Wis. Admin. Code § ADM 50.04.

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.

When the Contractor becomes aware that a change in ownership or control of the Contractor or a name change has occurred or is certain to occur, the Contractor shall notify the Department within thirty (30) calendar days after the effective date of any such ownership or name change.

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

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

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

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

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 System and Organization Controls (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 or utilize the Department's internal audit resources 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 (LAB) 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](https://dpm.wi.gov/Hand%20Book%20Chapters/WHRH_Ch_246.pdf)); the Contractor is required to perform background checks for all potential hires that will perform Services under the Contract, 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 and may be required by the Department. 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 upon the Department's request. The Contractor must provide an attestation to the Department indicating that the background checks were completed, and such checks passed. 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 PAYMENT TERMS AND INVOICING:** The State of Wisconsin normally will pay properly submitted vendor invoices within thirty (30) calendar days of receipt providing goods and/or Services have been delivered, installed (if required), and accepted as specified. Invoices presented for payment must be submitted in accordance with instructions contained in the Department's purchase order or the Contract including reference to the purchase order number and submittal to the correct address for processing.

**14.0 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.

**15.0 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.

**16.0 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.

**17.0 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 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.

**18.0 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 24.0 Confidential Information, Privacy and HIPAA Business Associate Agreement below regarding Confidential Information; or
- l. If the Department or State fails to appropriate funds for the project described in the Contract; Wis. Stat. § 16.75 (3).

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

**18.1 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.

**19.0 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.

**20.0 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.

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

**22.0 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.

The Contractor shall maintain commercial liability, bodily injury, and property damage insurance against any claim(s) which might occur in carrying out the Contract with a minimum coverage of **\$1,000,000** per occurrence liability for bodily injury and property damage including products liability and completed operations. Contractor shall maintain motor vehicle insurance for all owned, non-owned, and hired vehicles that are used in carrying out the Contract with a minimum coverage of **\$1,000,000** per occurrence combined single limit for automobile liability and property damage. The Department reserves the right to require higher or lower limits where warranted.

- 23.0 OWNERSHIP OF MATERIALS:** Except as otherwise provided in Section 24.0, Subsection (v) Return or Destruction of Confidential Information, 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.

- 24.0 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, the Contractor, or by a third party, which satisfies at least one of the following criteria: (i) Individual Personal Information under Wis. Stat. § 40.07 and Wis. Admin. Code ETF § 10.70 ; (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 Medical Records as governed by Wis. Stat. §§ 40.07(2) and Wis. Admin. Code § 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) Medical Record. "Medical Record" has the meaning ascribed to it at Wis. Admin. Code § ETF 10.01(3m).
- (6) 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 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 contiguous United States, or access of Confidential Information from outside the contiguous 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 Section 24.0 , Subsection (m) Contractor Reporting of Breach or Suspected Breach or Disclosure to the Department 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 OF CONFIDENTIAL INFORMATION TO THE DEPARTMENT:**
  - (1) As soon as practical, but no later than forty-eight (48) hours after Contractor becomes aware of a suspected breach, impermissible use, or impermissible disclosure of Confidential Information, Contractor shall notify in writing the Department Privacy Officer at [ETFSMBPrivacyOfficer@etf.wi.gov](mailto: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:
    - a. The nature of the unauthorized access, use or disclosure;
    - b. A list of any persons affected (if available);
    - c. A description of the Confidential Information included in the breach, impermissible use, or impermissible disclosure, including indicating whether such Confidential Information was encrypted;
    - d. The date or dates of the suspected breach, impermissible use, or impermissible disclosure;
    - e. The date of the discovery by Contractor;
    - f. A list of the proactive steps taken by Contractor and being taken to correct the breach, impermissible use or impermissible disclosure; and
    - g. Contact information at Contractor for affected persons who contact the Department regarding the issue.
  - (2) As soon as practical, but not less than two (2) business days before Contractor makes any external communications to the public, media, federal Office for Civil Rights (OCR), other governmental entity, or persons potentially affected by the breach, impermissible use, or impermissible disclosure, provide a copy of the planned communication to the Department Program Manager and Privacy Officer.
  - (3) Within thirty (30) business days after Contractor makes the initial report under this Section, Contractor shall research the suspected breach, impermissible use, or impermissible disclosure of Confidential Information and provide a report in writing to the Department Program Manager. The report must contain, at a minimum:
    - a. A complete list of any persons affected (whose Confidential Information was supplied to Contractor by the Department) and their contact information;
    - b. Copies of correspondence or notifications provided to the public, media, OCR, other governmental entity, or persons potentially affected;
    - c. Whether Contractor's Privacy Officer has determined there has been a reportable breach under HIPAA, or an unauthorized acquisition under Wis. Stat. § 134.98 and the reasoning for such determination;
    - d. If Contractor determines there has been a breach, impermissible use, or impermissible disclosure, an explanation of the root cause of the breach, impermissible use, or impermissible disclosure;
    - e. A list of the corrective actions taken to mitigate the suspected breach, impermissible use, or impermissible disclosure; and
    - f. A list of the corrective actions taken to prevent a similar future breach, impermissible use, or impermissible disclosure.
- (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:

- a. Immediately preserving any potential forensic evidence relating to the breach, and remedying the breach as quickly as circumstances permit;
  - b. Within forty-eight (48) hours designating a contact person to whom the Department will direct inquiries, and who will communicate Contractor responses to Department inquiries; Contractor will designate a Privacy Officer and Security Officer to serve as contacts for the Department;
  - c. 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 daily reports to the Department outlining planned daily activities by 9:00 a.m. (CT) and including a status overview by 4:00 p.m. (CT) 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 notice as soon as practical, but no later than within twenty-four (24) hours (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 compliance reviews 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 Section 24.0, Subsection (d) Use and Disclosure of Confidential Information, 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.

**25.0 ARTIFICIAL INTELLIGENCE:** Contractor's use of Artificial Intelligence (AI) models shall at all times comply with and observe the terms of the Contract. "AI model" means a system that is designed to process or learn from data entered to conduct cognitive functions that simulate human intelligence. This includes, but is not limited to, search and filtering functionality that collects, tracks, and monitors data whether via sensors, user-entered data, or other sources without a human responsible for verifying the validity and integrity of data inputs and outputs to maintain the system's integrity, including legal due process if the model is allowed to make decisions on issues that impact human or legal rights.

- (a) Contractor use of AI models shall comply with each of the following:
  - (1) Materially comply with and observe all applicable State and federal laws, administrative rules, and regulations, including but not limited to privacy, intellectual property, and equity requirements.
  - (2) Maintain the integrity of work performed and Services provided under the Contract, including, but not limited to, ensuring that bias is not introduced into Services provided pursuant to the Contract by Contractor.
  - (3) Maintain the quality of Department information under Contractor's authority.
  - (4) Maintain the confidentiality, privacy, and security of Confidential Information as defined in Section 24.0 (a) (2).
- (b) The Contractor shall remove all Department information, including Confidential Information, from AI models used by Contractor upon the Department's request or, at the latest, upon Contract termination, including removal from AI model training data and learning.
- (c) The Contractor shall not gain profit from use of Department information, including Confidential Information, that is outside the scope of the Contract.
- (d) Upon request from the Department the Contractor will disclose within 30 calendar days from the day of the request which Services provided to the Department are using AI models.

**26.0 INDEMNIFICATION:**

- (a) **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.
- (b) **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.

- (c) **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.
- (d) **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.
- (e) **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.

**27.0 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.

**28.0 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.

**29.0 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.

**30.0 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, if possible.

The State of Wisconsin reserves the right to approve all key personnel 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. Within thirty (30) calendar days of the Contract start date, the Contractor will provide an attestation to the Department indicating that background checks were completed for all such personnel and such checks passed; thereafter, annual attestations are required.

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. For purposes of this written notice requirement, email notification will be sufficient.

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.

### **31.0 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 24.0) 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.
- (2) Subservice Organization: "Subservice Organization" means a subcontractor whose controls, in combination with the Contractor's controls, are necessary to perform Services under the Contract and related system requirements.

- (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, NIST 800-53, 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 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.
  - (3) Annually, if the Contractor is required to provide an independent service auditor's report, such as a SOC 2, Type 2 audit report, Contractor will furnish the Department's designated staff person as directed with a copy of Contractor's required report. If the Contractor's SOC 2, Type 2 audit report covers less than twelve (12) months of a calendar year, the Contractor will provide a bridge letter to the Department as an attestation indicating whether significant changes have occurred to the processes and controls since the issuance of Contractor's last SOC 2, Type 2 audit report.
  - (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.
  - (5) Annually, or upon change in Subservice Organizations, Contractor will demonstrate oversight of Subservice Organizations involved in the delivery of Services under the Contract. To demonstrate oversight, the Contractor shall submit a list of all current Subservice Organizations involved in the delivery of Services under the Contract and one of the following documents to the Department:
    - a. Policy and procedure regarding monitoring the compliance of Subservice Organizations handling of Department data;
    - b. Documentation showing oversight of Contractor's Subservice Organizations' security posture through annual reviews of Contractor's vendors' independent service auditor's reports; annual corrective action plans; or annual reviews of information technology controls; or
    - c. Letter of attestation assuming the Contractors' liability for its Subservice Organizations.
  - (6) Contractor will provide the Department written notice of any change in parties responsible for information security activities and functions that impact Services under the Contract, such as due to business acquisition or merger impacting Contractor, within thirty (30) calendar days of knowledge of such ownership change.

- (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 31.0, Subsection (f)(2) 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, approved by Contractor management, reviewed at least annually, and maintained to ensure 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 access to the secure areas is logged and monitored..

**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 backs up data daily and, at least annually and based on the Contractor's backup policy, tests that back-ups can be restored.

**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 at least annually;
- 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, controls, and monitors the allocation and use of access to its systems for unauthorized users and data usage;
- iv. Contractor controls the allocation of passwords through an automated or semi-automated password management tool; and

- v. Contractor's management reviews users' access rights at least annually using a formal process.

**b. User responsibilities**

- i. Users are required to follow information security best practices in the selection and use of passwords;
- ii. Users shall ensure 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 adhere to the principle of least privilege or minimum access;
- 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 at least 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 and disaster recovery plans at least annually 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.

**32.0 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).

**33.0 DISCLOSURE OF INDEPENDENCE AND RELATIONSHIP:**

- (a) 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.
- (b) 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 to the extent allowed under applicable federal and state laws and regulations. The Department may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interests of the State.

**34.0 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.

**35.0 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.

**36.0 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.

**37.0 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; Wis. Stat. § 77.54 (9a), IRC § 115.

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.

**38.0 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; Wis. Stat. § 73.12.

**39.0 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 Wis. Stat. Chapter 180 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.

**40.0 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. It is the Contractor's responsibility to defend the determination that a record is not subject to disclosure pursuant to a public records request in the event of an appeal or litigation. The Contractor, following final payment, shall retain all records produced or collected under the Contract for six (6) years.

**41.0 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.

**42.0 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.

**43.0 WORK CENTER:** The Contractor shall agree to implement processes that allow the Department to satisfy its obligation to purchase goods and services produced by work centers certified under the State Use Law, Wis. Stat. § 16.752. This shall result in requiring the successful Contractor to include products provided by work centers in its catalog for State agencies and campuses or to block the sale of comparable items to State agencies and campuses. A work center must be certified under Wis. Stat. § 16.752 and must ensure that when engaged in the production of materials, supplies or equipment or the performance of contractual services, not less than seventy-five percent (75%) of the total hours of direct labor are performed by severely handicapped individuals.

**44.0 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.

**45.0 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.

**46.0 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.

**47.0 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 31.0 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 14.0, Section 15.0, Section 19.0, Section 23.0, Section 24.0, Section 26.0, Section 28.0, Section 34.0, Section 38.0, Section 40.0, Section 42.0, and this Section 47.0 shall also survive termination of the Contract.

**Appendix 7**  
**Program Agreement - RFP ETD0053**  
**Section 125 Cafeteria Plan**  
**Employee Reimbursement Account Benefit Program**  
**Commuter Fringe Benefit Program**



**State of Wisconsin**  
**Department of Employee Trust Funds**

**April 10, 2025**

# TABLE OF CONTENTS

<b>Table of Contents .....</b>	<b>2</b>
<b>000 Definitions .....</b>	<b>5</b>
105 Introduction.....	9
110 Benefit Program Changes .....	9
115 Board Authority.....	10
120 Contractor General Responsibilities .....	11
125 Eligibility .....	14
125A ERA BENEFIT Coverage Eligibility .....	14
125B Qualified Dependent Coverage Eligibility .....	15
125C Dependent Day Care Coverage Eligibility .....	16
125D Commuter Fringe Benefit Program Coverage Eligibility .....	17
125E Change in Status .....	17
125F Contributions.....	17
125G Contribution Carryover .....	18
130 Enrollment .....	19
130A Specific to the ERA Benefit Program:.....	20
130B Specific to the Commuter Fringe Benefit Program: .....	20
130C Debit Cards.....	21
130D Participant Information .....	21
130E Termination of Coverage.....	22
130F Date of Death.....	23
135 Financial Provisions.....	23
135A Advance Funding .....	23
135B Automated Clearinghouse (ACH).....	23
135C Fees, Invoicing, and Payments .....	23
135D Banking / Record-Keeping .....	25
135E Prohibited Fees.....	26
135F Recovery of Overpayments .....	26
140 Informational Materials, Website.....	27
140A Informational / Marketing Materials .....	27
140B Open Enrollment Materials.....	30
140C Contractor Benefit Program Web Content and Web-Portals .....	32

140D Merchant Directory .....	35
145 Information Systems .....	35
150 Data Requirements.....	37
150A Data Integration and Technical Requirements .....	37
150B Department's Insurance Administration System (IAS) Requirements .....	37
150C Payroll Center Administration System Requirements .....	38
150D File Requirements.....	39
150E Data Requests .....	39
150F Data Warehouse Requirements .....	40
150G Data Warehouse File Submission Quality.....	40
155 General Requirements .....	41
155A Account Management and Staffing .....	41
155B Contractor Open Enrollment Activities.....	44
155C Staff Training .....	45
155D Section 125 Cafeteria Plan Documentation.....	45
155E Nondiscrimination Testing.....	46
155F Audits.....	47
155G Fraud and Abuse .....	49
155H Privacy Breach Notification .....	50
155I Implementation.....	50
155J Contract Termination .....	54
155K Transition Plan.....	54
160 Claims .....	60
160A Claims Administration .....	60
160B Review of Claims Decisions.....	60
160C Claims Processing and Reimbursement .....	60
160D Substantiation.....	62
165 Grievances .....	64
165A General.....	64
165B Grievance Process Overview.....	64
165C Reimbursement Request Review.....	65
165D Participant Notice.....	65
165E Investigation and Resolution Requirements .....	65
165F Notification of Department Administrative Review Rights .....	65

165G Provision of Complaint Information .....	66
165H Department Request for Grievance .....	66
165I Notification of Legal Action .....	67
165J Compliance with Departmental Determination .....	67
165K Appeals Process .....	67
170 Continuation .....	68
170A Right to Continue Coverage .....	68
170B Participant Nonpayment of Contributions .....	68
175 Customer Service .....	68
180 Miscellaneous Provisions .....	70
180A Participant Rights and Responsibilities .....	70
180B Errors .....	70
180C Contractor or Subcontractor Errors .....	70
180D Examination of Records .....	71
180E Record Retention .....	71
180F Disaster Recovery and Business Continuity .....	72
180G Gifts and/or Kickbacks Prohibited .....	72
185 Reporting Requirements .....	72
200 Deliverables .....	76
200A Deliverables to the Department .....	76
200B Deliverables to Participants .....	79
205 Performance Standards and Penalties .....	80
205A General .....	80
205B Invoices .....	81
205C Reports .....	82
205D Claims Processing .....	87
205E Customer Service .....	88
205F Data Breach .....	89
205G Enrollment .....	90
205H Data Submissions .....	91
205I Other .....	92



## 000 DEFINITIONS

Unless otherwise defined herein, any term needing definition shall have the definition found in RFP #ETD0052-53, the Department Terms and Conditions, applicable plan documents, or in applicable Wisconsin law. These terms, when used and capitalized in this AGREEMENT are defined and limited to that meaning only:

**AGREEMENT** means this Program Agreement.

**BENEFIT PROGRAM** refers to the EMPLOYEE REIMBURSEMENT ACCOUNT (ERA) BENEFIT PROGRAM or the COMMUTER FRINGE BENEFIT PROGRAM (including parking and transit accounts).

**BOARD** means the State of Wisconsin Group Insurance Board.

**BUSINESS DAY** means each CALENDAR DAY except Saturday, Sunday, and official State of Wisconsin holidays (see also: CALENDAR DAY, DAY).

**CAFETERIA PLAN** or **SECTION 125 CAFETERIA PLAN** refers to the plan under Internal Revenue Code Section 125 which allows for payment of the cost of certain benefits to be paid on a pre-tax basis.

**CALENDAR DAY** refers to a period of twenty-four hours starting at midnight.

**CALENDAR YEAR** means the time period from January 1 to December 31.

**COMMUTER FRINGE BENEFIT PROGRAM** means the parking and transit BENEFIT PROGRAM.

**CONTINUANT** means any PARTICIPANT enrolled in a BENEFIT PROGRAM under the federal or STATE continuation provisions.

**CONTRACT** means the written agreement between the CONTRACTOR and the BOARD and includes: CONTRACTOR'S Proposal as accepted by the DEPARTMENT, RFP ETD0053, this AGREEMENT, the Department Terms and Conditions, the CONTRACT cover, its exhibits, subsequent amendments and other documents as agreed to by the CONTRACTOR and the DEPARTMENT.

**CONTRACTOR** means a PROPOSER who is awarded a CONTRACT and is a party to an executed CONTRACT with the DEPARTMENT.

**CONTRIBUTION** means the money deposited into a PARTICIPANT'S BENEFIT PROGRAM account.

**DAY** means CALENDAR DAY unless otherwise indicated.

**DEBIT CARD** means a payment card issued to allow a PARTICIPANT to access their BENEFIT PROGRAM funds.

**DEDUCTIBLE** means a predetermined amount of money that a PARTICIPANT must pay before benefits are eligible for payment by the PARTICIPANT'S insurance.

**DEPARTMENT** or **ETF** means the Wisconsin Department of Employee Trust Funds.

**DEPENDENT** see Section 125B below.

**DEPENDENT DAY CARE ACCOUNT** (sometimes referred to a **DEPENDENT DAY CARE FSA**) means a pre-tax benefit account that allows for tax-free reimbursement of eligible day care expenses or other custodial care for QUALIFIED DEPENDENTS.

**EMPLOYEE(S)** means an eligible employee of the State of Wisconsin as defined under [Wis. Stat. § 40.02 \(25\) \(a\), 1., 2., 3., or \(b\), 1m., 2., 2g., or 8](#) and [Wis. Stat. § 40.02 \(40\)](#).

**EMPLOYEE REIMBURSEMENT ACCOUNT or ERA BENEFIT PROGRAM** means Health Care Flexible Spending Account, Limited Purpose Flexible Spending Account, and Dependent Day Care Account BENEFIT PROGRAMS. ERA is also known as Flexible Spending Account (FSA).

**EMPLOYER** means an eligible STATE agency as defined in [Wis. Stat. § 40.02 \(54\)](#).

**FLEXIBLE SPENDING ACCOUNT or FSA** means flexible spending account.

**HEALTH CARE FLEXIBLE SPENDING ACCOUNT** is an account that allows an EMPLOYEE to set aside tax-free dollars each year for health care expenses not covered by insurance. The PARTICIPANT may use these funds to pay for eligible health care expenses incurred by the PARTICIPANT or the PARTICIPANT'S QUALIFIED DEPENDENTS.

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

**INDIVIDUAL PERSONAL INFORMATION** or **IPI** has the meaning ascribed to it at Wis. Admin. Code ETF § 10.70 (1). Also see the Department Terms and Conditions.

**INSURANCE ADMINISTRATION SYSTEM** or **IAS** is the DEPARTMENT'S benefit enrollment and management system.

**INVENTORY INFORMATION APPROVAL SYSTEM** or **IIAS** requires a merchant's inventory and point-of-sale systems to have the ability to verify that the merchandise being purchased with a BENEFIT PROGRAM DEBIT CARD is an eligible expense, as defined by the Internal Revenue Service.

**IRS** means Internal Revenue Service.

**LIMITED PURPOSE FLEXIBLE SPENDING ACCOUNT** or **LPFSA** is an account that allows an EMPLOYEE to set aside tax-free dollars each year for vision, dental and post-deductible expenses not covered by insurance. The PARTICIPANT may use these funds to pay for eligible health care expenses incurred by the PARTICIPANT or the PARTICIPANT'S QUALIFIED DEPENDENTS.

**MERCHANT** means an FSA provider that has a MERCHANT CATEGORY CODE and/or an INVENTORY INFORMATION APPROVAL SYSTEM and point-of-sale systems that can verify

the services/merchandise being purchased with a BENEFIT PROGRAM DEBIT CARD is an eligible expense, as defined by the IRS.

**MERCHANT CATEGORY CODE or MCC** is a four-digit number credit card networks assign to every business that applies to accept credit cards. The number corresponds to the type of business or service the company offers (e.g., medical, vision, dental, etc.).

**OPEN ENROLLMENT or OPEN ENROLLMENT PERIOD** means the enrollment period referred to in the DEPARTMENT materials that occurs at least annually, allowing EMPLOYEES the opportunity to enroll for coverage in benefit plans offered by the BOARD.

**PARTICIPANT(S)** means the EMPLOYEE or any of the EMPLOYEE'S QUALIFIED DEPENDENTS who have been specified by the DEPARTMENT for enrollment and are entitled to participate in the BENEFIT PROGRAM.

**PAYROLL CENTER** means the benefits department of a participating STATE agency that is responsible for completing business processes associated with BENEFIT PROGRAM enrollment and changes, payroll deductions, leave benefit administration, and terminations. See the State Employer Organizational Relationship Overview.

**PERSONALLY IDENTIFIABLE INFORMATION or PII** has the meaning ascribed to it under Wis. Stat. § 19.62(5).

**PLAN DOCUMENT** means the Section 125 Cafeteria Plan, ERA, and/or the Transit and Parking Plan Document that describes a PARTICIPANT'S rights and obligations under the BENEFIT PROGRAMS.

**PLAN YEAR** means the twelve (12) month period of coverage under a BENEFIT PROGRAM (e.g., January 1 through December 31).

**PROPOSAL** means the complete response of the CONTRACTOR submitted in the format specified in the RFP, which sets forth the SERVICES offered by CONTRACTOR and CONTRACTOR'S pricing for providing the SERVICES described in the RFP, the PROPOSAL and in this AGREEMENT.

**PROTECTED HEALTH INFORMATION or PHI** has the meaning ascribed to it under 45 s. CFR 160.103. See the Department Terms and Conditions.

**QUALIFIED DEPENDENT** means any individual who is a tax dependent of the PARTICIPANT as defined in Internal Revenue Code Section 152. For HEALTH CARE FSA and LPFSA, a QUALIFIED DEPENDENT is defined in Internal Revenue Code Section 105(b), including any child of the PARTICIPANT as defined in Internal Revenue Code Section 152(f)(1) who, as of the end of the taxable year, has not attained age twenty-seven (27). For DEPENDENT DAY CARE ACCOUNT purposes, a QUALIFIED DEPENDENT also means an individual described in Internal Revenue Code Section 21(e)(5).

**QUARTERLY/QUARTER** means a period consisting of every consecutive three (3) months beginning in January.

**REIMBURSEMENT REQUEST** means a hard copy paper or electronic form submitted by the PARTICIPANT to the CONTRACTOR with all pertinent documentation regarding an eligible

expense for monetary reimbursement from the PARTICIPANT'S pre-tax BENEFIT PROGRAM account.

**RETIREE** means a STATE member of the Wisconsin Retirement System who is retired and receives an annuity or lump sum benefit from the Wisconsin Retirement System.

**RFP** means Request for Proposals. Herein, RFP refers to RFP ETD0053 – Third Party Administration of the Section 125 Cafeteria Plan, Employee Reimbursement Account and Commuter Fringe Benefit Account Programs.

**SECURE/SECURED/SECURELY** means the confidentiality, integrity, and availability of the DEPARTMENT'S data is of the highest priority and must be protected at all times. All related hardware, software, firmware, protocols, methods, policies, procedures, standards, and guidelines that govern, store, or transport the data must be implemented in manners consistent with the DEPARTMENT'S terms and conditions and current industry standards, such as, but not limited to HIPAA, Genetic Information Nondiscrimination Act (GINA), National Institute of Standards and Technology (NIST) 800-53, and Center for Internet Security (CIS) Critical Security Controls to ensure the protection of all DEPARTMENT data.

**SERVICES** means all work performed, and labor, actions, recommendations, plans, research, and documentation provided by the CONTRACTOR necessary to fulfill that which the CONTRACTOR is obligated to provide under the CONTRACT.

**STATE** means the State of Wisconsin.

**SUBCONTRACTOR** means a person or company hired by the CONTRACTOR to perform a specific task or provide SERVICES as part of the CONTRACT, sometimes referred to as a "subservice organization."

**SUMMARY PLAN DESCRIPTION (SPD)** means the document that describes the basic features of a BENEFIT PROGRAM, how it operates, and how a PARTICIPANT can get the maximum advantage from it. The PLAN DOCUMENT incorporates the applicable SPD. If there is a conflict between the official PLAN DOCUMENT and the SPD, the PLAN DOCUMENT will govern.

## **105 Introduction**

This State of Wisconsin (STATE) Program Agreement (AGREEMENT) is for the purposes of administering the SECTION 125 CAFETERIA PLAN, EMPLOYEE REIMBURSEMENT ACCOUNT (ERA) BENEFIT PROGRAM, and the COMMUTER FRINGE BENEFIT PROGRAM.

The SECTION 125 CAFETERIA PLAN allows STATE EMPLOYEES to pay for certain benefits on a pre-tax basis. The SECTION 125 CAFETERIA PLAN includes documents and non-discrimination testing to ensure that the benefits included within the STATE'S SECTION 125 CAFETERIA PLAN are compliant with laws and regulations.

The ERA BENEFIT PROGRAM offers STATE EMPLOYEES the ability to elect pre-tax deductions for qualified health care, medical, dental, vision and dependent day care expenses.

The COMMUTER FRINGE BENEFIT PROGRAM offers STATE EMPLOYEES the ability to elect pre-tax deductions for qualified parking and transit expenses.

The BENEFIT PROGRAMS are administered for the Group Insurance Board (BOARD) by the Wisconsin Department of Employee Trust Funds (DEPARTMENT).

This AGREEMENT is subject to all terms, conditions, and provisions in the CONTRACT.

By statute, the BOARD has the authority to negotiate the scope and content of the BENEFIT PROGRAMS for EMPLOYEES who choose to participate. The DEPARTMENT regularly provides the most current rosters for STATE agencies. See the State Employer Group Roster (ET-1404).

The CONTRACTOR must provide the benefits and SERVICES listed in the CONTRACT and BENEFIT PROGRAM PLAN DOCUMENTS to all eligible PARTICIPANTS. Any benefit changes must be implemented as directed by the BOARD. This shall include developing the necessary reporting and/or data transfers needed by the DEPARTMENT, PAYROLL CENTERS, and other vendors to administer the change.

## **110 Benefit Program Changes**

1. The CONTRACTOR acknowledges that the DEPARTMENT has provided specifications for the BENEFIT PROGRAM in sufficient detail to permit the CONTRACTOR to reasonably perform its duties under the CONTRACT. However, in the event of any changes to the details of the BENEFIT PROGRAM or, if any future unanticipated circumstances arise, the CONTRACTOR may request a clarification from the DEPARTMENT via the DEPARTMENT Program Manager.
2. Because BOARD changes to the BENEFIT PROGRAM may require programming changes, such changes will be coordinated with the CONTRACTOR to assure timely implementation and minimal disruption of the BENEFIT PROGRAM. The time required for new BENEFIT PROGRAM changes will generally be as follows:
  - a. Two (2) months for changes within the existing BENEFIT PROGRAM structure, which require minimal or no changes to the CONTRACTOR'S claims and/or eligibility processing systems.

- b. Two (2) to four (4) months for changes for which functionality is currently available in the CONTRACTOR'S claims and/or eligibility processing systems, but not utilized within the BENEFIT PROGRAM structure.
  - c. Four (4) to six (6) months for changes for which functionality needs to be developed in the CONTRACTOR'S claims and/or eligibility processing systems.
- 3. The CONTRACTOR will notify the DEPARTMENT as promptly as reasonably possible following receipt of the request as to the feasibility and timing of the requested change. The CONTRACTOR shall not be responsible for implementing any changes to any previously established BENEFIT PROGRAM information until the CONTRACTOR has confirmed its agreement to and acceptance of implementation of such changes to the BOARD in writing, including a timetable for change implementation.

## **115 Board Authority**

- 1. [Wis. Stat. § 40.85](#) provides authority for the BOARD to select and contract with a provider(s) authorized to transact business in the STATE for the purpose of providing BENEFIT PROGRAM services to be used by STATE agencies.
- 2. The BOARD will establish OPEN ENROLLMENT PERIODS, which will permit eligible EMPLOYEES to enroll in a BENEFIT PROGRAM offered by the BOARD. Unless otherwise provided by the BOARD, the OPEN ENROLLMENT PERIOD shall be held once annually in the fall of each year with coverage effective the following January 1.
- 3. The BOARD reserves the right to change the OPEN ENROLLMENT PERIOD, or to change the PLAN YEAR to a fiscal year or to some other schedule that it deems appropriate.
- 4. In cases where data submitted by the CONTRACTOR is deemed to be inadequate by the BOARD, DEPARTMENT, or the BOARD'S consulting actuary, the BOARD may take any action up to and including limiting new enrollment into a BENEFIT PROGRAM administered by the CONTRACTOR.
- 5. In the event a CONTRACTOR becomes, or is at risk of becoming insolvent, experiences a "significant event", or if the BOARD so directs due to a "significant event" as described in [Section 120.9](#), the BOARD may do any of the following, including any combination of the following:
  - a. Terminate the CONTRACT upon any notice it deems appropriate, including no notice.
  - b. Authorize a special enrollment period and require that each PARTICIPANT enrolled in a BENEFIT PROGRAM administered by the CONTRACTOR change to another BENEFIT PROGRAM provider.

- c. Authorize a special enrollment period so that a PARTICIPANT enrolled in a BENEFIT PROGRAM administered by the CONTRACTOR may voluntarily change to another provider.
  - d. Close the BENEFIT PROGRAMS administered by the CONTRACTOR to any new enrollments for the remainder of a CONTRACT period.
  - e. Require that prior to making a BENEFIT PROGRAM selection, prospective PARTICIPANTS be given a written notice describing the BOARD'S concerns.
  - f. Take no action.
6. The BOARD may forfeit a PARTICIPANT'S rights to a BENEFIT PROGRAM if a PARTICIPANT fraudulently or inappropriately assigns or transfers rights to an ineligible individual(s) or aids any other person in obtaining benefits to which they are not entitled, or otherwise fraudulently attempts to obtain benefits. The DEPARTMENT may at any time request such documentation as it deems necessary to substantiate PARTICIPANT or QUALIFIED DEPENDENT eligibility. Failure to provide such documentation upon request shall result in the suspension of benefits.
  7. The BOARD may initiate disenrollment efforts in situations where a PARTICIPANT has committed acts of physical or verbal abuse. The PARTICIPANT'S disenrollment is effective the first of the month following completion of the grievance process and approval of the BOARD. The BOARD may limit re-enrollment options in a BENEFIT PROGRAM.
  8. The BOARD shall determine all policy for the BENEFIT PROGRAMS. In the event that the CONTRACTOR requests, in writing, that the BOARD issue program policy determinations or operating guidelines required for proper performance of the CONTRACT, the DEPARTMENT shall acknowledge receipt of the request in writing and respond to the request within a mutually agreed upon time frame.

## **120 Contractor General Responsibilities**

The CONTRACTOR must meet the minimum requirements of Wis. Stat. [§ 40.85 - § 40.86](#), and the CONTRACT. **The CONTRACTOR must:**

1. Cooperate with the DEPARTMENT to develop procedures and protocols for administering the BENEFIT PROGRAMS.
2. Provide, in a format acceptable to the DEPARTMENT, at no additional cost and in a timely manner, all data and written or recorded material pertaining to this AGREEMENT.
3. Provide the specified level of SERVICES as indicated in this AGREEMENT to PARTICIPANTS.
4. Assist the DEPARTMENT with the administration of this AGREEMENT, including PARTICIPANT enrollment, record keeping, and general operations.

5. Have a mechanism for accurately maintaining records for a minimum of seven (7) years on each PARTICIPANT.
6. Submit to the DEPARTMENT or its designee, statistical report(s) showing aggregate financial and utilization data that includes claims and enrollment information annually as required by the DEPARTMENT.
7. Comply with all STATE and federal rules and regulations pertaining to the BENEFIT PROGRAMS.
8. Provide the DEPARTMENT with approved materials for PARTICIPANTS as required under this AGREEMENT.
9. Provide notification of all significant events:
  - a. The CONTRACTOR shall notify the DEPARTMENT Program Manager in writing of any "significant event" within ten (10) CALENDAR DAYS after the CONTRACTOR becomes aware of it. (In the event of CONTRACTOR insolvency, the DEPARTMENT Program Manager must be notified immediately.) As used in this provision, a "significant event" is any occurrence or anticipated occurrence that might reasonably be expected to have a material effect upon the CONTRACTOR'S ability to meet its obligations under the CONTRACT, including, but not limited to, any of the following: disposal of major assets; loss of fifteen (15%) percent or more of the CONTRACTOR'S participation; termination or modification of any contract or subcontract if such termination or modification will have a material effect on the CONTRACTOR'S obligations under this AGREEMENT; the imposition of, or notice of the intent to impose, a receivership, conservatorship or special regulatory monitoring; the withdrawal of, or notice of intent to withdraw, or dissolution of existing relationship, STATE licensing or certification, or any other status under STATE or federal law; default on a loan or other financial obligations; strikes, slow-downs or substantial impairment of the CONTRACTOR'S facilities or of other facilities used by the CONTRACTOR in the performance of the SERVICES.
  - b. In addition, any change in the ownership of or controlling interest in the CONTRACTOR, or any merger with another entity or the CONTRACTOR'S acquisition of another organization is a "significant event." A change in ownership or controlling interest means any change in ownership that results in a change to or acquisition of majority (fifty-one percent (51%)) interest in the CONTRACTOR or any transfer of ten percent (10%) or more of the indicia of ownership, including but not limited to shares of stock. The CONTRACTOR agrees to provide to the DEPARTMENT Program Manager at least sixty (60) DAYS advance written notice of any such event. The DEPARTMENT may accept a shorter period of notice when it determines the circumstances so justify.
  - c. The BOARD requires the information concerning any change in ownership or controlling interest, any merger or any acquisition of another entity in order to fulfill the BOARD'S responsibility to assess the effects of the pending action upon the best interests of the BENEFIT PROGRAM and its PARTICIPANTS. The DEPARTMENT and the BOARD agree to keep the information disclosed as required under paragraph (b) above, confidential under [Wis. Stat. § 19.36 \(5\)](#) of the Wisconsin Public Records Law until the earliest of one of the dates noted below unless the CONTRACTOR waives confidentiality or a court orders the DEPARTMENT or BOARD to disclose the information or the



DEPARTMENT or BOARD determines that under the particular circumstances, any harm to the public interest that would result from permitting inspection is outweighed by the public interest in immediate inspection of the records.

The DEPARTMENT also agrees to notify the CONTRACTOR of a request to disclose the information as a public record prior to making such disclosure, so as to permit the CONTRACTOR to defend the confidentiality of the information. Information disclosed by a CONTRACTOR concerning any change in ownership or controlling interest, any merger or any acquisition of another entity will be disclosed by the DEPARTMENT as a public record beginning on the earliest of the following dates:

- i. The date the pending change in ownership or controlling interest, any merger or any acquisition of another entity becomes public knowledge, as evidenced by public discussion of the action including but not limited to newspaper accounts.
    - ii. The date such action becomes effective.
    - iii. Sixty (60) CALENDAR DAYS after the DEPARTMENT receives the information.
  - d. The BOARD reserves the right to institute action as it deems necessary to protect the interests of the PARTICIPANTS of the BENEFIT PROGRAM as the result of a "significant event."
10. Utilize identification numbers (Social Security Number or employee identification number) as directed by the DEPARTMENT to administer the BENEFIT PROGRAMS. Social Security numbers may be incorporated into a PARTICIPANT'S data file and may be used for identification purposes only and not disclosed or used for any other purpose. The CONTRACTOR must always keep a record of Social Security numbers for providing data and other reports to the DEPARTMENT or its authorized vendors and track the unique employee identification number that is assigned by the DEPARTMENT and/or PAYROLL CENTER. Any costs incurred by the DEPARTMENT because of CONTRACTOR'S failure to comply with this requirement shall be paid by the CONTRACTOR.
  11. Provide SERVICES and benefits to PARTICIPANTS deemed eligible and enrolled in a BENEFIT PROGRAM.
  12. Have legal, compliance, and technical staff available to the DEPARTMENT for consultation as needed for program administration, and for assistance with any appeal and grievance processes. The CONTRACTOR shall monitor the development of and provide notification, information to the DEPARTMENT in a timely manner concerning STATE or federal regulations or legislation that may affect a BENEFIT PROGRAM.
  13. Not use or disclose names, addresses, or other data for any purpose other than specifically provided for in the CONTRACT.
  14. Comply with all applicable requirements and provisions of the [Americans with Disabilities Act \(ADA\) of 1990](#). CONTRACTOR shall provide evidence of compliance with the ADA to the DEPARTMENT upon the DEPARTMENT'S request.
  15. Notify the DEPARTMENT of any changes to the CONTRACTOR'S administrative and/or operative systems.

16. Meet with the DEPARTMENT on a QUARTERLY basis to discuss the BENEFIT PROGRAMS, CONTRACTOR'S performance, issues experienced, any recommended BENEFIT PROGRAM process changes or improvements, etc.
17. Other CONTRACTOR requirements are included in this AGREEMENT, in the RFP, and in the PLAN DOCUMENTS.

## **125 Eligibility**

### **125A ERA BENEFIT Coverage Eligibility**

The DEPARTMENT is solely responsible for determining who is eligible to participate in a BENEFIT PROGRAM. For the **ERA BENEFIT PROGRAM**, eligible EMPLOYEES include:

1. General STATE EMPLOYEES: active STATE and university EMPLOYEES participating in the WRS, as described in ([Wis. Stat. § 40.02 \(25\) \(a\) 1](#)).
2. Elected STATE officials ([Wis. Stat. § 40.02 \(25\) \(a\) 2](#)).
3. Members or EMPLOYEES of the legislature ([Wis. Stat. § 40.02 \(25\) \(a\) 2](#)).
4. Any blind EMPLOYEES of Beyond Vision (aka WISCRAFT) authorized under [Wis. Stat. § 40.02 \(25\) \(a\) 3](#).
5. Any EMPLOYEE on leave of absence who has chosen to continue their BENEFIT PROGRAM insurance, as described in [Wis. Stat. § 40.02 \(40\)](#).
6. Any EMPLOYEE on layoff whose premiums are being paid from accumulated unused sick leave as described in [Wis. Stat. § 40.02 \(40\)](#).
7. The following in the Universities of Wisconsin (UW) and University of Wisconsin Hospitals and Clinics Authority ([Wis. Stat. § 40.02 \(25\) \(b\)](#)):
  - a. Any teacher (employment category 40) who is employed by the university for an expected duration of not fewer than six (6) months on at least a one-third (33%) full-time appointment.
  - b. Any teacher who is a participating EMPLOYEE and who is employed by the UW for an expected duration of not fewer than six (6) months on at least a one-third (33%) full-time appointment.
  - c. Certain visiting faculty members in the UW.
  - d. Graduate student assistants (research assistants, fellows, advanced opportunity fellows, scholars, trainees, teaching assistants and project/program assistants) holding a combined one-third (33%) or greater appointment of at least one (1) semester per

academic year (nine month) appointments or six (6) months for annual (twelve month) appointments.

- e. Employees-in-training (research associates, post-doctoral fellows, post-doctoral trainees, post-graduate trainees 1 through 7, interns (non-physician), research interns, and graduate interns/trainees) holding a combined one-third time (33%) or greater appointment of at least one (1) semester for academic year (nine (9) month) or six (6) months for annual (twelve (12) month) appointments.
  - f. Short-term academic staff who are employed in positions not covered under the WRS and who are holding a fixed-term terminal, acting/provisional or interim appointment of twenty-eight percent (28%) or more with an expected duration of at least one (1) semester but less than one (1) academic year if on an academic year (nine (9) month) appointment or have an appointment of twenty-one percent (21%) or more with an expected duration of at least six (6) months but fewer than twelve (12) months if on an annual (twelve (12) month) appointment.
  - g. Visiting appointees (e.g., visiting professors, visiting scientists, visiting lecturers) may be eligible.
  - h. Any person employed as a graduate assistant and other employees-in-training as designated by the board of directors of the UW Hospitals and Clinics Authority who are employed on at least a one-third full-time appointment with an expected duration of employment of at least six (6) months.
8. PARTICIPANTS who meet federal or STATE continuation provisions. See Section 170A Right to Continue Coverage.

### **125B Qualified Dependent Coverage Eligibility**

For **SECTION 125 CAFETERIA PLAN** purposes, a QUALIFIED DEPENDENT means the PARTICIPANT'S:

- 1. Spouse.<sup>1</sup>
- 2. Child.<sup>2, 3, 4</sup>
- 3. Legal ward who becomes a permanent legal ward of the PARTICIPANT or PARTICIPANT'S spouse prior to age 19.<sup>2, 3, 4</sup>
- 4. Adopted child when placed in the custody of the parent as provided by [Wis. Stat. § 632.896](#).<sup>2, 3, 4</sup>
- 5. Stepchild.<sup>1, 2, 3, 4</sup>
- 6. Grandchild if the parent is a QUALIFIED DEPENDENT child.<sup>2, 3, 4, 5</sup>

<sup>1</sup> A spouse and a stepchild cease to be a QUALIFIED DEPENDENT at the end of the month in which a marriage is terminated by divorce or annulment.

<sup>2</sup> All other children cease to be a QUALIFIED DEPENDENT at the end of the month in which they turn 26 years of age, except when:

- a. An unmarried QUALIFIED DEPENDENT child who is incapable of self-support because of a physical or mental disability that can be expected to be of long-continued or indefinite duration of at least one year is an eligible QUALIFIED DEPENDENT, regardless of age, as long as the child remains so disabled and he or she is dependent on the PARTICIPANT (or the other parent) for at least fifty percent (50%) of the child's support and maintenance as demonstrated by the support test for federal income tax purposes, whether or not the child is claimed. If the PARTICIPANT should decrease, the disabled adult QUALIFIED DEPENDENT must still meet the remaining disabled criteria and be incapable of self-support.
- b. After attaining age twenty-six (26), as required by [Wis. Stat. § 632.885](#), a QUALIFIED DEPENDENT includes a child that is a full-time student, regardless of age, who was called to federal active duty when the child was under the age of twenty-seven (27) years and while the child was attending, on a full-time basis, an institution of higher education.

<sup>3</sup> A child born outside of marriage becomes a QUALIFIED DEPENDENT of the father on the date of the court order declaring paternity or on the date the acknowledgement of paternity is filed with the Wisconsin Department of Health Services (or equivalent if the birth was outside of Wisconsin) or the date of birth with a birth certificate listing the father's name. The effective date of coverage will be the date of birth if a statement or court order of paternity is filed within sixty (60) CALENDAR DAYS of the birth.

<sup>4</sup> A child, who is considered a QUALIFIED DEPENDENT, ceases to be a DEPENDENT on the date the child becomes insured as an eligible EMPLOYEE.

<sup>5</sup> A grandchild ceases to be a DEPENDENT at the end of the month in which the DEPENDENT child (parent) turns age eighteen (18).

## **125C Dependent Day Care Coverage Eligibility**

For DEPENDENT DAY CARE ACCOUNT purposes, those who may participate include:

1. An individual under the age of 13 who is a "qualifying child" of the EMPLOYEE as defined in Code § 152(a)(1). Generally speaking, a "qualifying child" is a child (including a brother, sister, step sibling) of the EMPLOYEE or a descendant of such child (e.g., a niece, nephew, grandchild) who shares the same principal place of abode with the EMPLOYEE for more than half the year and does not provide over half of his/her support. A child of divorced parents is a "qualifying child" of the EMPLOYEE if the EMPLOYEE is the custodial parent, as defined in Code § 152.

2. A spouse or other QUALIFIED DEPENDENT who is physically or mentally incapable of caring for himself or herself and who has the same principal place of residence as the EMPLOYEE for more than half of the year.

#### **125D Commuter Fringe Benefit Program Coverage Eligibility**

- 1) For COMMUTER FRINGE BENEFIT PROGRAM purposes, eligible EMPLOYEES include STATE EMPLOYEES, including limited term EMPLOYEES who are eligible to participate, with the exception of EMPLOYEES of UW Hospitals and Clinics.
- 2) For COMMUTER FRINGE BENEFIT Program purposes, a PARTICIPANT'S dependent(s) is/are not eligible for benefits.

#### **125E Change in Status**

1. The DEPARTMENT will be solely responsible for determining an eligible election change.
  - a. **For the ERA BENEFIT PROGRAM:** Election changes may be allowed if a PARTICIPANT or a QUALIFIED DEPENDENT experiences a life change event, as set forth in the SECTION 125 CAFETERIA PLAN, PLAN DOCUMENT and SUMMARY PLAN DESCRIPTION. The election change must be the result of and correspond with the life change event as determined by the DEPARTMENT (or CONTRACTOR, or other DEPARTMENT-designated third-party administrator). With the exception of enrollment resulting from birth, placement for adoption, or adoption, all election changes are prospective generally the first of the month following the date the PARTICIPANT makes a new election, but it may be earlier depending on the DEPARTMENT'S internal policies or procedures. Changes due to a change in status event must be made within thirty (30) CALENDAR DAYS from the date of the life change event. To make an election change, the PARTICIPANT must complete a Change of Election form and submit it to their PAYROLL CENTER. The change of election will be effective on the first of the month following the coverage period in which the election change was made.
  - b. **For the COMMUTER FRINGE BENEFIT PROGRAM:** PARTICIPANTS may revoke or change an election in the COMMUTER FRINGE BENEFIT PROGRAM at any time during the PLAN YEAR without a qualifying event, as set forth in the COMMUTER FRINGE BENEFIT PROGRAM PLAN DOCUMENT. To make an election change, a PARTICIPANT must complete a Change of Election form and submit it to their PAYROLL CENTER. The change of election will be effective on the first of the month following the coverage period in which the election change was made.
2. When the DEPARTMENT'S IAS is implemented, PARTICIPANTS may request CONTRIBUTION adjustments without using a Change of Election form.

#### **125F Contributions**

1. An EMPLOYEE'S BENEFIT PROGRAM CONTRIBUTION(S) will be arranged through deductions from salary.

2. A CONTINUANT'S CONTRIBUTION(S) to an EMPLOYEE REIMBURSEMENT ACCOUNT will be arranged through deductions made by the EMPLOYER or direct payment to the DEPARTMENT.
3. BENEFIT PROGRAM CONTRIBUTIONS are deducted evenly over the course of the PLAN YEAR, in accordance with the PARTICIPANT'S payroll schedule. There are two (2) possible payroll schedules, which vary among PAYROLL CENTERS.
  - Bi-weekly: 24 pay periods
  - Monthly: 12 pay periods
4. The Internal Revenue Code sets limits on the amount an EMPLOYEE may contribute into an ERA BENEFIT PROGRAM and a COMMUTER FRINGE BENEFIT PROGRAM. These limits are adjusted each year for inflation. If and when the IRS announces a limit change, the DEPARTMENT will review the IRS limit change(s) for plan adoption and work with the CONTRACTOR to make applicable program changes and communicate the changes to the PAYROLL CENTERS and EMPLOYEES.
5. The total annual HEALTH CARE FSA and LIMITED PURPOSE FSA CONTRIBUTION election amount is available immediately at the start of the PLAN YEAR.
6. The DEPENDENT DAY CARE ACCOUNT PROGRAM is a money-in money-out benefit. Each pay period, a contribution posts to the Participant's Dependent Day Care Account, after which they may submit REIMBURSEMENT REQUESTS for eligible expenses. DEPENDENT DAY CARE ACCOUNT funds are available to a PARTICIPANT only as contributions occur.
7. The COMMUTER FRINGE BENEFIT PROGRAM is a money-in money-out benefit. A contribution posts to the PARTICIPANT'S COMMUTER FRINGE BENEFIT ACCOUNT each pay period, after which the PARTICIPANT may submit REIMBURSEMENT REQUESTS for eligible expenses. COMMUTER FRINGE BENEFIT PROGRAM funds are available to a PARTICIPANT only as contributions occur.
8. Direct Pay Contributions. The CONTRACTOR must collect direct pay CONTRIBUTIONS as identified by the DEPARTMENT.

### **125G Contribution Carryover**

1. Not all of the BENEFIT PROGRAMS allow for the carryover of funds. HEALTH CARE FSAs and LIMITED PURPOSE FSAs allow for carryover of a specified amount. Any unused HEALTH CARE FSA or LIMITED PURPOSE FSA funds over the carryover amount specified in the SUMMARY PLAN DESCRIPTION at the close of the PLAN YEAR are forfeited back to the BENEFIT PROGRAM and held in trust by the DEPARTMENT. If an Employee terminates their HEALTH CARE FSA or LIMITED PURPOSE FSA prior to the end of the PLAN YEAR, any unused funds are forfeited.
2. Eligible BENEFIT PROGRAM expenses must be incurred **during** the PLAN YEAR and must be submitted for reimbursement prior to the end of the run-out period, which runs for ninety (90) CALENDAR DAYS after the end of the PLAN YEAR.

3. No carryover funds are permitted for DEPENDENT DAY CARE ACCOUNTS. Any unused Dependent Day Care Account funds at the close of the Plan Year are forfeited.
4. For the HEALTH CARE FSA, LIMITED PURPOSE FSA, and COMMUTER FRINGE BENEFIT PROGRAM, the PARTICIPANT'S election will carry over month to month until the end of the PLAN YEAR or the PARTICIPANT amends it, cancels it, or terminates employment during the PLAN YEAR. An unused balance under the minimum requirement at the end of the run-out period (90 CALENDAR DAYS after the PLAN YEAR has ended), will require a minimum annual election in the new PLAN YEAR for the balance to be carried over or the balance will be forfeited. An unused balance greater than the minimum requirement at the end of the run-out period will be automatically carried over into the new PLAN YEAR. A PARTICIPANT must maintain active employment status on December 31 in the PLAN YEAR to be eligible for the carryover into the new PLAN YEAR.
5. See the PLAN DOCUMENTS and SPD for more information regarding CONTRIBUTION carryover.

### **130 Enrollment**

1. CONTRACTOR must participate in the annual OPEN ENROLLMENT PERIOD. The OPEN ENROLLMENT PERIOD is scheduled for each fall prior to the covered program year. During the OPEN ENROLLMENT PERIOD, the CONTRACTOR must accept any eligible STATE EMPLOYEE under [Wis. Stat. § 40.51 \(16\)](#) who enrolls.
2. Although the DEPARTMENT is responsible for eligibility determination and enrollment, the CONTRACTOR shall maintain an enrollment and eligibility system to support the BENEFIT PROGRAMS.
3. The file compare of the DEPARTMENT'S and all the PAYROLL CENTERS' eligibility, enrollment, and CONTRIBUTION files must be fully tested and ready for program operation no later than forty-five (45) CALENDAR DAYS prior to the start of the OPEN ENROLLMENT PERIOD. The file compare of the DEPARTMENT'S and all the PAYROLL CENTERS' enrollment and CONTRIBUTION files must be fully tested and ready for BENEFIT PROGRAM operation no later than thirty (30) CALENDAR DAYS prior to the start of the PLAN YEAR. Also, see [Section 150](#) Data Requirements.
4. The CONTRACTOR must have flexibility to accommodate the DEPARTMENT'S and all PAYROLL CENTERS' payroll and benefit administration systems upgrades. The DEPARTMENT'S IAS and all the PAYROLL CENTERS' payroll and benefit administration systems will be the systems of record for PARTICIPANT eligibility and enrollment information. Any upgrades to the DEPARTMENT'S IAS and PAYROLL CENTERS' payroll and benefit administration systems may impact the formatting or data fields required for transmitting eligibility, enrollment, and CONTRIBUTION files. In addition, changes may also affect the way in which BENEFIT PROGRAM information is communicated to the CONTRACTOR.

### **130A Specific to the ERA Benefit Program:**

1. An eligible EMPLOYEE may enroll in the ERA BENEFIT PROGRAM within thirty (30) CALENDAR DAYS of their date of hire in an eligible position or during an annual OPEN ENROLLMENT PERIOD prior to each PLAN YEAR. If an Employee does not enroll within thirty (30) CALENDAR DAYS of their hire date or during the annual OPEN ENROLLMENT PERIOD, they are not eligible to enroll until the next PLAN YEAR'S OPEN ENROLLMENT PERIOD, unless they experience a qualified life change event, such as a marriage or divorce, birth or adoption of a child, a change in employment status, or other qualified life change event.
2. ERA BENEFIT PROGRAM contributions are deducted evenly over the course of the PLAN YEAR, in accordance with the PARTICIPANT'S payroll schedule. There are two (2) possible payroll schedules for the ERA BENEFIT PROGRAM, which vary among PAYROLL CENTERS.
  - Bi-weekly: 24 pay periods
  - Monthly: 12 pay periods
3. If an Employee should experience a qualified life change event, they may have the opportunity to enroll or change their coverage in the ERA BENEFIT PROGRAM outside of the OPEN ENROLLMENT PERIOD. Changes due to a qualifying life change event must be made by completing a change of election form within thirty (30) CALENDAR DAYS of the date of the event and submitting it to their payroll/benefits office for processing.

### **130B Specific to the Commuter Fringe Benefit Program:**

1. The COMMUTER FRINGE BENEFIT PROGRAM allows an eligible EMPLOYEE to enroll or make changes to their contribution amount at any time throughout the PLAN YEAR. An EMPLOYEE does not need a qualifying life change event to enroll or change their monthly contribution. An EMPLOYEE has the opportunity to enroll in the upcoming PLAN YEAR during the annual OPEN ENROLLMENT PERIOD.
2. COMMUTER FRINGE BENEFIT PROGRAM contributions are deducted evenly over the course of the PLAN YEAR, in accordance with the Employee's payroll schedule. There are two (2) possible payroll schedules, which vary between PAYROLL CENTERS.
  - Bi-weekly: 24 pay periods
  - Monthly: 12 pay periods
3. If an Employee is eligible and elects to enroll in the COMMUTER FRINGE BENEFIT PROGRAM outside of the OPEN ENROLLMENT PERIOD, the Employee is required to complete an enrollment application and submit the application to their human resource/benefit office for processing. Individuals employed by the State of Wisconsin, State Courts, and State Legislature and paid through the STATE'S DEPARTMENT OF ADMINISTRATION central payroll processing system, and individuals employed by the Universities of Wisconsin and the Wisconsin Economic Development Corporation enroll through their Employer's payroll/benefit system. The Contractor is responsible for receiving



and processing all enrollments. It is the responsibility of the Contractor to appropriately process all enrollment terminations throughout the Plan Year.

4. An Employee may change their COMMUTER FRINGE BENEFIT election at any time during the PLAN YEAR by completing a change of election form and submitting it to their payroll/benefits office.

### **130C Debit Cards**

1. The DEBIT CARD will allow BENEFIT PROGRAM providers and MERCHANTS to accept claims payments at the point-of-sale (POS) transaction. The CONTRACTOR must provide PARTICIPANTS with DEBIT CARD(S) at no cost to the DEPARTMENT or PARTICIPANTS. The CONTRACTOR must provide replacement cards upon request at no cost to the DEPARTMENT or PARTICIPANTS.
2. The CONTRACTOR must issue DEBIT CARDS and cardholder agreements within the timeframes described below:
  - a. The CONTRACTOR must issue ninety-five percent (95%) of DEBIT CARD(S) within five (5) BUSINESS DAYS and 100% within five (5) BUSINESS DAYS of successful account creation following receipt of the properly formatted enrollment file or eligibility file containing the addition or enrollment change, except as noted in paragraph b. below.
  - b. For elections made during the OPEN ENROLLMENT PERIOD, the CONTRACTOR must issue DEBIT CARDS by December 15 for enrollments or changes effective the following January 1 (as reported on enrollment filed generated from the OPEN ENROLLMENT PERIOD or before the first Tuesday of December). The CONTRACTOR must notify the DEPARTMENT Program Manager of any delays with issuing the DEBIT CARDS by December 15. The CONTRACTOR must send a written confirmation to the DEPARTMENT Program Manager indicating the date(s) the DEBIT CARDS were issued.
3. CONTRACTOR will monitor DEBIT CARDS daily so as to not allow DEBIT CARD payments for ineligible expenses and expenses in excess of a PARTICIPANT'S annual election. The CONTRACTOR must inform the DEPARTMENT of any payment in excess of the PARTICIPANT'S annual election within five (5) BUSINESS DAYS of the excess POS transaction that was not denied. Information must include PARTICIPANT'S name, annual election, and amount of the excess payment. The CONTRACTOR will reimburse all claim funds erroneously allowed in excess of annual election to the DEPARTMENT.

### **130D Participant Information**

The CONTRACTOR must provide the following information, at a minimum, to PARTICIPANTS upon enrollment:

1. A welcome package that will include a description of how to:
  - a. Access the BENEFIT PROGRAM account online and the mobile application;
  - b. Update profile information;
  - c. Set-up notifications and direct deposit;
  - d. Review account balances, CONTRIBUTIONS, and claims;

- e. Properly use the DEBIT CARD;
  - f. Properly manage the BENEFIT PROGRAM;
  - g. Substantiate a claim;
  - h. Request a reimbursement; and
  - i. Request a DEBIT CARD.
2. Information about PARTICIPANT requirements to properly manage their BENEFIT PROGRAM account, including REIMBURSEMENT REQUEST, substantiation, retention of documentation for tax filing purposes, and appeals/grievance procedures.
  3. The CONTRACTOR'S contact information, including the dedicated toll-free customer service phone number, business hours, and website address.

### **130E Termination of Coverage**

1. HEALTH CARE FSA and LPFSA coverage terminates at the end of the month in which the notice of cancellation of coverage is received by the EMPLOYER (for EMPLOYEES), or by the DEPARTMENT (CONTINUANTS), upon date of death, or a later date as specified on the cancellation of coverage notice.
2. DEPENDENT DAY CARE FSA coverage terminates at the end of the PLAN YEAR in which a notice of cancellation of coverage is received by the EMPLOYER, upon date of death, or a later date as specified on the cancellation of coverage notice. BENEFIT PROGRAM coverage terminates at the end of the month in which a notice of cancellation of coverage is received by the EMPLOYER (for EMPLOYEES), or by the DEPARTMENT (for CONTINUANTS or RETIREES), upon date of death, or a later date as specified on the cancellation of coverage notice.
3. If a PARTICIPANT, CONTINUANT or RETIREE contacts the CONTRACTOR directly to cancel coverage, the CONTRACTOR is to reject the cancellation and immediately notify the PARTICIPANT, CONTINUANT or RETIREE to submit a written cancellation notice to the applicable PAYROLL CENTER or the DEPARTMENT.
4. The DEPARTMENT shall not be responsible for any administrative fees for a PARTICIPANT after the PARTICIPANT has officially been terminated from the BENEFIT PROGRAM. The BENEFIT PROGRAM termination of coverage should align with the DEPARTMENT'S policy and guidance.
5. The DEPARTMENT is solely responsible for notifying CONTRACTOR of termination of BENEFIT PROGRAM participation.
6. Upon termination of coverage:
  - a PARTICIPANT enrolled in a HEALTH CARE FSA will have coverage through the end of month in which the PARTICIPANT terminates.
  - a PARTICIPANT enrolled in a LIMITED PURPOSE FSA will have coverage through the end of the month in which the PARTICIPANT terminates.

- a PARTICIPANT enrolled in a DEPENDENT DAY CARE ACCOUNT will have coverage through the last CALENDAR DAY of the PLAN YEAR (December 31) in which the PARTICIPANT terminates.
- a PARTICIPANT enrolled in a COMMUTER FRINGE BENEFIT ACCOUNT will have coverage through the PARTICIPANT'S termination date.

### **130F Date of Death**

The CONTRACTOR shall relay any information received regarding a PARTICIPANT'S death to the DEPARTMENT and appropriate PAYROLL CENTER in a timely manner.

## **135 Financial Provisions**

### **135A Advance Funding**

1. The DEPARTMENT will provide the CONTRACTOR with advance funding in an amount agreed upon by the CONTRACTOR and the DEPARTMENT ("Advance Funding") for the BENEFIT PROGRAMS managed by the CONTRACTOR. The DEPARTMENT will provide the Advance Funding to the CONTRACTOR by check or Automated Clearing House (ACH) Electronic Funds Transfer (EFT) prior to the start of the PLAN YEAR, and CONTRACTOR will use such funds to pay claims.
  - a. The amount of the Advance Funding may be reviewed by the DEPARTMENT and the CONTRACTOR and adjusted as necessary.
  - b. In the event of CONTRACT termination, the DEPARTMENT will off-set any Advance Funding provided to the CONTRACTOR by deducting any claims or administrative fees owed to the CONTRACTOR. The DEPARTMENT will invoice the CONTRACTOR for any remaining Advance Funding owed to the DEPARTMENT if the full amount has not been off-set by the DEPARTMENT. The CONTRACTOR will pay such remaining amount to the DEPARTMENT by check or ACH.

### **135B Automated Clearinghouse (ACH)**

The CONTRACTOR must support an ACH mechanism that allows for the DEPARTMENT to submit payments to the CONTRACTOR and the CONTRACTOR to submit claim payments to PARTICIPANTS.

### **135C Fees, Invoicing, and Payments**

1. Administrative Fees. As payment in full for the SERVICES described in this AGREEMENT (except as expressly set forth otherwise herein), the BOARD agrees to pay a per-participant-per-benefit-per-month (PPPBPM) administrative fee.

2. Administrative Fee Invoicing.

- a. Monthly, the CONTRACTOR will electronically send an administrative fee invoice to the DEPARTMENT based on the number of active PARTICIPANT BENEFIT PROGRAM accounts in the CONTRACTOR'S processing system on the first (1st) of the month.
  - b. All CONTRACTOR invoices must meet the DEPARTMENT'S requirements for DEPARTMENT reporting purposes. Invoices must clearly indicate each BENEFIT PROGRAM name, the number of active PARTICIPANT BENEFIT PROGRAM accounts in CONTRACTOR'S processing system on the first (1st) of the month per BENEFIT PROGRAM, the PPPBPM fee per BENEFIT PROGRAM, the total PPPBPM fee for the month being reported per BENEFIT PROGRAM, and the total fee for all BENEFIT PROGRAMS included in the invoice.
  - c. CONTRACTOR must send invoices to the DEPARTMENT via a method and in a format mutually agreed upon by the DEPARTMENT and the CONTRACTOR by the fifteenth (15th) of the month following the month for which the invoice applies. If the fifteenth (15th) of the month falls on a non-BUSINESS DAY, the CONTRACTOR must send the invoice to the DEPARTMENT no later than the next BUSINESS DAY.
  - d. With each invoice, the CONTRACTOR will submit detailed supporting documentation to support the invoice total. Such supporting documentation will include, at a minimum: the first name, last name, social security number, EMPLOYEE ID, PARTICIPANT employment status, division code of the PARTICIPANTS the DEPARTMENT is being billed for, and the administrative fee per PARTICIPANT per benefit per month, total amount due, PAYROLL CENTER associated with the PARTICIPANT, and pay cycle/pay period. Supporting documentation must be submitted to the DEPARTMENT via a method and in a format mutually agreed upon by the CONTRACTOR and the DEPARTMENT.
3. Payment of Administrative Fee Invoices. The DEPARTMENT will pay the CONTRACTOR'S properly submitted invoices for administrative fees within five (5) BUSINESS DAYS of receipt. The number of BUSINESS DAYS may increase if the DEPARTMENT justifiably disputes an invoice.
4. Adjustments to Administrative Fees. The PPPBPM administrative fee may be adjusted after the Initial Term of the CONTRACT (see RFP). Cost increases for any CONTRACT term shall be negotiated in good faith and mutually agreed upon by the DEPARTMENT and CONTRACTOR. CONTRACTOR must justify any request for an administrative fee increase in writing to the DEPARTMENT.
5. Claims Invoicing. Billing and payment cycles for BENEFIT PROGRAM claims will occur on a weekly basis. The CONTRACTOR will invoice the DEPARTMENT on a weekly basis for BENEFIT PROGRAM claims. The CONTRACTOR will electronically send claims invoices to the DEPARTMENT via a method and in a format mutually agreed upon by the DEPARTMENT and CONTRACTOR. Billing and payment cycles may be modified if mutually agreed upon by the DEPARTMENT and the CONTRACTOR.

6. Claims Payments. The DEPARTMENT will initiate ACH EFT transfers to the CONTRACTOR for properly submitted claims invoices within five (5) BUSINESS DAYS of the DEPARTMENT'S receipt of such invoices. The number of DAYS may increase if the DEPARTMENT justifiably disputes an invoice.
7. Other Fees. For any fees other than the administrative fees, the CONTRACTOR must include such fees on the administrative fee invoice. Such fees must be called out as separate line items in the invoice and include a description sufficient for the DEPARTMENT to determine what the fee is for. The DEPARTMENT will pay CONTRACTOR for such other fees within five (5) BUSINESS DAYS of receipt of CONTRACTOR'S properly submitted invoice. The number of BUSINESS DAYS may increase if the DEPARTMENT justifiably disputes an invoice.
8. Additional Services. In the event the BOARD determines that additional services, not originally contemplated in this AGREEMENT, are necessary to realize the BOARD'S purposes and are in the best interests of the individuals covered by the BENEFIT PROGRAM, the DEPARTMENT may first approach the CONTRACTOR about providing those services. If the DEPARTMENT and CONTRACTOR agree, the DEPARTMENT and the CONTRACTOR shall negotiate in good faith in an attempt to establish fair and reasonable additional compensation for the CONTRACTOR to perform the additional services. If unable to reach an agreement, the DEPARTMENT may seek services elsewhere.
9. Amounts Owed by CONTRACTOR. Funds owed to the BOARD must be paid to the DEPARTMENT within thirty (30) CALENDAR DAYS from receipt of the DEPARTMENT'S invoice for penalties or other monies owed. The CONTRACTOR has thirty (30) CALENDAR DAYS to document any dispute of amounts owed. After thirty (30) CALENDAR DAYS, the DEPARTMENT may collect owed funds by deducting the amounts from the payments made to the CONTRACTOR, and the CONTRACTOR may be subject to further penalties. See [Section 205A](#) for additional information regarding the assessment of penalties.

### **135D Banking / Record-Keeping**

1. Banking Reconciliation. The CONTRACTOR must perform a monthly bank reconciliation and provide a reconciliation report to the DEPARTMENT within twenty (20) CALENDAR DAYS following the last day of each month.
2. Claims Reconciliation. The CONTRACTOR must submit a claims invoice reconciliation report each month for the prior month. The report will reconcile the weekly claims invoice into a monthly report that will match the claims data reported each month to the DEPARTMENT. The weekly claims invoice must show claims by the benefit period in which they were incurred.
3. BENEFIT PROGRAM Assets. Money that is rightfully transferred to the CONTRACTOR shall NOT be considered BENEFIT PROGRAM assets. Amounts incorrectly transferred to the CONTRACTOR by the DEPARTMENT on behalf of the BOARD remain assets of the Public Employee Trust Fund for which the BOARD is trustee.

#### 4. Record-Keeping.

- a. The CONTRACTOR must maintain books, records, documents and other evidence pertaining to the SERVICES to the extent and in such detail as shall properly reflect all performance of the CONTRACTOR'S duties under the CONTRACT.
- b. The CONTRACTOR must perform all administrative and record-keeping functions necessary to ensure accurate disbursement of PARTICIPANT contributions and accurate accounting of PARTICIPANT accounts. The CONTRACTOR must maintain accounting records at the BENEFIT PROGRAM level, recording all fund transactions between the DEPARTMENT and the CONTRACTOR, and at the EMPLOYEE level, recording transactions for each PARTICIPANT. The CONTRACTOR will conduct a monthly reconciliation of accounts and send the resulting report to the DEPARTMENT for review.

### **135E Prohibited Fees**

1. The CONTRACTOR is prohibited from including in its administrative fee the cost to handle any claims paid outside of IRS regulations or the CONTRACT provisions unless expressly authorized by the DEPARTMENT.
2. The CONTRACTOR is prohibited from billing fees that are not pre-approved by the BOARD, including, but not limited to travel and meal expenses.
3. The CONTRACTOR must include all fees in its administrative fee quoted to the DEPARTMENT, including but not limited to the cost to provide the following SERVICES:
  - a. On-site personnel. At the DEPARTMENT'S request, the CONTRACTOR shall provide on-site support and administrative SERVICES by providing personnel to work at the DEPARTMENT'S Madison, Wisconsin office to perform tasks associated with the administration of the CONTRACT.
  - b. Expert Services. At the request of the BOARD or DEPARTMENT, the CONTRACTOR shall make available to the DEPARTMENT qualified compliance consultants to assist the DEPARTMENT in its reviews of BENEFIT PROGRAM design, plan compliance, and claims administration.
  - c. Mailing & Postage. The CONTRACTOR will pay for all mailing, postage and handling costs for the distribution of materials as required by Section 135 Participant Materials and Marketing below, or by other express provisions in this AGREEMENT.
4. The CONTRACTOR is prohibited from charging the DEPARTMENT additional fees for the items and SERVICES included in the CONTRACTOR'S Best and Final Offer approved by the DEPARTMENT.

### **135F Recovery of Overpayments**

1. Overpayments (including negative balances):

- a. If it is determined that any payment has been made under the BENEFIT PROGRAM and this AGREEMENT to an ineligible person, or if it is determined that more than the correct amount has been paid by the CONTRACTOR, the CONTRACTOR shall make a diligent attempt to recover the payment or shall adjust the overpayment. Contractor shall attempt to collect all claims payments that the CONTRACTOR paid out in error and that caused a negative balance. The CONTRACTOR shall not be required to initiate court proceedings to obtain any such recovery.
  - b. If any overpayments made for ineligible persons were the result of fraud or criminal acts or omissions on the part of the CONTRACTOR or any of its directors, officers, and employees, the CONTRACTOR shall reimburse the DEPARTMENT for the amount of such excess payments.
  - c. Overpayments resulting from negligence of the CONTRACTOR or any of its directors, officers and employees and which are caused by a systemic problem due to the CONTRACTOR'S design and/or operation of its claims processing system, including maintenance or card vendor arrangements, which are determined by the CONTRACTOR to be uncollectible, despite diligent efforts by the CONTRACTOR to recover the overpayments, shall be recoverable from the CONTRACTOR by the DEPARTMENT provided that the determination of the amount due shall be based on actual verified overpayments.
  - d. Any overpayment caused by the CONTRACTOR'S error shall be the responsibility of the CONTRACTOR, not to be charged to the DEPARTMENT, regardless of whether any such overpayment can be recovered by the CONTRACTOR. The DEPARTMENT shall provide reasonable cooperation to the CONTRACTOR in its recovery efforts.
  - e. The CONTRACTOR and the DEPARTMENT shall agree upon reasonable procedures to be used by the CONTRACTOR to recover or collect overpayments.
2. The BOARD shall hold the CONTRACTOR and its directors, officers, and employees harmless from any liability for any overpayments and/or underpayments made to any ineligible former PARTICIPANT when payments result from a failure of the BOARD, the DEPARTMENT or any other STATE department or agency to make a timely report to the CONTRACTOR of any PARTICIPANT'S loss of eligibility.
  3. The BOARD reserves the right to institute litigation for the purpose of recovering any overpayment. The BOARD reserves the right to join in any litigation instituted by the CONTRACTOR for the purpose of recovering any overpayment, which is the responsibility of the CONTRACTOR.

## **140 Informational Materials, Website**

### **140A Informational / Marketing Materials**

#### **1. For all BENEFIT PROGRAMS:**

- a. Throughout the PLAN YEAR, the CONTRACTOR is responsible for the development, production, and distribution of all enrollment, informational materials, forms and other BENEFIT PROGRAM materials for EMPLOYEES and EMPLOYERS in a form/format and with content acceptable to the DEPARTMENT. Such materials must be developed/delivered using a variety of methods, e.g., by email, mail, in person at health fairs and OPEN ENROLLMENT meetings. The DEPARTMENT must approve all materials prior to distribution, including key communications or educational initiatives that are prepared by the CONTRACTOR for use by the STATE. CONTRACTOR must customize communications for use by the STATE to include branding and marketing design, and disclaimers as requested by the DEPARTMENT. CONTRACTOR must clearly indicate any changes from the previous PLAN YEAR materials when submitting draft materials to the DEPARTMENT for review and approval. The CONTRACTOR is responsible for distributing the materials to EMPLOYERS. EMPLOYERS will also distribute materials to their EMPLOYEES via their own inter-departmental distribution channels.
- b. All materials and communications shall be pre-approved by the DEPARTMENT prior to distribution to PARTICIPANTS, potential PARTICIPANTS, and EMPLOYERS of the BENEFIT PROGRAM. This includes written and electronic communication, such as marketing, informational letters, statement of reimbursement, BENEFIT PROGRAM guides, denial letters, and informational notifications.
- c. The CONTRACTOR must ensure that its marketing and communication materials are culturally sensitive and professional in content, appearance, and design. At the request of the DEPARTMENT, the CONTRACTOR must replace images or artwork on the dedicated website, web-portal, or promotional materials within seven (7) BUSINESS DAYS of the CONTRACTOR'S receipt of the DEPARTMENT'S request. The DEPARTMENT reserves the right to require removal of any objectionable content sooner.
- d. The CONTRACTOR'S costs for developing and distributing communications to PARTICIPANTS in order to correct an error in previous CONTRACTOR communication(s) that was the result of a CONTRACTOR error will be at the cost of the CONTRACTOR.
- e. Over the course of the PLAN YEAR, the CONTRACTOR must send electronic and mailed communications to EMPLOYEES at no additional cost, including, but not limited to:
  - Prior to the OPEN ENROLLMENT PERIOD, the CONTRACTOR will send electronic enrollment reminders to all eligible Employees.
  - During the OPEN ENROLLMENT PERIOD, the CONTRACTOR will send weekly electronic enrollment reminders to all eligible EMPLOYEES that have not yet enrolled.
  - At the time the employee enrolls or makes a change, the CONTRACTOR will send the employee a confirmation statement of the enrollment or change.
  - At the end of the PLAN YEAR, the CONTRACTOR will send multiple electronic end-of-plan-year communications to remind PARTICIPANTS of important plan information and deadline dates.
  - Over the course of the PLAN YEAR, the CONTRACTOR will send systematic PARTICIPANT notifications, including but not limited to receipt of REIMBURSEMENT



REQUEST, need for additional information, denial of REIMBURSEMENT REQUEST, reimbursement payment issued, etc.

- At the end of the PLAN YEAR through the run-out period, the CONTRACTOR will send multiple substantiation and repayment requests. The CONTRACTOR to work collaboratively with the Department to determine the communication detail and frequency.
  - f. The DEPARTMENT reserves the right to require the CONTRACTOR to provide additional communications / notifications to PARTICIPANTS as directed.
  - g. When CONTRACTOR sends out mass email outreach communications, the CONTRACTOR must send emails to PARTICIPANTS in batches of no more than 2,000 per hour to avoid network outages or disruptions to the PAYROLL CENTERS' email services. The DEPARTMENT does not allow the whitelisting of unique IP addresses from the CONTRACTOR.
2. **For the ERA BENEFIT PROGRAM:**
- a. CONTRACTOR must comply with [Section 1557](#) of the Affordable Care Act (ACA) and federal civil rights laws. Upon request, the CONTRACTOR will provide information on BENEFIT PROGRAM services and activities in alternate formats to PARTICIPANTS with qualified disabilities as defined by the Americans with Disabilities Act (ADA) of 1990, as well as those whose primary language is not English.
  - b. The notice in Appendix A of the federal [Section 1557](#) ACA regulations must be published in conspicuously-visible font size in all significant communications and significant publications, both print and web, related to the BENEFIT PROGRAM. The CONTRACTOR must use the notice as provided below, or a significantly similar version that meets the regulation requirements.

“Significant communications” and “significant publications,” while not defined in the law, are interpreted broadly to include the following:

- i. Documents intended for the public, such as outreach, education, and marketing materials;
- ii. Written notices requiring a response from an individual; and,
- iii. Written notices to an individual, such as those pertaining to rights and benefits.

The notice is as follows:

“*[Name of CONTRACTOR]* complies with applicable federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability, or sex. *[Name of covered entity]* does not exclude people or treat them differently because of race, color, national origin, age, disability, or sex.

*[Name of CONTRACTOR]:*

- Provides free aids and services to people with disabilities to communicate effectively with us, such as:
  - Qualified sign language interpreters
  - Written information in other formats
- Provides free language services to people whose primary language is not English, such as:
  - Qualified interpreters
  - Information written in other languages

If you need these services, contact [*Name of CONTRACTOR'S Civil Rights Coordinator*].

If you believe that [*Name of covered entity*] has failed to provide these services or discriminated in another way on the basis of race, color, national origin, age, disability, or sex, you can file a grievance with: [*Name and Title of Civil Rights Coordinator*], [*Mailing Address*], [*Telephone number*], [*TTY number—if covered entity has one*], [*Fax*], [*Email*]. You can file a grievance in person or by mail, fax, or email. If you need help filing a grievance, [*Name and Title of Civil Rights Coordinator*] is available to help you. You can also file a civil rights complaint with the U.S. Department of Health and Human Services, Office for Civil Rights electronically through the Office for Civil Rights Complaint Portal, available at <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>, or by mail or phone at: U.S. Department of Health and Human Services, 200 Independence Ave SW., Room 509F, HHH Building, Washington, DC 20201, 1-800-368-1019, 800-537-7697 (TDD).

Complaint forms are available at <http://www.hhs.gov/ocr/office/file/index.html>.

- c. Wherever the above notice appears, it is also a requirement to include the following tagline, translated into at least the top fifteen (15) languages spoken by individuals with limited English proficiency in the STATE:

“ATTENTION: If you speak [*insert language*], language assistance services, free of charge, are available to you. Call 1-xxx-xxx-xxxx (TTY: 1-xxx-xxx-xxxx).”

- d. For purposes of consistency with the DEPARTMENT'S OPEN ENROLLMENT materials, the CONTRACTOR is required to use the [top fifteen \(15\) language list](#) provided on the Centers for Medicare and Medicaid Services' [website](#). The CONTRACTOR shall use the translation of the above-referenced tagline in c) above as provided by the U.S. Department of Health and Human Services for OPEN ENROLLMENT materials.

## **140B Open Enrollment Materials**

1. Prior to the OPEN ENROLLMENT PERIOD, the CONTRACTOR must prepare OPEN ENROLLMENT informational materials in a form and with content acceptable to the DEPARTMENT, clearly indicating any changes from the previous PLAN YEAR materials, and submit them to the DEPARTMENT for review and approval.

2. The CONTRACTOR must issue no less than two (2) electronic enrollment reminder communications to current PARTICIPANTS and potential PARTICIPANTS prior to the OPEN ENROLLMENT PERIOD and include any specific language directed by the DEPARTMENT summarizing any benefit or other BENEFIT PROGRAM changes. The CONTRACTOR must send a confirmation to the DEPARTMENT Program Manager indicating the date(s) these re-enrollment reminder communications were issued.
3. The CONTRACTOR must issue annual enrollment materials for PARTICIPANTS prior to the OPEN ENROLLMENT PERIOD and include any specific language directed by the DEPARTMENT summarizing the benefits offered by the BENEFIT PROGRAMS. Printed annual enrollment materials must be created by CONTRACTOR and distributed at benefit fairs at no additional cost to the PARTICIPANTS or the DEPARTMENT.
4. After to the OPEN ENROLLMENT PERIOD (by December 15), the CONTRACTOR must create, print, and issue by mail a hard-copy welcome package of informational materials to new PARTICIPANTS and include any specific language directed by the DEPARTMENT summarizing the benefits offered by the BENEFIT PROGRAMS. Welcome package materials must be made available to PARTICIPANTS on the BENEFIT PROGRAM web-portals described in Section 135C. The CONTRACTOR will mail printed welcome package materials upon the request of a PARTICIPANT. The CONTRACTOR is responsible for updating welcome package materials annually, prior to each IT'S YOUR CHOICE OPEN ENROLLMENT PERIOD.
5. The CONTRACTOR must provide the following information to the DEPARTMENT, in the format specified by the DEPARTMENT, for inclusion in the communications from the DEPARTMENT for the OPEN ENROLLMENT PERIOD:
  - a. CONTRACTOR information, including address, toll-free customer service telephone number, and website address.
  - b. CONTRACTOR'S content for the BENEFIT PROGRAM web page(s) and materials, including available features.
  - c. Information for PARTICIPANTS to access the CONTRACTOR'S BENEFIT PROGRAM web-portal, including instructions on how PARTICIPANTS can access the MERCHANT directory.
6. The CONTRACTOR shall submit all informational materials intended for distribution to PARTICIPANTS during the OPEN ENROLLMENT PERIOD to the DEPARTMENT for review and approval.
7. Upon the DEPARTMENT'S request, the CONTRACTOR must provide hard copies of all printed OPEN ENROLLMENT materials in final format to the DEPARTMENT at least two (2) weeks prior to the start of the OPEN ENROLLMENT PERIOD.

## **140C Contractor Benefit Program Web Content and Web-Portals**

1. The CONTRACTOR must develop, host, and maintain a customized web site (or web-landing page) and dedicated web-portals for PARTICIPANTS, DEPARTMENT, and PAYROLL CENTER administrators.
2. The CONTRACTOR must grant the DEPARTMENT access to the website and web-portals for review and approval no less than thirty (30) CALENDAR DAYS (before they go live) prior to the start of each OPEN ENROLLMENT PERIOD. No less than fourteen (14) CALENDAR DAYS prior to the start of each OPEN ENROLLMENT PERIOD, the CONTRACTOR must have final content and functionality completed, as determined by the DEPARTMENT, and the BENEFIT PROGRAM website / web pages and web-portals must be live and fully functional.
3. Prior to any content of the CONTRACTOR BENEFIT PROGRAM website or web-portals going live, the CONTRACTOR must test the accessibility of the website and web-portals on multiple web browsers and from multiple internet carriers to ensure system capability.
4. The CONTRACTOR must update its BENEFIT PROGRAM website and web-portals as necessary and directed by the DEPARTMENT.
5. The CONTRACTOR must obtain prior approval from the DEPARTMENT Program Manager for the inclusion of any links within the BENEFIT PROGRAM website or web-portals to an external (governmental or non-governmental) website.
6. The CONTRACTOR'S BENEFIT PROGRAM web-portal for DEPARTMENT and PAYROLL CENTER administrators must allow administrators to track PARTICIPANT level information, such as claim status and account balance. The BENEFIT PROGRAM administrator web-portal must be designed to have hierarchical access restrictions to permit proper authorization of access to PARTICIPANT data, for example, PAYROLL CENTERS will only have access to data regarding their PARTICIPANTS, and the DEPARTMENT will have access to all PAYROLL CENTER data in the system. Such hierarchical access restrictions will be agreed upon by the DEPARTMENT and CONTRACTOR.
7. Basic BENEFIT PROGRAM information/content must be available on the CONTRACTOR'S website (BENEFIT PROGRAM web pages) without requiring log in credentials. Website content must include information such as.
  - a. General information about the BENEFIT PROGRAM;
  - b. Ability for PARTICIPANTS to access BENEFIT PROGRAM forms;
  - c. Directions on how to access the BENEFIT PROGRAM MERCHANT directory;
  - d. Information about PARTICIPANT requirements, including proper account management, documentation retention for tax filing purposes, and substantiation;
  - e. Ability for PARTICIPANTS to access the BENEFIT PROGRAM eligible expense list;

- f. Ability for PARTICIPANTS to submit questions via the website;
  - g. Contact information including the dedicated toll-free customer service phone number, business hours, and mailing address; and
  - h. Links to the PARTICIPANT and DEPARTMENT and PAYROLL CENTER BENEFIT PROGRAM administrator web-portals.
8. The web-portals must be simple, intuitive, and easy to use and navigate.
- a. Features available in the web-portals must include:
    - user name and password creation and recovery;
    - enrollment confirmation;
    - SECURE upload functionality for submitting program required documentation; and,
    - communication functions that allow users to submit SECURE questions to the CONTRACTOR and allow the CONTRACTOR to push general and targeted communications to users via USPS, e-mail, text and other standard communication vehicles, as requested by the DEPARTMENT.
  - b. The web-portals must allow users to:
    - review and update personal information;
    - check balance and claim status;
    - submit claims and receipts online;
    - review lists of eligible expenses;
    - use tools and calculators;
    - find answers to common questions;
    - contact customer service;
    - order additional debit cards or request a replacement debit card;
    - report a debit card as lost or stolen;
    - view tax documents and monthly statements; and
    - generate detailed reports for tax filing purposes.
9. All materials posted on the CONTRACTOR'S BENEFIT PROGRAM web pages and web-portals must be reviewed and approved by the DEPARTMENT'S Program Manager prior to the CONTRACTOR making such materials available.
10. CONTRACTOR'S BENEFIT PROGRAM web pages / web-portals must ensure a response time averaging two (2) seconds or better, and never more than a three (3) second response time, from the time the CONTRACTOR receives the request to the time the response is sent, for all on-line activities. Response time is defined as the amount of time between pressing

the “return” or “enter” key or depressing a mouse button and receiving a data-driven response on the screen, i.e., not just a message or indicator that a response is forthcoming.

11. CONTRACTOR’S BENEFIT PROGRAM web-portals must be available via the three (3) most recent versions of each of the popular browsers available in the market which include Microsoft Edge, Mozilla Firefox, Chrome and Safari.
12. CONTRACTOR’S BENEFIT PROGRAM website and web-portals must be hosted in a SECURE data center with system monitoring, managed firewall services and managed backup services within the United States and available twenty- four (24) hours a day, seven (7) days a week, except for times when CONTRACTOR conducts regularly scheduled maintenance. CONTRACTOR’S data center network shall include robust firewall, intrusion prevention, and intrusion detection systems to prevent and detect unauthorized access.
13. The BENEFIT PROGRAM web-portals must SECURELY authenticate the user. After the user is authenticated, all web-portal features must be available without the need for an additional login.
14. The CONTRACTOR’S BENEFIT PROGRAM PARTICIPANT web-portal must have mobile capabilities. At a minimum, the mobile capabilities must allow the PARTICIPANT to access account management information. The PARTICIPANT web-portal must be able to render effectively on any form factor for mobile devices which include smartphones and tablets.
15. The solution must use SSL/TLS for end-to-end encryption for all connections between the user devices and the portal with the use of browsers or smartphone applications (apps). The web-portals must disable SSL/TLS negotiations which are using non-SECURE protocols and weak ciphers.
16. The BENEFIT PROGRAM web-portals must be SECURED with a minimum of SHA2-256 bit EV certificates to provide the latest in encryption and cryptography.
17. The CONTRACTOR must provide the DEPARTMENT reports on the current security safeguards enabled for the BENEFIT PROGRAM website and web-portals upon the DEPARTMENT’S request.
18. CONTRACTOR’S BENEFIT PROGRAM website and web-portals must be available at least ninety-nine and one-half percent (99.5%) of the time, excluding scheduled maintenance. Unscheduled disruption to the availability of the BENEFIT PROGRAM website or web-portal must be communicated to the DEPARTMENT Program Manager within four (4) hours of realization that a problem occurred.
19. The CONTRACTOR must have a regular patch management process defined for the BENEFIT PROGRAM website and web-portal infrastructure. The CONTRACTOR must have a defined maintenance time window for system patches, software upgrades. Outages in the system must be communicated through the web-portal or via alerts.

20. CONTRACTOR'S scheduled maintenance of the BENEFIT PROGRAM website and web-portals must occur between the hours of 10:00 p.m. and 6:00 a.m. CST/CDT. However, CONTRACTOR scheduled maintenance may occur at another time if agreed to by the DEPARTMENT Program Manager. Such maintenance must be scheduled in advance. For all CONTRACTOR scheduled maintenance, CONTRACTOR must post a notification on the BENEFIT PROGRAM website and web-portals.
21. To ensure accessibility among persons with a disability, the CONTRACTOR'S BENEFIT PROGRAM website must comply with Section 508 of the Rehabilitation Act of 1973 (29 USC Section 794d) and implementing regulations at 36 CFR 1194 Subparts A-D. The website must also conform to W3C's Web Content Accessibility Guidelines (WCAG) 2.0 (see <http://www.w3.org/TR/WCAG20/>).
22. The CONTRACTOR must notify the DEPARTMENT Program Manager of any substantial changes being made to the website prior to implementation.
23. The CONTRACTOR must be able to link user profiles and site access permissions to the daily enrollment file provided by the PAYROLL CENTERS, IAS vendor, and/or DEPARTMENT and make updates based on current enrollment within three (3) BUSINESS DAYS of data receipt. The CONTRACTOR may utilize another process for validation if the process is pre-approved by the DEPARTMENT.
24. The CONTRACTOR must monitor PAYROLL CENTER and DEPARTMENT access to the web-portal for the BENEFIT PROGRAMS each month to assure the DEPARTMENT is in compliance with the HIPAA Privacy Rule [45 CFR 164.502(b), 164.514(d)]. The minimum necessary standard requires covered entities to evaluate practices and enhance safeguards as needed to limit unnecessary or inappropriate access to and disclosure of PROTECTED HEALTH INFORMATION. The CONTRACTOR will remove access immediately upon receipt of notification from the DEPARTMENT or PAYROLL CENTER that access is no longer needed for a staff member. Access to the web-portal should only be granted upon approval of the PAYROLL CENTER Benefits/Human Resource Manager and the DEPARTMENT'S Program Manager.

#### **140D Merchant Directory**

The CONTRACTOR is required to have a current MERCHANT directory, such as an IAS directory, that is easily accessible on the CONTRACTOR'S website at all times.

#### **145 Information Systems**

1. The CONTRACTOR'S systems must have the capability of adapting to any future changes that become necessary as a result of modifications to the BENEFIT PROGRAMS and its requirements. The CONTRACTOR'S systems shall be scalable and flexible so they can be adapted as needed, within negotiated timeframes, as requirements may change.

2. The CONTRACTOR shall not undertake a major system change or conversion for, or related to, the system used to deliver SERVICES for the BENEFIT PROGRAMS without specific prior written notice of at least one hundred eighty (180) CALENDAR DAYS to the DEPARTMENT. Examples of a major system change include a new platform for enrollment, REIMBURSEMENT REQUEST payment, data submission system, or DEBIT CARD processing. This does not apply to any program fixes, modifications, and enhancements. If the CONTRACTOR has plans to migrate to a different data or web platform, the DEPARTMENT must be notified no less than one hundred eighty (180) calendar DAYS in advance of the migration.
3. The CONTRACTOR must transmit data SECURELY using current industry standard SECURE transmission protocols, e.g., sFTP/SSH or SSL/TLS. This may require software on desktops or an automated system that collects files from the CONTRACTOR'S repository and SECURELY transmits data.
4. The CONTRACTOR'S data centers, network, web-portal and personal computers (PCs) must be protected by an up-to-date firewall. PCs and applications must be updated with the latest security fixes and continually maintained and up-to-date. Servers must be SECURED with only authorized staff allowed access to servers. Data that is at rest must be encrypted using strong industry standard encryption. The CONTRACTOR must have a password policy with a complex password scheme.

An audit program must be in place to ensure above practices are being followed. The CONTRACTOR'S staff must be trained and follow SECURE computing best practices. Wireless networks must be protected using strong encryption and password policies. Connectivity to all networks, wired or wireless, must be protected from unwanted/unknown connections. Any SUBCONTRACTORS must agree to and abide by all the network and data security requirements in the Department Terms and Conditions.

5. All data backups must be handled or transmitted SECURELY. Offsite storage must be audited for compliance (i.e., physical security, all used tapes are accounted for). A business recovery plan must be documented and tested annually, at a minimum, by the CONTRACTOR, and submitted to the DEPARTMENT within sixty (60) DAYS following the end of each calendar year.
6. The CONTRACTOR must be able to confirm that emails sent to program PARTICIPANTS and/or EMPLOYERS have been successfully transmitted and will track failed emails and initiate requests to be whitelisted for EMPLOYER groups that may be blocking the CONTRACTOR'S email communication. The CONTRACTOR must deliver failed messages to PARTICIPANTS in another format, within ten (10) BUSINESS DAYS (e.g. hard copy mail, phone call) if the email transmission is not successful. To prevent email and network system overload, the CONTRACTOR must send emails to PARTICIPANTS in batches approved by the DEPARTMENT.
7. Upon request by the DEPARTMENT, the CONTRACTOR must be able to generate and provide a listing of all individuals who were electronically sent a particular document or communication by the CONTRACTOR or the CONTRACTOR'S SUBCONTRACTOR, the



date and time that the document or communication was generated, and the date and time that it was sent to particular individuals. The CONTRACTOR must also provide a listing of those who were sent the communication piece in another format as required by 6), above.

## **150 Data Requirements**

### **150A Data Integration and Technical Requirements**

1. The CONTRACTOR shall not sell or otherwise provide any PARTICIPANT email addresses or other PARTICIPANT information to third-party vendors for solicitation.
2. The CONTRACTOR agrees to utilize identification numbers (Social Security Number or employee identification number) as directed by the DEPARTMENT. Social Security numbers are to be incorporated into the BENEFIT PROGRAM data file(s) and may be used for identification purposes only and not disclosed or used for any other purpose. CONTRACTOR must always keep a record of Social Security numbers for providing data and other reports to the DEPARTMENT or its authorized vendors and track the unique employee identification number that is assigned by the DEPARTMENT and/or PAYROLL CENTER. Further, the CONTRACTOR must supply identification number values on any communication or data transmission that refers to individual PARTICIPANTS, including but not limited to BENEFIT PROGRAM file transfers, reports, data extracts, and invoices. Given the ubiquitous and central nature of the identification number in the DEPARTMENT'S and PAYROLL CENTER systems, it is strongly preferred that the identification number is stored in the CONTRACTOR'S system directly, thereby facilitating ad hoc queries, data integrity, and referential integrity within the CONTRACTOR'S system. Any costs incurred by the DEPARTMENT because of CONTRACTOR'S failure to comply with this requirement shall be paid by the CONTRACTOR.
3. The CONTRACTOR must follow the DEPARTMENT'S SECURE file transfer protocols (sFTP) using the DEPARTMENT'S sFTP site to submit and retrieve files from the DEPARTMENT or provide another acceptable means for SECURE electronic exchanging of files with the DEPARTMENT, as approved by the DEPARTMENT.

### **150B Department's Insurance Administration System (IAS) Requirements**

1. Currently, each PAYROLL CENTER submits demographic, eligibility, enrollment, and CONTRIBUTION data to the CONTRACTOR for the eligible EMPLOYEES that work under that PAYROLL CENTER. In the future, BENEFIT PROGRAM enrollments and administration will no longer be managed by the individual PAYROLL CENTERS, but by the DEPARTMENT. The DEPARTMENT is currently in the process of consolidating multiple legacy information technology systems to a single benefit administration system for all DEPARTMENT benefit offerings, to include the BENEFIT PROGRAMS. This new system will become the system of record for enrollment and demographic information. The upgrade to this new system may impact the formatting or data fields required for transmitting enrollment files and may also impact the way in which enrollment data is communicated to the CONTRACTOR. The CONTRACTOR must make any necessary updates to its system to accommodate changes to administer the BENEFIT PROGRAMS.

2. The CONTRACTOR must work with the DEPARTMENT'S IAS vendor and the EMPLOYERS regarding file specification requirements. The eligibility and enrollment file will be transmitted between the IAS and the CONTRACTOR. The contribution file will be transmitted between the EMPLOYERS and the CONTRACTOR.
3. The CONTRACTOR must assign a dedicated staff member, separate from those managing the DEPARTMENT'S accounts or other reporting activities, to assist with reports related to the DEPARTMENT'S IAS business needs, such as census, eligibility, enrollment, and contribution reports. The CONTRACTOR'S dedicated staff member must be a subject matter expert on census, eligibility, enrollment and contribution file specifications and understand the data and reporting capabilities of the CONTRACTOR'S system. The CONTRACTOR must also designate a qualified backup staff member to ensure continuity of service if the primary staff member is unavailable. The dedicated staff member will assist in resolving any data discrepancies between the CONTRACTOR'S system and the DEPARTMENT'S IAS system.

### **150C Payroll Center Administration System Requirements**

1. Currently, the PAYROLL CENTERS are the system of record for all active EMPLOYEE BENEFIT PROGRAM enrollments. Each PAYROLL CENTER submits demographic, eligibility, enrollment, and CONTRIBUTION data to the CONTRACTOR for the eligible active EMPLOYEES that work under that PAYROLL CENTER. Each PAYROLL CENTER has its own payroll administration system; however, all PAYROLL CENTERS use a standard file specification (see Appendix 10 – Sample FSA HSA Data Layout.) for demographic, eligibility, enrollment, and CONTRIBUTION data submissions to the CONTRACTOR. Over the course of the CONTRACT, a PAYROLL CENTER may launch a new payroll administration system or upgrade to its current payroll administration system. The CONTRACTOR will be required to participate in the preparation and testing of files as part of the project to implement a new or upgrade a current payroll administration system. PAYROLL CENTERS are currently the system of record for enrollment, demographic, and CONTRIBUTION information for the BENEFIT PROGRAM. Prior to the DEPARTMENT'S implementation of its IAS, RETIREE, and some EMPLOYEE enrollments, must be manually entered by the CONTRACTOR.
2. Each PAYROLL CENTER is considered a separate employer and it is commonplace for EMPLOYEES to transfer employment between PAYROLL CENTERS. The CONTRACTOR is required to seamlessly transfer the PARTICIPANT'S BENEFIT PROGRAMS enrollment information and elections from one PAYROLL CENTER to another PAYROLL CENTER.
3. The CONTRACTOR must work with the DEPARTMENT'S IAS vendor to ensure PARTICIPANTS who transfer to another EMPLOYER experience a smooth transfer of BENEFIT PROGRAM account information and funds without interruption to their BENEFIT PROGRAM.

## **150D File Requirements**

1. The CONTRACTOR'S system(s) must be able to accept BENEFIT PROGRAM data file submissions on a mutually agreed upon frequency and accurately process eligibility, enrollment, changes, deletions, and CONTRIBUTIONS within three (3) BUSINESS DAYS of the file receipt. CONTRACTOR must comply with the DEPARTMENT'S current file specifications, see Appendix 11 – Data Warehouse File Specifications. These file specifications may be updated as necessary by the DEPARTMENT and the CONTRACTOR will be required to implement the revised file specifications within ninety (90) DAYS of receipt.
2. As stated above, PAYROLL CENTERS will provide the CONTRACTOR with a weekly enrollment file. The CONTRACTOR must identify and resolve all discrepancies in the file (any difference of values between the DEPARTMENT'S IAS database and the CONTRACTOR'S database) within three (3) BUSINESS DAYS of identification by the CONTRACTOR or notification by the DEPARTMENT'S IAS vendor.
3. The CONTRACTOR must conduct an enrollment and CONTRIBUTION verification audit of enrollment and CONTRIBUTION data at the frequency directed by the DEPARTMENT. The CONTRACTOR will take the CONTRACTOR'S data, compare that data with the DEPARTMENT'S and PAYROLL CENTER'S data, and generate an exception report. The CONTRACTOR will be responsible for resolving differences between the DEPARTMENT'S and PAYROLL CENTER'S data and the CONTRACTOR'S data, updating the CONTRACTOR'S data, and informing the DEPARTMENT and PAYROLL CENTER, as appropriate. See Section 155F.6 Election and Contribution Audit.
4. The CONTRACTOR must maintain an errors and exceptions report spreadsheet for the errors and exceptions discussed in 150D.2 and 150D.3 above that includes details and final resolution of the errors and exceptions and submit it to the DEPARTMENT at the frequency directed by the DEPARTMENT.
5. The CONTRACTOR must conduct an annual testing period on the eligibility, enrollment, and CONTRIBUTION files with the PAYROLL CENTERS and DEPARTMENT prior to the OPEN ENROLLMENT PERIOD. The testing period is needed to ensure that the files can be received and processed accurately, without errors for the new PLAN YEAR. In the event that errors are identified, the CONTRACTOR must assist the PAYROLL CENTERS and DEPARTMENT in resolving and correcting the errors. Additionally, the CONTRACTOR must provide the PAYROLL CENTERS and DEPARTMENT with a report detailing any file errors, including an explanation of the errors and outlining the necessary corrective actions.

## **150E Data Requests**

1. The CONTRACTOR must provide and receive all reasonable requests for data and other information as needed in a file format as identified by the DEPARTMENT. The CONTRACTOR will place no restraints on the use of the data, provided that the DEPARTMENT shall not disclose to third parties any data received from CONTRACTOR that constitutes a trade secret as defined under Wisconsin law.

2. Data provided to the DEPARTMENT by the CONTRACTOR must be de-identified, unless authorized by the PARTICIPANT for the purpose of benefit administration, appeal, issue resolution, or fraud investigation.

### **150F Data Warehouse Requirements**

The DEPARTMENT has established a data warehouse.

1. The CONTRACTOR is expected to fully incorporate available BENEFIT PROGRAMS data into data reporting as required by the DEPARTMENT, using the file and data specifications provided by the DEPARTMENT.
2. The CONTRACTOR must provide the DEPARTMENT with an electronic file in the DEPARTMENT-specified standard format for the BENEFIT PROGRAM on a timeline specified by the DEPARTMENT. A sample file format can be found in Appendix 10 – Sample FSA HSA File Layout.
3. The CONTRACTOR must assign ID numbers according to the system established by the DEPARTMENT. CONTRACTOR must incorporate PARTICIPANTS' Social Security and DEPARTMENT identification numbers into the PARTICIPANTS' data files, which may be used for identification purposes only and not disclosed and used for any other purpose.
4. Delays in submitting program data to the DEPARTMENT'S data warehouse must be communicated via email to the DEPARTMENT Program Manager or designee within one (1) BUSINESS DAY of the scheduled transfer date.
5. All file formats are subject to change, as determined by the DEPARTMENT, to better serve the needs of the BENEFIT PROGRAM.
6. The CONTRACTOR data provided to STATE program vendors must be accurate, complete and timely. The CONTRACTOR must not place restrictions on the use of the data provided to the STATE program vendors.

### **150G Data Warehouse File Submission Quality**

1. The quality of CONTRACTOR'S data submissions will be assessed by the DEPARTMENT'S data warehouse vendor for timeliness, validity, and completeness. If the DEPARTMENT'S data warehouse vendor determines that the data submitted by CONTRACTOR contains errors or otherwise fails to meet the DEPARTMENT'S data warehouse vendor's thresholds for data quality, the CONTRACTOR must cooperate with the DEPARTMENT'S data warehouse vendor in submitting corrected data.
2. **Two-Chance Rule:** During the onboarding of a new CONTRACTOR, the CONTRACTOR will have two (2) chances to submit acceptable data as mentioned in Section 150G.1. above to the DEPARTMENT'S data warehouse. 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.

3. **One-Chance Rule:** During the ongoing operation of the DEPARTMENT'S data warehouse, if the DEPARTMENT'S data warehouse vendor notifies the CONTRACTOR of an error on its initial data submission, as mentioned in Section 150G.1. 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 as described in [Section 205H](#) Data Submissions for each data file submitted after the first corrected submission not accepted by the DEPARTMENT'S data warehouse vendor.
4. Within two (2) BUSINESS DAYS of notification to the CONTRACTOR, unless otherwise approved by the DEPARTMENT or the data warehouse vendor in writing, the CONTRACTOR must resolve the data errors and quality issues on the file as identified by the DEPARTMENT'S data warehouse vendor or the DEPARTMENT.
5. As needed, the DEPARTMENT, in consultation with its data warehouse vendor and the CONTRACTOR, will 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 goals and timelines for improvement.
6. The CONTRACTOR shall pay the financial penalties described in [Section 205H](#) Data Submissions for failure to submit data in accordance with this AGREEMENT, 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 AGREEMENT 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.

## **155 General Requirements**

### **155A Account Management and Staffing**

1. The CONTRACTOR must assign one (1) CONTRACTOR Account Executive and one (1) backup account support staff person to the DEPARTMENT to service all CONTRACTS between the DEPARTMENT and the CONTRACTOR for the life of those CONTRACTS. The CONTRACTOR will assign one (1) Account Manager/Client Services Manager to the ERA BENEFIT PROGRAM and one (1) Account Manager/Client Services Manager to service the Section 125 Cafeteria Plan and the COMMUTER BENEFIT PROGRAM. The CONTRACTOR'S Account Managers/Client Services Managers will work directly with the CONTRACTOR'S Account Executive, who is responsible for the success of the relationship between the DEPARTMENT and the CONTRACTOR. Such persons will be accountable for and have the authority to:
  - a. Manage the entire range of SERVICES specified in the CONTRACT;
  - b. Respond to DEPARTMENT and PAYROLL CENTER requests and inquiries;
  - c. Provide daily operational support to the DEPARTMENT and PAYROLL CENTERS;

- d. Implement the DEPARTMENT changes to BENEFIT PROGRAM plan design and procedures; and,
  - e. Resolve general administrative problems identified by the DEPARTMENT.
2. The Account Manager or backup must be available for consultation with the DEPARTMENT during the hours of 8:00 a.m. to 4:30 p.m. CST/CDT, Monday through Friday, except DEPARTMENT-observed holidays, as required to fulfill the scope of SERVICES specified in the CONTRACT. The Account Manager or backup must provide an initial response to DEPARTMENT requests and inquiries within one (1) BUSINESS DAY of CONTRACTOR'S receipt of such request or inquiry. The CONTRACTOR must resolve DEPARTMENT issues within five (5) BUSINESS DAYS of receipt, unless otherwise approved by the DEPARTMENT.
  3. The CONTRACTOR must have a designated Information Technology contact and a backup Information Technology contact who will have overall responsibility for the information technology aspects of the CONTRACT. The Information Technology contact shall be available for consultation with the DEPARTMENT during the hours of 8:00 a.m. to 4:30 p.m. CST/CDT, Monday through Friday, except DEPARTMENT-observed holidays, as required to fulfill the scope of SERVICES specified in the CONTRACT.
  4. The CONTRACTOR shall provide and maintain key, qualified staff at a level that enables the CONTRACTOR to fulfil the requirements of the CONTRACT. The CONTRACTOR shall ensure that all persons, including independent contractors, SUBCONTRACTORS and consultants assigned to perform the SERVICES under the CONTRACT, have the experience and credentials necessary to perform the work required. The CONTRACTOR shall provide the DEPARTMENT with contact information for the key staff, which the DEPARTMENT will share with the PAYROLL CENTERS and EMPLOYERS.
  5. The CONTRACTOR shall notify the DEPARTMENT of an Account Manager change within one (1) BUSINESS DAY, and of a backup or key staff change within three (3) BUSINESS DAYS. The DEPARTMENT reserves the right to deny the CONTRACTOR'S designees.
  6. The CONTRACTOR must provide a central point of contact for EMPLOYER issues related to the BENEFIT PROGRAM. The CONTRACTOR must acknowledge receipt of the inquiry from the PAYROLL CENTER'S and/or EMPLOYER'S benefit/payroll staff within two (2) BUSINESS DAYS of the inquiry and actively communicate on issue resolution status with the PAYROLL CENTERS and/or EMPLOYER(S).
  7. The CONTRACTOR must provide continuing BENEFIT PROGRAM support services to all participating EMPLOYERS. The CONTRACTOR must provide EMPLOYER payroll personnel regular assistance for deduction management, enrollment processing, terminations, etc.
  8. The CONTRACTOR must provide staff attendance at the annual OPEN ENROLLMENT EMPLOYER kick-off meetings and other EMPLOYER sponsored meetings, such as health

fairs, throughout the STATE for the annual OPEN ENROLLMENT PERIOD at no additional cost to the DEPARTMENT.

9. The CONTRACTOR will ensure that staff providing SERVICES under the CONTRACT have received comprehensive orientation and ongoing training, understand applicable requirements of the CONTRACT, and are knowledgeable about the BENEFIT PROGRAM. The CONTRACTOR'S Account Manager will provide proactive recommendations for BENEFIT PROGRAM enhancements, such as processing, development, configuration, compliance, enrollment, operational activities, etc.
10. The CONTRACTOR must participate in meetings as requested by the DEPARTMENT. This may include QUARTERLY coordination meetings with other stakeholders of the BENEFIT PROGRAM. Meetings may be in person or by teleconference/webinar, as determined by the DEPARTMENT.
11. The CONTRACTOR must not modify any of the SERVICES or BENEFIT PROGRAM content without the prior written approval of the DEPARTMENT Program Manager.
12. The Contractor must provide dedicated support staff for up to twenty-four (24) hours per week during the implementation period, and during key annual projects. The Contractor must provide a dedicated support staff person during the Department's normal business hours, 8:00 a.m. – 4:30 p.m. CST/CDT, Monday through Friday, except DEPARTMENT-observed holidays, for the first four (4) months after the go-live date if requested by the Department.
13. Dedicated CONTRACTOR Staff for Financial Reporting.
  - a. The CONTRACTOR must assign dedicated staff with demonstrated subject matter expertise in monthly administrative invoicing, supporting data reports, claims invoicing, stale dated check reports, payroll reconciliation reports, participant account balance reports, and end-of-year reporting, including carryover, substantiation, and plan finalization reporting. The CONTRACTOR'S assigned staff will develop, setup, and manage reporting for the DEPARTMENT. The assigned staff must be a subject matter expert in financial reporting and report development and separate from those responsible for managing the DEPARTMENT'S account, contract, or other reporting activities, ensuring specialized focus and independence in performing these functions. The CONTRACTOR must designate a qualified back-up staff member to ensure continuity of service in the event of unavailability of the primary assigned staff.
  - b. The CONTRACTOR must maintain consistent and effective communication with the DEPARTMENT and ensure timely responsiveness. Dedicated or back-up staff must be available during agreed-upon business hours to respond to the DEPARTMENT'S inquiries within two (2) BUSINESS DAYS. Failure to respond within this timeframe will result in a penalty, as specified in Section 205E Customer Service, 6. Service Level Response Time. Any staffing changes that may impact the CONTRACTOR'S ability to fulfill these responsibilities must be communicated to the DEPARTMENT at least ten (10) BUSINESS DAYS in advance. The CONTRACTOR must provide qualified replacements to ensure service continuity.

- i. The DEPARTMENT reserves the right to periodically review the performance of the CONTRACTOR'S reporting staff. If performance standards are not met, the DEPARTMENT may request remedial actions, including but not limited to, reassignment of staff or additional training, at the CONTRACTOR'S expense.

### **155B Contractor Open Enrollment Activities**

1. The CONTRACTOR must conduct an initial OPEN ENROLLMENT planning meeting with the DEPARTMENT by July 31 each year. The CONTRACTOR, along with the DEPARTMENT, will meet with each of the PAYROLL CENTERS in August of each year prior to the EMPLOYER kick-off meetings.
2. During the OPEN ENROLLMENT PERIOD, the CONTRACTOR will attend all or most of the STATE OPEN ENROLLMENT benefit fairs. The frequency, dates, and times of the STATE OPEN ENROLLMENT benefit fairs (in-person and virtual) will be determined by the DEPARTMENT and STATE agencies and the DEPARTMENT will communicate such information to the CONTRACTOR.
3. The CONTRACTOR must provide a BENEFIT PROGRAM Administrator Guide, updated as needed to include any federal and STATE law regulation changes as they occur. The CONTRACTOR and the DEPARTMENT will identify any process or guideline gaps that need to be developed and documented in the BENEFIT PROGRAM Administrator Guide for consistency, efficiency, and for administrator reference. The CONTRACTOR will develop efficient administrative processes and guidelines that will be thoroughly documented in the BENEFIT PROGRAM Administrator Guide once completed. The CONTRACTOR will revise the BENEFIT PROGRAM Administrator Guide with any BENEFIT PROGRAM changes, process changes, or additions annually.
4. The CONTRACTOR must validate against the DEPARTMENT'S PLAN DOCUMENTS and SPD that the BENEFIT PROGRAM Administrator Guide language is correct. The CONTRACTOR'S Compliance Department will review the BENEFIT PROGRAM Administrator Guide to ensure compliance with federal and STATE laws and regulations. All revisions must be approved by the DEPARTMENT prior to distribution. All notable changes will be communicated by the CONTRACTOR to the CONTRACTOR'S staff, DEPARTMENT staff, and all applicable PAYROLL CENTER staff.
5. In the event that the IAS is not available, the CONTRACTOR may be required to provide an online enrollment system that functions smoothly, timely, and is accessible one hundred percent (100%) of each DAY during the annual OPEN ENROLLMENT PERIOD.
6. Prior to each OPEN ENROLLMENT PERIOD, the CONTRACTOR will provide the DEPARTMENT with supportive documentation and two levels of review confirming the CONTRACTOR'S program administration software system was set-up accurately according to the DEPARTMENT'S BENEFIT PROGRAM design and federal and STATE laws and regulations. The two levels of review will be as agreed upon by the DEPARTMENT and the CONTRACTOR.



7. The CONTRACTOR may be required to conduct a BENEFIT PROGRAM audit prior to the start of each PLAN YEAR (in November or December) and / or after the start of each PLAN YEAR (in February) to validate PARTICIPANTS are properly enrolled and not enrolled in any other pre-tax savings program that may disqualify them from participating in the BENEFIT PROGRAM. Each PLAN YEAR, the CONTRACTOR will provide BENEFIT PROGRAM discrepancy audit results to the appropriate PAYROLL CENTERS on a date mutually agreed upon by the CONTRACTOR and the DEPARTMENT. The PAYROLL CENTERS will be required to respond to the CONTRACTOR within ten (10) BUSINESS DAYS noting any corrections. Within five BUSINESS DAYS of the CONTRACTOR'S receipt of the PAYROLL CENTERS' responses, the CONTRACTOR will process any noted corrections.

### **155C Staff Training**

1. The CONTRACTOR will provide training sessions for the DEPARTMENT and PAYROLL CENTER staff during and after BENEFIT PROGRAM implementation. During implementation, the CONTRACTOR will schedule a kickoff meeting with the PAYROLL CENTERS to review the onboarding timeline, the support provided by the CONTRACTOR, the new features available to PARTICIPANTS, the process for asset transfers and rollovers, and any other topics as requested by the DEPARTMENT or PAYROLL Center. The CONTRACTOR will provide QUARTERLY (or as needed) training for the DEPARTMENT and PAYROLL CENTER staff on BENEFIT PROGRAM administration topics mutually agreed upon by the DEPARTMENT and the CONTRACTOR. Such training sessions can be delivered via educational outreach, webinars, lunch and learn, "hot topic" workshops, etc.
2. Onsite training may be requested by PAYROLL CENTERS and should be approved by the DEPARTMENT. The DEPARTMENT and the CONTRACTOR shall mutually agree on the date and location of any CONTRACTOR-provided onsite training. All cost for such training will be borne by the CONTRACTOR.
3. The CONTRACTOR will provide thorough BENEFIT PROGRAM process and procedure documentation for training purposes. Such documentation shall include process and procedures for web-portal access, report generation, process enhancement, substantiation, and any other areas relevant for EMPLOYER personnel.
4. The CONTRACTOR will offer annual training to the PAYROLL CENTER staff in November of each year related to the FSA Unsubstantiated Claims Process and the election and CONTRIBUTION audit process. CONTRACTOR'S training will highlight any changes to the processes, setting expectations, and providing guidance for PAYROLL CENTER staff.
5. Upon request by a PAYROLL CENTER or DEPARTMENT, the CONTRACTOR agrees to participate in regular meetings to address any issues, member and PARTICIPANT inquiries, process improvements, and enhancement of operational workflows. These meetings will occur on an ongoing basis, either bi-weekly or as otherwise needed, to ensure effective collaboration with the PAYROLL CENTERS.

### **155D Section 125 Cafeteria Plan Documentation**

1. The CONTRACTOR must prepare all Section 125 Cafeteria Plan materials including:

- Section 125 Cafeteria Plan Document (cafeteria plan includes additional benefit plans such as health savings account, health, life, vision, and dental insurance)
  - Plan Document for the ERA Benefit Program
  - Summary Plan Description
  - Plan Document for the Commuter Fringe Benefit Program
  - Non-discrimination testing instructional and reference documentation
2. The CONTRACTOR must provide a compliant and comprehensive BENEFIT PROGRAM PLAN DOCUMENTS and SUMMARY PLAN DESCRIPTION (SPD) to the DEPARTMENT prior to the start of each PLAN YEAR and prior to the effective date of any applicable BENEFIT PROGRAM change that would necessitate a PLAN DOCUMENT amendment or edited restatement. The PLAN DOCUMENTS and SPD must meet all pertinent federal and STATE requirements.
  3. The CONTRACTOR must work in conjunction with the DEPARTMENT and PAYROLL CENTERS to complete any necessary PLAN DOCUMENT and SPD amendment(s) or edited restatement(s) at least annually. The CONTRACTOR must complete any necessary amendment(s) or edited restatement(s) by the due date(s) specified by the DEPARTMENT or its designee. The CONTRACTOR must maintain and revise the BENEFIT PROGRAM PLAN DOCUMENTS and SPD as necessary to comply with any changes in federal or STATE laws or regulations and incorporate any BENEFIT PROGRAM changes within thirty (30) CALENDAR DAYS of changes in federal or STATE laws or regulations and the BENEFIT PROGRAM design.
  4. The DEPARTMENT may request revisions to the PLAN DOCUMENTS and SPD at any time and the CONTRACTOR will incorporate the revisions within thirty (30) CALENDAR DAYS of the DEPARTMENT'S request. CONTRACTOR will publish and load the revised, final versions of the PLAN DOCUMENTS and SPD to the CONTRACTOR'S PARTICIPANT and administrator portal within fifteen (15) CALENDAR DAYS of the DEPARTMENT'S approval of the final document revisions. The CONTRACTOR agrees that the DEPARTMENT owns the PLAN DOCUMENTS and SPD.

### **155E Nondiscrimination Testing**

1. The CONTRACTOR must conduct annual [Internal Revenue Code \(IRC\) Sec. 105\(h\)](#) compliant nondiscrimination testing for the BENEFIT PROGRAMS (including the Health Savings Account Benefit Program) in the first QUARTER following the end of the PLAN YEAR, and no later than March 30 of each PLAN YEAR. The CONTRACTOR shall work in conjunction with the DEPARTMENT and PAYROLL CENTERS to complete the Internal Revenue Code (IRC) Sec. 105(h) compliant nondiscrimination testing. CONTRACTOR will provide the DEPARTMENT with a report with CONTRACTOR'S nondiscrimination testing results no later than March 30 each year. The CONTRACTOR will provide a schedule, process for the testing, and data requirements agreed upon by the DEPARTMENT and the CONTRACTOR prior to commencing nondiscrimination testing each year. See Non-Discrimination Testing Timeline and Communications below for details.

3. Non-Discrimination Testing Timeline and Communications.
  - a. The CONTRACTOR must provide the PAYROLL CENTERS with communications regarding the non-discrimination testing (NDT) each year. The CONTRACTOR will set clear expectations with the PAYROLL CENTERS for the following key dates:
    - CONTRACTOR provides the PAYROLL CENTERS a detailed timeline, a data template, and communications regarding non-discrimination testing (NDT): by February 1
    - PAYROLL CENTERS submit completed NDT data templates to CONTRACTOR: by March 1
    - CONTRACTOR will complete testing and provide NDT testing results to the DEPARTMENT: by March 30
  - b. In the event of an unsuccessful test result:
    - The CONTRACTOR must work collaboratively with the DEPARTMENT and PAYROLL CENTERS to resolve any issues identified, and to improve the NDT results. This includes providing detailed recommendations or potential solutions to address and correct the unsuccessful test results; and
    - CONTRACTOR must conduct a re-test by July 31 to ensure the DEPARTMENT receives a passing NDT result. In the event of another failed NDT, a re-test must be performed, and a passing result must be obtained no later than November 30.
2. The DEPARTMENT may request the CONTRACTOR to review the overall compliance for both nondiscrimination testing practices and plan documentation, and an evaluation for possible recommendations to make the plan administratively more efficient, compliant, PARTICIPANT friendly, and in keeping with industry best practices.

## **155F Audits**

1. Cooperation with Auditors. The CONTRACTOR must, in conjunction with BOARD-designated personnel, participate in and cooperate fully with audits of the CONTRACTOR'S SERVICES under this AGREEMENT as required under federal or STATE law, and with other audits or reviews of the CONTRACTOR'S SERVICES under this AGREEMENT determined by the BOARD to be necessary and appropriate. This may include an audit on behalf of the STATE Legislature by the STATE'S Legislative Audit Bureau. See the Department Terms and Conditions.
2. Annual Audits.
  - a. The CONTRACTOR is required to submit to annual audits of its SERVICES, operations, and compliance under this AGREEMENT according to audit guidelines established by the BOARD. The audits will be completed by the DEPARTMENT or a firm contracted by the DEPARTMENT to complete third-party contract audits of the BENEFIT PROGRAMS, and will be paid for by the BOARD. The audits by the third-party contractor will be based upon BOARD specifications and will evaluate claims and CONTRIBUTIONS processed by the CONTRACTOR. The audit firm will deliver to both the CONTRACTOR and to the BOARD a report of findings and recommendations within the guidelines established by the BOARD.

- b. The report will be prepared in accordance with generally accepted auditing standards, and will include the following matters and other matters as agreed to by the BOARD and the CONTRACTOR: comprehensive compliance audit of the program; evaluation of internal control; risk assessment of the administration of the BENEFIT PROGRAM; analyses of data, billing, etc. to ascertain compliance with CONTRACT provisions and accepted accounting principles, good business practice, etc.; and substantive tests to evaluate the accuracy of recording and processing transactions and the effectiveness, efficiency, and economy of transaction processing.
  - c. The audits by the DEPARTMENT or the DEPARTMENT'S third-party contractor will also audit the flow and proper use of the BOARD'S funds through the CONTRACTOR'S claims processing system; review the content of, and audit cash flows pertaining to all contracts between the CONTRACTOR and MERCHANTS, and review the content of, and audit cash flows between the CONTRACTOR and DEPARTMENT and/or PAYROLL CENTERS.
  - d. The CONTRACTOR shall have an annual SOC 1 and SOC 2 audit conducted by an independent certified public accounting (CPA) firm at the CONTRACTOR'S expense that is in accordance with the Statement of Standard for Attestation Engagements (SSAE) 18 and provide a copy of the CPA's report to the DEPARTMENT within sixty (60) CALENDAR DAYS of CONTRACTOR'S receipt of the report from the CPA firm.
3. Contract Compliance Audits. On a periodic basis, the DEPARTMENT will schedule and arrange for the DEPARTMENT or an independent CPA firm contracted by the Department to review the CONTRACTOR'S compliance with the CONTRACT, as determined by the DEPARTMENT. The scope will be determined by the DEPARTMENT and may include record-keeping, PARTICIPANT account activity, claims processing, administrative performance standards, and any other areas relevant to the BENEFIT PROGRAM.
  4. Internal Audits. The CONTRACTOR must conduct internal audits of individual CONTRACTOR departments involved in the oversight of the BENEFIT PROGRAMS in order to validate controls, processes, systems, and accuracy. The CONTRACTOR must provide monthly bank account reconciliation to the DEPARTMENT.
  5. Internal Controls Review. The CONTRACTOR will cooperate with an independent third-party auditor's study, evaluation, and testing of the effectiveness of the CONTRACTOR'S internal controls over its performance of SERVICES at least once per year. The study and evaluation shall be at the BOARD'S expense.
  6. Election and CONTRIBUTION Audit.
    - a. CONTRIBUTIONS to the BENEFIT PROGRAM remain in the PARTICIPANT'S account and have carryover limitations from year to year. The DEPARTMENT owns the BENEFIT PROGRAM CONTRIBUTIONS and is restricted by the carryover limitations under IRS Regulations.
    - b. Each QUARTER, the CONTRACTOR will conduct an election and CONTRIBUTION audit to ensure PARTICIPANTS are on target to meet their annual election amount and the PARTICIPANT will not exceed their annual election amount. If the CONTRACTOR identifies any discrepancies, the CONTRACTOR will send a discrepancy report to the

appropriate PAYROLL CENTER(S) for review and resolution, with a copy to the DEPARTMENT, within twenty (20) CALENDAR DAYS after the end of the QUARTER.

- c. The PAYROLL CENTER(S) will make best efforts to review CONTRACTOR'S discrepancy report(s) and make error corrections in the enrollment file within two (2) weeks of receiving the report from CONTRACTOR. CONTRACTOR will rerun the discrepancy report and provide the revised report to the DEPARTMENT within two (2) weeks after receiving the corrected enrollment file from the PAYROLL CENTER(S). The CONTRACTOR and the DEPARTMENT will ensure the corrections were made to the enrollment file by the appropriate PAYROLL CENTER(S).
- d. For the first, second, and third QUARTERS, the CONTRACTOR will work with the PAYROLL CENTER(S) to resolve the discrepancies prior to the end of the PLAN YEAR, and, for the fourth QUARTER, CONTRACTOR will work with the PAYROLL CENTER(S) to resolve the discrepancies prior to the end of the runout period (March 31).

## **155G Fraud and Abuse**

### **1. PARTICIPANT Fraud**

#### **a. Policy on PARTICIPANT Fraud:**

No person other than a PARTICIPANT is entitled to benefits under this AGREEMENT. The PARTICIPANT or any of his or her QUALIFIED DEPENDENTS are not authorized by this AGREEMENT to assign or transfer their rights under this AGREEMENT, aid any other person in obtaining benefits to which they are entitled or knowingly present or cause a false or fraudulent claim. The PARTICIPANT'S rights to coverage under the BENEFIT PROGRAM are forfeited if a PARTICIPANT assigns or transfers such rights, or aids any other person in obtaining benefits to which they are not entitled, or otherwise falsely or fraudulently attempts to obtain benefits. Coverage terminates the beginning of the month following action of the DEPARTMENT. Re-enrollment rights may be limited as determined by the DEPARTMENT.

The DEPARTMENT may at any time request such documentation as it deems necessary to substantiate PARTICIPANT or QUALIFIED DEPENDENT eligibility. Failure to provide such documentation upon request shall result in the suspension of benefits.

#### **b. CONTRACTOR Responsibility Related to PARTICIPANT Fraud:**

Upon discovery, the CONTRACTOR shall report to the DEPARTMENT any suspected or identified PARTICIPANT fraud. The CONTRACTOR must cooperate with the investigation of fraud and provide information including aggregate claim amounts or other documentation, as requested by the DEPARTMENT. Fraud may result in the reprocessing of claims and recovery of overpayments. For more information see Section 130E Recovery of Overpayments.

### **2. Fraud and Abuse Review Plan Requirements**

- a. The CONTRACTOR, within thirty (30) CALENDAR DAYS of the execution of the CONTRACT, and annually thereafter, must submit a fraud and abuse review plan to the DEPARTMENT. Upon the DEPARTMENT'S approval of the plan, the CONTRACTOR must perform QUARTERLY (unless another timeframe is agreed upon by the

DEPARTMENT) fraud and abuse reviews and provide results of material findings to the DEPARTMENT.

Examples of potential findings that could be included in QUARTERLY reviews include, but are not limited to:

- i. Fictitious QUALIFIED DEPENDENT
- ii. False or altered claim
- iii. Duplicate REIMBURSEMENT REQUESTS

3. Appeal Process Support

- a. The CONTRACTOR must participate in all administrative hearings under Wis. Admin. Code Ch. ETF 11 to the extent determined to be necessary by the attorney(s) representing the DEPARTMENT.
    - i. Participate means providing evidence and testimony necessary to explain the claim decisions made by the CONTRACTOR. The CONTRACTOR shall be responsible for any cost required for participation in the administrative hearings by the CONTRACTOR'S staff and any approved SUBCONTRACTORS of CONTRACTOR, including but not limited to time spent at the hearing and travel time to and from the hearing.
4. The CONTRACTOR must notify the DEPARTMENT immediately when the CONTRACTOR becomes aware of fraudulent charges on a PARTICIPANT'S DEBIT CARD or other fraudulent use of the BENEFIT PROGRAM by the PARTICIPANT. If a PARTICIPANT is found to have used a BENEFIT PROGRAM fraudulently, the PARTICIPANT may be terminated and lose the ability to participate in the BENEFIT PROGRAM in the future.
5. The CONTRACTOR must perform QUARTERLY (unless another timeframe is agreed upon by the DEPARTMENT) fraud and abuse reviews and provide results of material findings to the DEPARTMENT.

**155H Privacy Breach Notification**

The CONTRACTOR shall comply with all STATE and federal laws regarding PARTICIPANT privacy, as well as the privacy and confidentiality provisions provided in the Department Terms and Conditions.

**155I Implementation**

- 1. The CONTRACTOR is required to have an Implementation Manager and Implementation Team available to manage the project from the CONTRACT start date until all implementation tasks are complete, as determined by the DEPARTMENT, and all remaining responsibilities are transferred over to the CONTRACTOR'S Account Manager and key staff. The Implementation Manager must be available Monday through Friday from 8:00 a.m. to 4:30 p.m. CST/CDT, except DEPARTMENT-recognized holidays, to assist DEPARTMENT staff. The CONTRACTOR will continuously assess the implementation process to ensure a

smooth and successful implementation. The CONTRACTOR'S Account Manager, who will be responsible for the CONTRACT, must be an active member of the Implementation Team.

2. The CONTRACTOR must conduct status meetings with the DEPARTMENT concerning project development, project implementation and CONTRACTOR performance at least twice a week during implementation and for the first three to four (3-4) months following the launch of the PLAN YEAR, unless otherwise approved by the DEPARTMENT in writing. Meetings may be in person or by teleconference/webinar, as determined by the DEPARTMENT.
3. The CONTRACTOR must provide PARTICIPANT outreach (via multiple emails) to provide clear, detailed communications to ensure PARTICIPANTS understand any potential impacts and required actions resulting in a change in vendors. Such outreach must include specific guidance on what PARTICIPANTS need to do, as well as any actions they are not required to take, to facilitate a smooth transition. CONTRACTOR must include its outreach plan in its transition plan.
4. The CONTRACTOR'S implementation plan must include detailed provisions regarding the following:
  - Timing and process for carryovers; and
  - Communication strategies to inform PARTICIPANTS and PAYROLL CENTERS about the rollover process.
  - a. Carryover Communications. The CONTRACTOR must provide PARTICIPANTS with information (and a timeline) on how rollovers will occur.
  - b. Carryover Funds: CONTRACTOR and DEPARTMENT will work together with the prior vendor to ensure the carryover of PARTICIPANT account funds is carried out accurately and expediently.
  - c. During the implementation period, the CONTRACTOR'S customer service team must be readily available to assist PARTICIPANTS with any inquiries, issues, or concerns related to carryovers to the CONTRACTOR. The CONTRACTOR is responsible for resolving any PARTICIPANT concerns, ensuring that no inquiries are referred to the DEPARTMENT or PAYROLL CENTERS. Any inquiries or concerns that cannot be resolved by the CONTRACTOR'S customer service team must be promptly escalated to the CONTRACTOR'S account management team for further resolution.
  - d. The CONTRACTOR'S account management team must also work directly with the previous vendor to resolve any issues that require their involvement. If any issue arises that cannot be resolved through collaboration with the previous vendor, it must be immediately escalated to the DEPARTMENT for further assistance and resolution. The CONTRACTOR is expected to keep the DEPARTMENT informed of any challenges or delays in the process.
5. The DEPARTMENT reserves the right to make on-site visits to any CONTRACTOR locations.

6. The CONTRACTOR is required to perform and/or manage the following activities by the date indicated:

**Implementation Requirements Timeline (most activities apply to each PLAN YEAR)**

Activity	Due Dates
<b>Implementation Plan:</b> The CONTRACTOR submits an updated implementation plan in a mutually agreed upon format and timeline to the DEPARTMENT Program Manager or designee.	Within ten (10) BUSINESS DAYS of execution of the CONTRACT
<b>Fraud and Abuse Review Plan:</b> The CONTRACTOR submits a fraud and abuse review plan to the DEPARTMENT.	Within thirty (30) CALENDAR DAYS of execution of the CONTRACT
<b>Non-Discrimination Testing Plan:</b> The CONTRACTOR works with the DEPARTMENT to establish deliverables and a timeline for annual non-discrimination testing for the BENEFIT PROGRAM. The DEPARTMENT will establish the first-year due date in accordance with this plan.	Within thirty (30) CALENDAR DAYS of execution of the CONTRACT; and on an annual basis
<b>Program Information:</b> All BENEFIT PROGRAM informational materials for the new PLAN YEAR is submitted to the DEPARTMENT Program Manager or designee for review and approval.	August 1 (on an annual basis)
<b>Web Content:</b> The CONTRACTOR must provide the DEPARTMENT Program Manager or designee the customized web pages dedicated to the BENEFIT PROGRAM and for the upcoming OPEN ENROLLMENT PERIOD for review and approval.	August 1 (on an annual basis)
<b>Customer Service:</b> The CONTRACTOR'S dedicated toll-free customer service telephone number is operational and customer service staff for the BENEFIT PROGRAM are trained.	September 15, 2025
<b>Website and Web-Portal Content Launch:</b> CONTRACTOR'S customized website and web-portals are fully functional. The DEPARTMENT-specific materials, educational videos, CONTRIBUTION calculators, log-in to the web-portals, and related BENEFIT PROGRAM materials are updated for each PLAN YEAR and available on the website and/or BENEFIT PROGRAM web-portals as appropriate.	September 15 (on an annual basis)
<b>Employer Kick-Off Meeting:</b> If requested by the DEPARTMENT, the CONTRACTOR must attend the EMPLOYER kick-off meeting and provide guidance and BENEFIT materials to PAYROLL CENTER staff.	Mid-September (on an annual basis)
<b>Informational Mailing:</b> The CONTRACTOR shall send an informational mailing with materials approved by the DEPARTMENT Program Manager or designee to eligible BENEFIT PROGRAM	September 15 (on an annual basis)



Activity	Due Dates
households one (1) week prior to the start of the OPEN ENROLLMENT PERIOD.	
<b>Employer Health Fairs:</b> The CONTRACTOR shall participate in OPEN ENROLLMENT health fairs (in person and virtual) sponsored by EMPLOYERS.	OPEN ENROLLMENT PERIOD
<b>Eligibility File:</b> An assessment and review of the eligibility files have been fully tested and are ready for BENEFIT PROGRAM operation.	November 15
<b>Enrollment File:</b> The enrollment verification assessment and review of the enrollment files have been fully tested and are ready for BENEFIT PROGRAM operation.	November 15
<b>Financial Administration:</b> Financial administration requirements are operational, including but not limited to: <ul style="list-style-type: none"> <li>• Establishment of bank account(s) for funds for claims payments, and determination of bank account(s) ownership.</li> <li>• Establishment of mutually agreed upon written procedures related to managing the bank account(s) and invoicing (including data fields to be included).</li> <li>• ACH mechanism for electronic funds transfer/EFT of claims payments and fees.</li> </ul>	November 30
<b>Grievance Procedure:</b> The CONTRACTOR submits its internal grievance procedure to reflect implementation of the DEPARTMENT'S grievance procedure, including the DEPARTMENT administrative and independent review rights and sample grievance decision letters, for the DEPARTMENT'S review and approval.	November 30
<b>DEBIT CARDS:</b> The CONTRACTOR issues DEBIT CARDS for PARTICIPANTS with coverage effective January 1 of each PLAN YEAR.	December 15 (on an annual basis)
<b>Welcome Packet:</b> The CONTRACTOR issues welcome packets for PARTICIPANTS with coverage effective January 1.	December 15 (on an annual basis)
<b>Claims Administrative Services:</b> All claims administrative SERVICES and the process for claims invoicing to the DEPARTMENT is established, tested, and working correctly for the BENEFIT PROGRAM are fully operational.	January 1
<b>Administrator Web-Portal:</b> The CONTRACTOR'S web-portal for DEPARTMENT and PAYROLL CENTER Administrators is launched.	January 1
<b>PARTICIPANT Web-Portal:</b> The CONTRACTOR'S web-portal for PARTICIPANT account management is launched.	January 1
<b>PARTICIPANT Mobile Application:</b> The CONTRACTOR'S mobile application for PARTICIPANT account management is launched.	January 1
<b>Administrative Fee Invoicing:</b> The CONTRACTOR'S administrative fee invoicing to the DEPARTMENT is established, tested, and working correctly.	January 31

Activity	Due Dates
<b>Carryover Information:</b> The CONTRACTOR must make available on its web-portal informational materials outlining the process regarding the carryover of PARTICIPANT funds. The materials must also detail the communications that PARTICIPANTS will receive from the CONTRACTOR to keep them informed about the status of their carryovers.	September 15

## 155J Contract Termination

1. In addition to the provisions in the Department Standard Terms and Conditions, the following applies if the CONTRACT is terminated:
  - a. If the BOARD terminates the CONTRACT, then all PARTICIPANT rights to benefits under the BENEFIT PROGRAM provided by the CONTRACTOR shall cease as of the date of termination.
  - b. In the event of CONTRACT termination or non-renewal, the CONTRACTOR will be responsible for processing claims through the run-out period (January 1 through March 31) following the CONTRACT termination date.
  - c. Enrollment changes, eligibility changes, CONTRIBUTIONS, and corrections processed by the DEPARTMENT and/or PAYROLL CENTERS prior to CONTRACT termination will continue to be processed by the CONTRACTOR during the entire run-out period following the CONTRACT termination date. During the entire run-out period following the CONTRACT termination date, all performance standards and penalties remain in force.
  - d. The CONTRACTOR will be required to coordinate turnover and transition planning and activities, subject to the DEPARTMENT'S approval.

## 155K Transition Plan

1. By July 1, 2026, the CONTRACTOR must provide to the DEPARTMENT a comprehensive transition plan in a mutually agreed upon format that provides a timeline of major tasks, activities, and information that will be provided to the succeeding vendor when CONTRACTOR relinquishes responsibilities at termination of the CONTRACT.
2. In the event the CONTRACTOR terminates the CONTRACT, an updated transition plan must accompany the CONTRACTOR'S notice of termination. In the event the BOARD terminates the CONTRACT, the CONTRACTOR must send an updated transition plan to the DEPARTMENT within thirty (30) CALENDAR DAYS of the date of CONTRACTOR'S receipt of the DEPARTMENT'S written notice of termination. The transition plan must be approved by the DEPARTMENT prior to the transition begin date. CONTRACTOR shall cooperate with the DEPARTMENT and the succeeding vendor and participate in planning calls or meetings with the succeeding vendor.

3. The CONTRACTOR must administer a program transition period to process claims and to handle related customer service inquiries. The transition period begins on the effective date of CONTRACT termination and will be no longer than one (1) year. The administrative fee paid to CONTRACTOR during the transition period shall be the administrative fee in effect during the last year of the CONTRACT.
4. During the transition period (beginning on the effective date of CONTRACT termination and ending one (1) year thereafter), the CONTRACTOR must:
  - a. Participate in all DEPARTMENT requested meetings;
  - b. Provide all reports for program close out;
  - c. Report on performance standards specified in [Section 205](#);
  - d. Invoice the DEPARTMENT as specified in [Section 135C](#);
  - e. Transmit program data to the new vendor;
  - f. Continue grievance reviews; and
  - g. Work with the successor vendor and the DEPARTMENT to ensure a timely and accurate transition to the successor vendor.
5. Transition Plan Requirements. The CONTRACTOR'S comprehensive transition plan must include, at a minimum, the following:
  - a. Transition summary: description of the transition plan at a high level and what the plan will accomplish.
  - b. Transition approach: description of the CONTRACTOR'S overall approach to the transition.
  - c. Transition team organizational chart: organizational chart showing all staff resources and their roles in the transition.
  - d. Transition project schedule chart: chart illustrating the transition plan project schedule. The chart should list all major tasks and activities to be performed, task owner, and time and duration for each major task.
  - e. A detailed description of the major tasks and activities that will be executed during the transition must include, at a minimum, the following:

- Transitional services
- Management support
- Knowledge transfer
- Data collection and transfer
- PARTICIPANT portal
- Administrator portal
- Customer service
- Communication
- Claims processing
- Unsubstantiated claims
- Debit card
- Uncashed checks
- Carryovers
- E-consent forms
- Disputes, complaints, and appeals
- Forfeiture
- Data and financial reconciliation
- PLAN YEAR finalization
- Audit
- Property transition
- Other necessary major tasks identified by the DEPARTMENT

f. The CONTRACTOR will perform the services specified in the transition plan as requested by the DEPARTMENT. Failure of the CONTRACTOR to comply with the transition plan requirements shall constitute a breach of the CONTRACT and additional penalties may apply.

6. Upon CONTRACT expiration or termination:

- a. Administrator Support. The CONTRACTOR will continue to provide prompt, knowledgeable, and consistently accurate SERVICES to the DEPARTMENT and the PAYROLL CENTERS. The CONTRACTOR will continue to maintain and support the dedicated relationship management team with email boxes and phone numbers for the DEPARTMENT and PAYROLL CENTER personnel through the duration of the CONTRACT. The CONTRACTOR will provide sufficient experienced transition personnel to ensure that the SERVICES are transitioned and maintained at the DEPARTMENT'S required level of quality and proficiency. The CONTRACTOR'S assigned project and transition personnel will be available for onsite project work as directed by the DEPARTMENT according to the terms of the CONTRACT until acceptance of transition completion.
- b. Knowledge Transfer. All CONTRACTOR personnel will work alongside DEPARTMENT staff, PAYROLL CENTER staff, and/or succeeding vendor personnel throughout the transition in order to ensure a seamless transition. The CONTRACTOR'S transition lead and DEPARTMENT staff will meet throughout the transition in order to determine if any further training or knowledge transfer is required. The CONTRACTOR recognizes that the SERVICES are vital to the DEPARTMENT and must be continued without interruption and that, upon CONTRACT termination, a successor vendor or the DEPARTMENT may continue the SERVICES. The CONTRACTOR agrees to provide transition training and exercise its best efforts and cooperation to ensure an orderly, efficient, and seamless transition.
- c. Data Transfer.
  - i. All administrative reports, data files, and source documents that are specific to the DEPARTMENT are the property of the DEPARTMENT. The CONTRACTOR will provide the DEPARTMENT with all administrative reports, data files, and source documents requested by the DEPARTMENT by the due date specified by the DEPARTMENT.

- ii. The DEPARTMENT reserves the right to request additional data and reporting as necessary for a successful transition by the due date specified by the DEPARTMENT. All reports, data files, and source documents shall be provided in a format determined by the DEPARTMENT. There shall be no cost associated to data transfer or data removal from the CONTRACTOR'S systems when requested by the DEPARTMENT during the transition.
- d. Property Transition. All manuals, guides, brochures, flyers, educational videos, presentations, and source documents that are customized for the DEPARTMENT are the property of the DEPARTMENT. The CONTRACTOR will provide the DEPARTMENT with all manuals, guides, brochures, flyers, education videos, presentations, and source documents produced for the DEPARTMENT as part of the SERVICES, as may be requested by the DEPARTMENT, in the format specified by the DEPARTMENT, by the date specified by the DEPARTMENT. Preexisting intellectual property of the CONTRACTOR incorporated into the materials created by the DEPARTMENT shall remain the property of the CONTRACTOR and the CONTRACTOR shall provide the DEPARTMENT an irrevocable license to use such material.
- e. Performance Standards and Guarantees. The CONTRACTOR will continue to adhere to the DEPARTMENT'S Performance Standards and Guarantees throughout the duration of the CONTRACT.
- f. Administrator Online Portal. The CONTRACTOR will provide the DEPARTMENT with the same level of administrator online portal access and support services for one (1) year from the CONTRACT termination date. The CONTRACTOR will continue to maintain the data, reports, and resources within the DEPARTMENT'S administrator online portal for one (1) year from the CONTRACT termination date. The CONTRACTOR will provide the DEPARTMENT with all administrative reports, data files, and source documents requested by the DEPARTMENT by the due date specified by the DEPARTMENT. The CONTRACTOR will provide data and reports requested by the DEPARTMENT and respond to any inquiries from the DEPARTMENT within five (5) BUSINESS DAYS of the inquiry.
- g. Participant Online Portal. The CONTRACTOR will continue to provide online PARTICIPANT portal access and online support services for one (1) year from the CONTRACT termination date. The CONTRACTOR will continue to maintain the data and resources within the online PARTICIPANT portal for one (1) year from the CONTRACT termination date. The CONTRACTOR will provide the PARTICIPANT with all BENEFIT PROGRAM information requested by the PARTICIPANT within five (5) BUSINESS DAYS of the PARTICIPANT'S inquiry.
- h. Customer Service. The CONTRACTOR will continue to maintain and support the dedicated customer service phone number for PARTICIPANTS until the DEPARTMENT'S acceptance of transition completion. The CONTRACTOR will provide prompt, knowledgeable, consistently accurate customer service to PARTICIPANTS. The CONTRACTOR will continue to audit and measure the CONTRACTOR'S customer service department on a QUARTERLY basis for twelve (12) months from the CONTRACT termination date to ensure the services provided to PARTICIPANTS meets the DEPARTMENT'S quality of service expectations. After twelve (12) months from the CONTRACT termination date, the CONTRACTOR will provide customer service to PARTICIPANTS as necessary, for

inquiries, disputes, escalations, complaints, or appeals for at least three (3) years from the CONTRACT termination date.

- i. Communication. The CONTRACTOR recognizes that communication to DEPARTMENT staff, PAYROLL CENTER staff, EMPLOYER benefit staff, and PARTICIPANTS is vital to a seamless transition. The DEPARTMENT will determine the information to be communicated, audience, frequency, date(s), and delivery method of the communications. The CONTRACTOR will provide communication(s) as specified by the DEPARTMENT at no additional cost to the DEPARTMENT until the DEPARTMENT'S acceptance of transition completion.
- j. Disputes, Escalations, Complaints, and Appeals. Any PARTICIPANT complaints, disputes, or appeals about the BENEFIT PROGRAM shall first be submitted for resolution through the CONTRACTOR'S internal grievance process and may then, if necessary be submitted to the DEPARTMENT.
- k. Claims Processing.
  - i. The CONTRACTOR must administer run-out claims through the run-out period after CONTRACT termination. "Run-out claims" means claims with dates of service prior to January 1. The CONTRACTOR will process claims and provide reimbursements for approved claims submitted on or before the runout period ends for services incurred between January 1 to December 31 of the previous plan year.
  - ii. The CONTRACTOR must deactivate PARTICIPANT DEBIT CARDS on a date specified by the DEPARTMENT. After DEBIT CARD deactivation, the CONTRACTOR will continue to provide standard PLAN YEAR claims processing services via the online PARTICIPANT portal, mobile application, and manual process through the end of the run-out period, March 31. After the end of the run-out period, March 31, through the processing freeze date, the CONTRACTOR will provide claims processing services and customer support for unsubstantiated claims, denied claims, claims appeals, claims inquiries, and escalated claims matters identified by the DEPARTMENT.
  - iii. The DEPARTMENT and the CONTRACTOR will agree on a processing freeze date. The CONTRACTOR will not process any enrollments, CONTRIBUTIONS, claims, or adjustments, from the processing freeze date and beyond unless approved or directed by the DEPARTMENT. Any claims processed after the processing freeze date, not previously approved by the DEPARTMENT, will be the financial responsibility of the CONTRACTOR.
- l. Unsubstantiated Claims.
  - i. The CONTRACTOR must adhere to the DEPARTMENT'S five step substantiation process and complete all CONTRACTOR assigned substantiation deliverables outlined in the PLAN DOCUMENTS, policies, and source documents. The CONTRACTOR will provide the DEPARTMENT with all data, reporting, supportive information, and source documents requested by the Department in the timeframe specified by the DEPARTMENT.

- ii. The CONTRACTOR is responsible for resolving all unsubstantiated claim inquiries, disputes, or appeals received prior to the DEPARTMENT'S acceptance of transition completion in accordance with the terms of the CONTRACT. The CONTRACTOR will provide resolution support and all supportive documentation required to the DEPARTMENT for all unsubstantiated claim inquiries, disputes, and appeals received after the DEPARTMENT'S acceptance of transition completion.
- iii. Once step four of the substantiation process has been completed for the PLAN YEAR, the CONTRACTOR will provide the DEPARTMENT with a report of all unresolved unsubstantiated claims for all PLAN YEARS by the date specified by the DEPARTMENT. The CONTRACTOR will update PARTICIPANT accounts throughout the entire five step substantiation process and provide the DEPARTMENT with updated reports on a monthly basis until the DEPARTMENT'S acceptance of transition completion.
- m. DEBIT CARD. The CONTRACTOR will deactivate PARTICIPANT DEBIT CARDS on a date specified by the DEPARTMENT. The CONTRACTOR agrees to allow the DEPARTMENT to select a DEBIT CARD deactivation date by BENEFIT PROGRAM. After DEBIT CARD deactivation, the CONTRACTOR will continue to provide standard PLAN YEAR claims processing services via the online PARTICIPANT portal, mobile application, and manual process through the claims processing freeze date. See above Claims Processing section for additional detail. The CONTRACTOR will cease issuing new DEBIT CARDS and reissuing DEBIT CARDS on the date specified by the DEPARTMENT.
- n. BENEFIT PROGRAM Plan Finalization Report. The DEPARTMENT may request the CONTRACTOR provide a BENEFIT PROGRAM Plan Finalization Report during the transition period. If requested, the CONTRACTOR will provide the DEPARTMENT with a comprehensive error-free BENEFIT PROGRAM Plan Finalization Report using the data points provided by the DEPARTMENT.
- o. Data and Financial Reconciliation Audit. The CONTRACTOR will assist the DEPARTMENT in completing a fully reconciled audit by the date determined by the DEPARTMENT of data and financial information transferred from the CONTRACTOR to the DEPARTMENT and/or succeeding vendor to ensure all data and financial information transferred over successfully without errors. The CONTRACTOR will provide the DEPARTMENT with audit specifications, audit results, and a written statement that all data and financial information was transferred over successfully without errors by the date determined by the DEPARTMENT. Any CONTRACTOR errors identified after the CONTRACTOR has completed the full reconciliation audit will be the financial responsibility of the CONTRACTOR.
- p. Acceptance of Transition Completion. The DEPARTMENT will determine when the transition is completed and will provide a formal acceptance indicating such, which shall not be unreasonably withheld. To do this, the DEPARTMENT will review the requirements in the agreed upon transition plan and the transition plan schedule to determine if all activities associated with the transition have been completed. The DEPARTMENT will also meet with the CONTRACTOR'S transition lead to ensure that all concerns and issues have been met and addressed appropriately. Once the DEPARTMENT has formally accepted the

transition, the DEPARTMENT will sign an acceptance of transition document indicating the transition has been completed to the DEPARTMENT'S satisfaction.

## **160 Claims**

### **160A Claims Administration**

1. With respect to claims for the BENEFIT PROGRAMS, the CONTRACTOR will serve as third-party administrator, providing all necessary SERVICES to administer, process, and pay all BENEFIT PROGRAM claims according to federal and STATE regulations, and as indicated in the CONTRACT, arising under the BENEFIT PROGRAMS offered by the BOARD under .
2. The CONTRACTOR is responsible for all DEBIT CARD, online account, mobile app, and paper transactions, and for processing REIMBURSEMENT REQUESTS submitted by the PARTICIPANT or on behalf of the PARTICIPANT by a MERCHANT, according to IRS regulations, PLAN DOCUMENTS, and BENEFIT PROGRAM coverage parameters. Such transactions shall include eligibility and coverage determination, calculation of eligible expenses, and communication of payment disposition to PARTICIPANTS, and shall be subject to the terms and conditions of this AGREEMENT, including but not limited to the procedures set forth in [Section 160](#) Claims.
3. The CONTRACTOR will adjudicate claims submitted by MERCHANTS in accordance with IRS regulations, the applicable BENEFIT PROGRAM, and MERCHANT agreement with the CONTRACTOR.
4. In addition to administering claims, the CONTRACTOR, with the consent of the BOARD, will establish the collateral procedures and services necessary to provide the SERVICES required under BENEFIT PROGRAMS in accordance with the CONTRACT, including enrollment and eligibility systems.

### **160B Review of Claims Decisions**

The CONTRACTOR shall make claims decisions according to IRS regulations and the BENEFIT PROGRAM PLAN DOCUMENTS. The CONTRACTOR'S decision to deny a BENEFIT PROGRAM claim, in whole or part, is subject to review only as described in [Section 165](#) Grievances.

### **160C Claims Processing and Reimbursement**

1. As eligible expenses are incurred, the PARTICIPANT has two (2) options to access their BENEFIT PROGRAM funds:
  - a. DEBIT CARD: PARTICIPANTS can use their ERA PROGRAM DEBIT CARD at the point-of-purchase. The debit card pays for and automatically substantiates most eligible expenses, limiting the need to submit a REIMBURSEMENT REQUEST.
  - b. REIMBURSEMENT REQUEST: PARTICIPANTS can submit a request for reimbursement to the CONTRACTOR using one (1) of the following methods:
    - Mobile application



- Online account
  - REIMBURSEMENT REQUEST form
2. The CONTRACTOR must allow PARTICIPANTS to submit claims via fax, scan and upload to the CONTRACTOR'S website, mobile application, and paper claims through the mail.
  3. The CONTRACTOR must provide reimbursement claim forms for PARTICIPANTS on the website and/or PARTICIPANT web-portal.
  4. The CONTRACTOR must accept claims submitted directly by PARTICIPANTS when such claims are properly completed using a standard claim form provided by the CONTRACTOR and submitted to CONTRACTOR with proof of proper documentation.
  5. The CONTRACTOR must process the submitted claim and issue a reimbursement check or electronic funds transfer (at the option of the PARTICIPANT) to the PARTICIPANT within five (5) BUSINESS DAYS of receipt of a properly submitted claim request.
    - a. If a submitted claim is ineligible or incomplete, within five (5) BUSINESS DAYS of CONTRACTOR'S receipt of the request for reimbursement, the CONTRACTOR will either request more information from the PARTICIPANT or notify the PARTICIPANT that the claim was denied, including the reason(s) for the denial.
  6. If the claim reimbursement is made by electronic funds transfer, the CONTRACTOR must provide an email notification to the PARTICIPANT confirming the deposit of funds for each incidence of electronic funds reimbursement. If the PARTICIPANT does not have an email address, the CONTRACTOR must provide a mailed notice confirming the deposit of funds for each reimbursement.
  7. DEPENDENT DAY CARE FLEXIBLE SPENDING ACCOUNT claims must be paid by the CONTRACTOR to the extent the PARTICIPANT has available funds. CONTRACTOR must issue reimbursement payments to the PARTICIPANTS by check or direct deposit, at the option of the PARTICIPANT. See [Section 125F](#) Contributions.
  8. HEALTH CARE FSA and LIMITED PURPOSE FSA annual contribution amounts are available immediately at the start of the PLAN YEAR. If a HEALTH CARE FSA or LPFSA claim is submitted for an amount larger than the PARTICIPANT'S account balance, the CONTRACTOR must pay the submitted (and approved) amount up to the projected annual account balance less any previous reimbursements or pay as otherwise required by federal law or regulations. CONTRACTOR must issue reimbursement payments to PARTICIPANTS by check or direct deposit, at the option of the PARTICIPANT.
  9. COMMUTER FRINGE BENEFIT claims must be paid by the CONTRACTOR to the extent the PARTICIPANT has available funds. CONTRACTOR must issue reimbursement payments to the PARTICIPANTS by check or direct deposit, at the option of the PARTICIPANT.

10. The CONTRACTOR must notify the PARTICIPANT in writing by email each time a claim is submitted incomplete and monthly thereafter. CONTRACTOR shall retain pending claims materials that are awaiting appropriate documentation necessary to adjudicate the claim.
11. If a BENEFIT PROGRAM claim is paid in error by the CONTRACTOR, the CONTRACTOR shall be responsible for the amounts paid in error.

## **160D Substantiation**

1. The CONTRACTOR must comply with all IRS regulated substantiation requirements.
2. The CONTRACTOR'S BENEFIT PROGRAM DEBIT CARD must comply with all IRS regulations.
3. The CONTRACTOR will require PARTICIPANTS to substantiate all transactions and/or eligible expenses, in accordance with IRS regulations.
4. BENEFIT PROGRAM claims that are not auto-substantiated will automatically enter into a progressive five-step recovery process. The CONTRACTOR must follow the DEPARTMENT-mandated five-step recovery process (applicable to HEALTH CARE FSA and LIMITED PURPOSE FSA only):
  - a. Substantiation Notification. If a claim requires substantiation, the CONTRACTOR will send the PARTICIPANT multiple notices to inform the PARTICIPANT of the unsubstantiated claim and PARTICIPANT BENEFIT PROGRAM account responsibilities.
  - b. Claim Denial and DEBIT CARD Deactivation. If a claim is not substantiated within forty-five (45) DAYS of the first notification, the CONTRACTOR will deny the claim, send denial notification to the PARTICIPANT, and deactivate the PARTICIPANT'S DEBIT CARD.
  - c. Plan Correction Payroll Withholding. If a PARTICIPANT fails to repay an unsubstantiated claim or provide necessary documentation by December 31, the CONTRACTOR, DEPARTMENT, and the PAYROLL CENTER, will recover the claim amount through payroll withholding during the PLAN YEAR run-out period (January 1 through March 31).
  - d. Claim Offset. A PARTICIPANT is able to substitute the unsubstantiated claim with another eligible expense. The CONTRACTOR will process PARTICIPANT claim offset requests throughout the PLAN YEAR and through the PLAN YEAR run-out period for expenses incurred during the PLAN YEAR.
  - e. Recovery of Other Business Debt.
    - i. A business debt is incurred when a PARTICIPANT fails to resolve an unsubstantiated claim by the end of the PLAN YEAR'S run-out period (March 31). The recovery of other business debts consists of two (2) steps: recovery as other business debit and imputation of income.
    - ii. The CONTRACTOR must create and make available to PARTICIPANTS a business debt appeal form.
    - iii. The CONTRACTOR must track all business debts and provide a final Business Debt Report to the DEPARTMENT at the end of the run-out period according to the report requirements provided by the DEPARTMENT. CONTRACTOR'S reports must include the data points provided by the DEPARTMENT. The CONTRACTOR must review the

- BUSINESS Debt Report and make any necessary corrections prior to submitting the Report to the DEPARTMENT. The DEPARTMENT will provide the CONTRACTOR with the minimum requirements for the review.
- iv. The CONTRACTOR must track all business debt appeals and, at a frequency agreed to by the DEPARTMENT and CONTRACTOR, report them to the DEPARTMENT as they are received and updated. CONTRACTOR'S reports must be compliant with the report requirements provided by the DEPARTMENT.
  - v. The DEPARTMENT will seek repayment of these business debts to the extent that is consistent with the DEPARTMENT'S collection procedures for other business debts. If the DEPARTMENT'S collection procedures are unsuccessful, the DEPARTMENT will proceed to the final step, which involves imputing taxable income to the PARTICIPANT. Imputation will be facilitated using a Form W-2 in the year in which the debt is forgiven. Income imputation may only take place if all prior steps do not result in the recovery of the unsubstantiated claim generated by the business debt. The CONTRACTOR and the DEPARTMENT will determine the level of detail and frequency of communications to support the recovery process.
  - vi. Report requirements, reporting frequency, report review processes for the Benefit Program Plan Finalization Report, Business Debt Report, and Business Debt Appeals Report are included in the document provided to the CONTRACTOR, titled Report Requirements, which may be updated from time to time as required for the purposes of the BENEFIT PROGRAMS.
5. For the COMMUTER BENEFIT PROGRAM, substantiation is not required for Parking expenses paid by the BENEFIT PROGRAM DEBIT CARD as those expenses will be auto-substantiated using inventory information approval system (IIAS) codes. Substantiation is required for Transit expenses as those expenses will be paid by the CONTRACTOR manually. Adequate SUBSTANTIATION from the PARTICIPANT, such as a third-party receipt or attestation, will be required for any manual claims.
  6. The CONTRACTOR must provide any necessary technical information and/or assistance in the collection, preparation, and filing of any statistical or other program data that may be required by the IRS or other regulatory agency.
  7. The CONTRACTOR must provide technical and compliance expertise to the DEPARTMENT to assure compliance with applicable IRS codes and regulations and alert the DEPARTMENT when potential non-compliance is noted.
  8. The CONTRACTOR must provide auto-substantiation at the City of Madison Transportation Office (located at the City of Madison Parking Utility, 215 Martin Luther King Jr. Blvd, Madison, WI 53703) for PARTICIPANTS using their debit card to pay for COMMUTER BENEFIT PROGRAM expenses. The CONTRACTOR must work with CONTRACTOR'S DEBIT CARD vendor to ensure PARTICIPANTS can make payments for commuter expenses without additional documentation.

## **165 Grievances**

### **165A General**

1. The CONTRACTOR must have a mechanism, as approved by the DEPARTMENT, for handling complaints and grievances made by PARTICIPANTS. This includes a formal grievance procedure, which at a minimum complies with federal and STATE law, whereby the PARTICIPANT is provided the opportunity to present a complaint to the CONTRACTOR and the CONTRACTOR will consider the complaint and advise the PARTICIPANT of its final decision. PARTICIPANTS must be advised of the grievance process when a REIMBURSEMENT REQUEST is denied or if the PARTICIPANT expresses, in writing, dissatisfaction with the administration or claims practices or provision of SERVICES by the CONTRACTOR. In all final grievance decision letters, the CONTRACTOR shall cite the specific IRS regulation or contractual provision(s) upon which the CONTRACTOR bases its decision and relies on to support its decision.
2. When necessary, the BOARD intends to take a proactive approach in resolving complaints. The CONTRACTOR must cooperate fully with the efforts of the DEPARTMENT in resolving complaints. Adverse decisions are subject to review by the BOARD for contractual compliance if the PARTICIPANT is not satisfied with the CONTRACTOR'S action on the matter.
3. The CONTRACTOR must retain records of grievances and submit an annual summary to the DEPARTMENT of the number, types of grievances received, and the resolution or outcome. The annual summary report will contain data and be in a format established by the DEPARTMENT.

### **165B Grievance Process Overview**

1. The CONTRACTOR must have an internal grievance process that complies with this AGREEMENT. The CONTRACTOR must submit its grievance procedure, including the DEPARTMENT administrative and external review rights and sample grievance decision letters, for the DEPARTMENT'S review and approval during the implementation process and upon request by the DEPARTMENT.
2. Any dispute about claims arising under the BENEFIT PROGRAM shall first be submitted for resolution through the CONTRACTOR'S internal grievance process and may then, if necessary and appropriate, be submitted to the DEPARTMENT for administrative review.
3. Grievances regarding non-covered services or services excluded from coverage by the BENEFIT PROGRAM shall be handled like any other grievance. Written inquiries received by the CONTRACTOR not related to REIMBURSEMENT REQUEST determinations shall be resolved by the CONTRACTOR within ten (10) BUSINESS DAYS following the CONTRACTOR'S receipt of the inquiry.
4. If any PARTICIPANT has a problem or complaint relating to a determination of a REIMBURSEMENT REQUEST, he/she should contact the CONTRACTOR. The CONTRACTOR shall assist the PARTICIPANT in trying to resolve the matter on an informal basis, and may initiate a claim review of the REIMBURSEMENT REQUEST determination. If

the PARTICIPANT wishes, he/she may omit this step and immediately file a formal grievance. A claim review is not a substitute for a grievance.

5. The following provides an overview of the steps in the PARTICIPANT grievance process. Details are provided in Sections 165C – 165H below.
  - a. REIMBURSEMENT REQUEST review (optional for PARTICIPANT);
  - b. PARTICIPANT notice;
  - c. Investigation and resolution;
  - d. Notification of DEPARTMENT Administrative Review Rights (not all grievances eligible): Administrative review by DEPARTMENT staff, and/or the DEPARTMENT appeals process including filing an appeal with the BOARD, an administrative appeal hearing, consideration of the appeal by the BOARD, right to appeal the BOARD'S final decision to circuit court; or,
  - e. Federal external review (not all grievances eligible).
6. The CONTRACTOR must track all PARTICIPANT late enrollment and unsubstantiated claims appeals it receives and provide an annual summary report to the DEPARTMENT by the end of the first QUARTER of each new PLAN YEAR.

### **165C Reimbursement Request Review**

The CONTRACTOR shall perform a claim review when a PARTICIPANT requests a review of a denied REIMBURSEMENT REQUEST. When a claim review has been completed, the CONTRACTOR shall notify the PARTICIPANT of the decision. If the decision is to uphold the denial of REIMBURSEMENT REQUEST, the CONTRACTOR shall send the PARTICIPANT a written notification as to the specific reason(s) for the continued denial of the REIMBURSEMENT REQUEST and of his/her right to file a grievance.

### **165D Participant Notice**

The CONTRACTOR must provide the PARTICIPANT with notice of their grievance rights and a period of ninety (90) CALENDAR DAYS to file a grievance after written denial of a REIMBURSEMENT REQUEST or other occurrence of the cause of the grievance along with the STATE or federal rules, regulations, and/or statutes or the BENEFIT PROGRAM contractual provision(s) upon which the denial is based.

### **165E Investigation and Resolution Requirements**

Investigation and resolution of any grievance will be initiated by the CONTRACTOR within five (5) BUSINESS DAYS of the date the grievance is filed by the complainant for a timely resolution of the problem.

### **165F Notification of Department Administrative Review Rights**

1. In the final grievance decision letters, the CONTRACTOR shall inform PARTICIPANTS of their right to request a DEPARTMENT review of the grievance committee's final decision using the language approved by the DEPARTMENT. In all final grievance decision letters, the CONTRACTOR shall cite the specific contractual provision(s), STATE or federal rules,

regulations, and/or statutes upon which the CONTRACTOR bases its decision and relies on to support its decision.

2. In the event the PARTICIPANT disagrees with the grievance committee's final decision, the PARTICIPANT may submit a written request for review to the DEPARTMENT within sixty (60) CALENDAR DAYS of the date of the final grievance decision letter. The DEPARTMENT will review and communicate the outcome of the review to the PARTICIPANT. In the event that the PARTICIPANT disagrees with the outcome, they may file a written request for determination from the DEPARTMENT. The request must be received by the DEPARTMENT within sixty (60) CALENDAR DAYS of the date of the DEPARTMENT'S final review letter.
3. The determination of the DEPARTMENT is final and not subject to further review unless a timely appeal of the determination by the DEPARTMENT is submitted to the BOARD, as provided by [Wis. Stat. § 40.03 \(6\) \(i\)](#) and [Wis. Adm. Code ETF 11.01 \(3\)](#). However, the DEPARTMENT will not issue a determination regarding denials of REIMBURSEMENT REQUESTS by a CONTRACTOR based on IRS regulations.
4. Following a determination by the DEPARTMENT, a PARTICIPANT may submit an appeal to the BOARD, as provided by [Wis. Stat. § 40.03 \(6\) \(i\)](#) and [Wis. Adm. Code ETF 11.01 \(3\)](#). This process includes an administrative hearing. The CONTRACTOR shall, upon the DEPARTMENT'S request, participate in all administrative hearings requested by PARTICIPANTS or the CONTRACTOR, as determined by the DEPARTMENT. The hearings shall be conducted in accordance with guidelines and rules and regulations promulgated by the DEPARTMENT.
5. BOARD decisions can only be further reviewed as provided by [Wis. Stat. § 40.08 \(12\)](#) and [Wis. Adm. Code ETF 11.15](#).

### **165G Provision of Complaint Information**

All information and documentation pertinent to any decisions or actions taken regarding any PARTICIPANT complaint or grievance by a CONTRACTOR shall be made available to the DEPARTMENT upon request. If an authorization from the PARTICIPANT is necessary, the CONTRACTOR shall cooperate in obtaining the authorization and shall accept the DEPARTMENT'S form that complies with all applicable laws regarding patient privacy. Information may include complete copies of grievance files, medical records, consultant reports, customer service contact worksheets or any other documentation the DEPARTMENT deems necessary to review a PARTICIPANT complaint, resolve disputes or to formulate determinations. Such information must be provided to the DEPARTMENT within fifteen (15) BUSINESS DAYS from the date of the DEPARTMENT'S request, or, if an urgent matter arises, by an earlier date as requested by the DEPARTMENT.

### **165H Department Request for Grievance**

The DEPARTMENT may require the CONTRACTOR to treat and process a complaint received by the DEPARTMENT as a grievance and the DEPARTMENT will forward the complaint to the CONTRACTOR on behalf of the PARTICIPANT. The CONTRACTOR shall process the complaint

as a grievance in compliance with the BENEFIT PROGRAM'S provisions regarding a formal grievance.

### **165I Notification of Legal Action**

If a PARTICIPANT files a lawsuit naming the CONTRACTOR as a defendant, the CONTRACTOR must notify the DEPARTMENT'S chief legal counsel within ten (10) BUSINESS DAYS of notification of the legal action. This requirement does not extend to cases of subrogation.

### **165J Compliance with Departmental Determination**

If the DEPARTMENT'S determination overturns a CONTRACTOR'S decision on a PARTICIPANT'S grievance, the CONTRACTOR shall comply with the determination within ninety (90) CALENDAR DAYS of the date of the determination. As used in this section, "comply" means to take action as directed in the departmental determination within ninety (90) CALENDAR DAYS. Failure to either comply within ninety (90) CALENDAR DAYS will result in penalties as described in [Section 205](#) Performance Standards and Penalties.

### **165K Appeals Process**

1. The CONTRACTOR will send the PARTICIPANT a denial letter specifying the reason for denial(s) supporting its action regarding the BENEFIT PROGRAM on issues raised by a PARTICIPANT including, but not limited to:
  - a. Denial of a claim
  - b. Grace period and runout period
  - c. Late reimbursement
  - d. Late enrollment
  - e. Substantiation
2. Appeals by a PARTICIPANT must be made to CONTRACTOR within ninety (90) DAYS of the original denial. In the appeal, the PARTICIPANT may submit additional documents and written comments and request relevant information and documents pertaining to the original denial. The CONTRACTOR will issue a written decision within sixty (60) DAYS specifying the reason (s) governing the decision, including references to applicable BENEFIT PROGRAM benefits or PLAN DOCUMENT provisions. The written decision must inform the PARTICIPANT of the opportunity to appeal CONTRACTOR'S decision to the DEPARTMENT.
3. A PARTICIPANT may appeal the CONTRACTOR'S decision to the DEPARTMENT for either an informal review or a departmental determination. A request for DEPARTMENT informal review or a departmental determination must be made within sixty (60) DAYS of the date of CONTRACTOR'S written decision. If the PARTICIPANT requests an informal review by the DEPARTMENT, the results of that review will be sent to the PARTICIPANT within sixty (60) DAYS of the DEPARTMENT'S receipt of the request. If a PARTICIPANT requests a departmental determination, the DEPARTMENT will attempt to send that determination to the PARTICIPANT within ninety (90) DAYS of the request.

4. A PARTICIPANT may appeal the DEPARTMENT'S departmental determination to the BOARD. An appeal to the BOARD must be made within ninety (90) DAYS of the date of the departmental determination. All appeals to the Group Insurance Board are conducted in accordance with Wisconsin Administrative Code Chapter ETF 11. Appeals should be sent to the Appeals Coordinator, Department of Employee Trust Funds, P. O. Box 7931, Madison, WI 53707-7931.

## **170 Continuation**

### **170A Right to Continue Coverage**

A PARTICIPANT who ceases to meet the definition of EMPLOYEE may elect to continue coverage as required by STATE and federal law. Applications to continue coverage must be postmarked within sixty (60) CALENDAR DAYS of the date the PARTICIPANT is notified of the right to continue or sixty (60) CALENDAR DAYS from the date coverage ceases, whichever is later.

### **170B Participant Nonpayment of Contributions**

1. A PARTICIPANT who ceases to be eligible for benefits may elect to continue coverage for benefits eligible under COBRA, except in the following circumstances:
  - a. When coverage is canceled;
  - b. When CONTRIBUTIONS are not paid when due; or
  - c. When coverage is terminated as permitted by STATE or federal law.
2. As required by federal law, if timely payment is made in an amount that is not significantly less than the amount due, that amount is deemed to satisfy the requirement for the amount due. However, the DEPARTMENT may notify the PARTICIPANT of the amount of the deficiency and grant a reasonable time period for payment of that amount. A reasonable time period is considered thirty (30) CALENDAR DAYS after the notice is given.

## **175 Customer Service**

1. The CONTRACTOR must provide a toll-free customer service line dedicated to the BENEFIT PROGRAMS, staffed by trained CONTRACTOR customer service representatives, that operates between 7:00 a.m. to 6:00 p.m. CST/CDT, Monday through Friday. CONTRACTOR'S customer service responds to PARTICIPANT inquiries regarding account balances, enrollment, BENEFIT PROGRAM, forms completion, and complaints. PARTICIPANTS must also be able to submit questions using e-mail and via a website. The CONTRACTOR'S call center must be equipped with Telephone Device for the Deaf (TDD) in order to serve the hearing-impaired population. The CONTRACTOR shall track, document, and record all calls and correspondence received by CONTRACTOR'S customer service representatives, and be able to retrieve all such calls and correspondence, when necessary, by PARTICIPANT name or identification number.
2. The CONTRACTOR must have a dedicated toll-free number for the BENEFIT PROGRAM and have customer service staff who are sufficiently trained to respond appropriately to



PARTICIPANT inquiries, correspondence, complaints, and issues. The dedicated toll-free number must not have more than two (2) menu prompts to reach a live person.

3. The CONTRACTOR'S customer service staff must be able to respond to PARTICIPANTS' questions, including but not limited to: plan design, account management, eligibility, account balances, CONTRIBUTION limits, claim status, claim REIMBURSEMENT REQUEST process, substantiation process, account access, mobile application, and grievance procedures.
4. The CONTRACTOR shall notify the DEPARTMENT Program Manager of any disruption in customer service availability or toll-free access regardless of reason for disruption, within one (1) hour of realization that a problem exists.
5. The CONTRACTOR must monitor and report to the DEPARTMENT on the performance standards for the BENEFIT PROGRAMS that include call answer timeliness and call abandonment rate. Targets for the customer service performance standards and associated penalties are specified in [Section 205E](#) Customer Service Performance Standards and are based on calls received on the CONTRACTOR'S dedicated toll-free number for the BENEFIT PROGRAMS.
6. The CONTRACTOR must have a customer service inquiry system for inquiries received by phone, email, website, and/or web-portal. The system must maintain a history of inquiries for performance management, quality management and audit purposes. Related correspondence and calls shall be indexed and properly recorded to allow for reporting and analysis based on a distinct transaction.
7. CONTRACTOR'S customer service inquiry system must track and log, at a minimum, the following detail:
  - a. The PARTICIPANT'S identifying information;
  - b. The date and time the inquiry was received;
  - c. The reason for the inquiry (including a reason code using a coding scheme);
  - d. The origin of the transaction (e.g., inbound call, the DEPARTMENT, EMPLOYER group);
  - e. The representative that handled the inquiry;
  - f. For phone inquiries, the length of call; and,
  - g. The resolution of the inquiry (including a resolution code using a coding scheme).
8. At the DEPARTMENT'S request, the CONTRACTOR must provide the policies and procedures related to the operation of the CONTRACTOR'S customer service department. The DEPARTMENT reserves the right to require changes to the policies and procedures that directly impact PARTICIPANTS.
9. The CONTRACTOR must have and implement procedures for monitoring and ensuring the quality of SERVICES provided by its customer service representatives. CONTRACTOR'S management staff (e.g., lead worker, supervisor, manager) must audit at least five percent (5%) of all PARTICIPANT inquiries made each month by each submission type (e.g., phone, email,

website) to ensure accurate information was given to PARTICIPANTS and appropriate coaching and training is given to customer service representatives who failed to accurately respond to PARTICIPANTS. The CONTRACTOR must provide a summary of the audit results to the DEPARTMENT on a QUARTERLY basis within thirty (30) CALENDAR DAYS following the end of each QUARTER.

10. The CONTRACTOR must respond directly to PARTICIPANTS upon the DEPARTMENT'S request. For matters designated as urgent by the DEPARTMENT, the CONTRACTOR must contact the PARTICIPANT within one (1) BUSINESS DAY of receiving a request from the DEPARTMENT and actively communicate to the DEPARTMENT'S Program Manager or designee on issue resolution status until the issue is resolved.
12. The CONTRACTOR must conduct semi-annual customer service satisfaction surveys. Customer service satisfaction targets and associated penalties are specified in [Section 205E.5](#).
13. Service Level Response Time: CONTRACTOR must respond timely to DEPARTMENT inquiries. Such inquiries may include, but are not limited to, inquiries regarding audits, invoicing, and appeals. Response time targets and associated penalties are specified in [Section 205E.6](#).

## **180 Miscellaneous Provisions**

### **180A Participant Rights and Responsibilities**

The CONTRACTOR shall comply with and abide by the PARTICIPANT'S Rights and Responsibilities as provided in the DEPARTMENT'S OPEN ENROLLMENT materials. The CONTRACTOR may use CONTRACTOR'S PARTICIPANT'S Rights and Responsibilities document unless there is a conflict with the DEPARTMENT'S OPEN ENROLLMENT materials. In the event of such a conflict, the PARTICIPANT'S Rights and Responsibilities which are more favorable to the PARTICIPANT will apply..

### **180B Errors**

1. Clerical errors made by the EMPLOYER or PAYROLL CENTER, the DEPARTMENT, or the CONTRACTOR shall not invalidate benefits of a PARTICIPANT otherwise validly in force, nor continue such benefits otherwise validly terminated, nor create eligibility for any benefits where none otherwise existed under the BENEFIT PROGRAM.
2. The CONTRACTOR shall only make corrections to clerical errors to the BENEFIT PROGRAM in accordance with Sections 125, 105, and 129 of the Internal Revenue Code and [Wis. Stat. §40.85-40.875](#). All corrections shall be processed through PAYROLL CENTER and DEPARTMENT'S IAS vendor specification file submissions and have proper documentation in the CONTRACTOR'S ticketing system. Manual corrections to clerical errors shall not occur unless approved by the DEPARTMENT Program Manager in writing.

### **180C Contractor or Subcontractor Errors**

If the CONTRACTOR or SUBCONTRACTOR sends erroneous or misleading information to PARTICIPANTS, the DEPARTMENT may require the CONTRACTOR to send a corrected mailing at the cost of the CONTRACTOR to inform PARTICIPANTS.

## **180D Examination of Records**

1. The DEPARTMENT, or its designee, shall have the right to examine any records of the CONTRACTOR relating to the BENEFIT PROGRAM in compliance with [Wis. Stat. § 40.07](#) and any applicable federal or other STATE laws and rules. The information shall be furnished within ten (10) CALENDAR DAYS of the request or as directed by the DEPARTMENT. All such information is the sole property of the DEPARTMENT.
2. Upon a showing satisfactory to the BOARD that the CONTRACTOR is required by law to maintain a copy of such information, the DEPARTMENT and the CONTRACTOR shall agree to terms, conditions and provisions permitting the CONTRACTOR to maintain information to the minimum extent and for the minimum time required by law. Any such agreement shall require the CONTRACTOR to:
  - a. Keep confidential and properly safeguard each “record” and all INDIVIDUAL PERSONAL INFORMATION, as those terms are respectively defined in [Wis. Admin. Code ETF 10.01 \(3m\)](#) and [ETF 10.70 \(1\)](#), that are included in such information;
  - b. Not make any disclosure of such information without providing advance notice to the DEPARTMENT; and,
  - c. Include a liability clause for damages in the event the CONTRACTOR makes any disclosure of INDIVIDUAL PERSONAL INFORMATION or any record that would violate [Wis. Stat. § 40.07 \(1\) or \(2\)](#) if the disclosure was made by the DEPARTMENT.

## **180E Record Retention**

1. The CONTRACTOR agrees that the DEPARTMENT and the BOARD, until the expiration of seven (7) years after the termination of the CONTRACT, and any extensions, shall have access to and the right to examine any of the CONTRACTOR’S pertinent books, financial records, documents, papers, and records and those of any parent, affiliate, or subsidiary organization performing under formal or informal arrangement any service or furnishing any supplies or equipment to the CONTRACTOR involving transactions related to this AGREEMENT.
2. Any records that relate to: (1) litigation or settlement of claims arising out of the performance of this AGREEMENT; or (2) costs or expenses related to this AGREEMENT with which exception is taken by litigation, claims, or exceptions must be retained for seven (7) years after the conclusion of the litigation, regardless of the termination date of the CONTRACT.
3. CONTRACTOR shall accurately maintain records for seven (7) years after the termination of the CONTRACT, this requirement shall supersede the period of six (6) years set forth in Section 39.0 Recordkeeping and Record Retention of the Department Terms and Conditions.
4. The CONTRACTOR further agrees that the substance of this clause shall be inserted in any subcontract that the CONTRACTOR enters into with any SUBCONTRACTOR to carry out any of the CONTRACTOR’S obligations under this AGREEMENT.

## **180F Disaster Recovery and Business Continuity**

The CONTRACTOR shall ensure that critical PARTICIPANT, DEBIT CARD, and other web accessible and/or telephone-based functionality and information, including the website, are available to the applicable system users, except during periods of scheduled system unavailability agreed upon by the DEPARTMENT and the CONTRACTOR. Unavailability caused by events outside of the CONTRACTOR'S span of control is outside of the scope of this requirement. Any scheduled maintenance shall be scheduled in advance with notification on the PARTICIPANT website and web-portal. See the Department Terms and Conditions for additional business continuity requirements.

## **180G Gifts and/or Kickbacks Prohibited**

No gifts from the CONTRACTOR or any of the CONTRACTOR'S SUBCONTRACTORS are permissible to any EMPLOYEES whose work relates to the BENEFIT PROGRAMS, or members of the BOARD. Neither the CONTRACTOR nor any of its SUBCONTRACTORS shall request or receive kickbacks.

## **185 Reporting Requirements**

1. The CONTRACTOR must submit the reports described herein to the DEPARTMENT, and PAYROLL CENTERS as noted. Reports must be submitted by SECURE email to the DEPARTMENT Program Manager or the DEPARTMENT'S sFTP site as specified by the DEPARTMENT Program Manager, in the format specified by the DEPARTMENT Program Manager (e.g., in Microsoft Word, Microsoft Excel, PDF), and must be of the type and at the frequency indicated in this section and in [Section 205C](#) Reports.
2. Each report submitted by the CONTRACTOR to the DEPARTMENT must:
  - a. Be verified by the CONTRACTOR for accuracy and completeness prior to submission;
  - b. Be delivered on or before scheduled due dates;
  - c. Be submitted as directed by the DEPARTMENT;
  - d. Fully disclose all required information in a manner that is responsive and with no material omission; and
  - e. Be accompanied by a brief narrative that describes the content of the report and highlights significant findings of the report.
3. Instructions and specific due dates will be provided by the DEPARTMENT. The DEPARTMENT requirements regarding the frequency of report submissions may change during the term of the CONTRACT. The CONTRACTOR must comply with such changes within forty-five (45) CALENDAR DAYS.
4. Unless otherwise requested by the DEPARTMENT, each report must be specific to data for the BENEFIT PROGRAM, not general data from the CONTRACTOR'S book of business.

5. The CONTRACTOR must notify the DEPARTMENT regarding any significant changes in its ability to collect information relative to the required data and reports.
6. The CONTRACTOR must fully support the BOARD and the DEPARTMENT in responding timely to informational requests made by the STATE Legislature.
7. The CONTRACTOR must provide the following reports to the DEPARTMENT:
  - a. QUARTERLY enrollment statistics on the BENEFIT PROGRAM that include total participation, total election amount, total estimated tax savings for PARTICIPANTS, total estimated tax savings for each PAYROLL CENTER, etc.
  - b. Monthly PAYROLL CENTER discrepancy reports. CONTRACTOR will send discrepancy reports to the PAYROLL CENTERS to review and correct. If a PAYROLL CENTER does not provide the CONTRACTOR with a discrepancy report within ten (10) BUSINESS DAYS of CONTRACTOR'S request, the CONTRACTOR will contact the PAYROLL CENTER to resolve the matter timely and notify the DEPARTMENT. The monthly discrepancy report will include the name of the PAYROLL CENTER, payroll file date, discrepancy report issue date, total number of discrepancies, and resolution date. CONTRACTOR will provide the monthly discrepancy reports to the DEPARTMENT no later than twenty (20) DAYS following the first of each month.
  - c. BENEFIT PROGRAM Plan Finalization Report. A preliminary, materially correct BENEFIT PROGRAM Plan Finalization Report for each PLAN YEAR by April 30 each year; and, a final, reviewed BENEFIT PROGRAM Plan Finalization Report for each PLAN YEAR by May 31 each year.
  - d. An annual report of the prior PLAN YEAR'S performance by the last BUSINESS DAY of May each year. The annual report will include: BENEFIT PROGRAM participation statistics, estimated PARTICIPANT tax savings, estimated EMPLOYER tax savings, customer service activity, summary of customer survey results, benefit utilization, quality improvement efforts, program carryovers, audit recommendations, suggested future enhancements, and BENEFIT PROGRAM design change recommendations.
  - e. An annual PARTICIPANT satisfaction survey report. The CONTRACTOR and the DEPARTMENT will develop a mutually agreed upon annual PARTICIPANT satisfaction survey, which the CONTRACTOR will send to PARTICIPANTS by January 31 each year. CONTRACTOR will share the results of the survey with the DEPARTMENT no later than March 1 each year. If the PARTICIPANT satisfaction survey results reflect opportunities for improvement, the CONTRACTOR will provide the DEPARTMENT with recommendations for an improvement plan and an action plan timeline.
  - f. A QUARTERLY customer service summary report within twenty (20) CALENDAR DAYS of the end of each QUARTER. The customer service summary reports must include, at a minimum, the number and type/category of calls, and call trending information.

- g. A QUARTERLY report addressing the CONTRACTOR'S performance under each Performance Standard listed in Sections 205A – 205I, due within thirty (30) CALENDAR DAYS following the end of each QUARTER.
  - h. An annual report summarizing the CONTRACTOR'S performance under the Performance Standards listed in Sections 205A – 205I, due within forty-five (45) CALENDAR DAYS of the end of each PLAN YEAR.
  - i. A QUARTERLY claims summary report within fifteen (15) CALENDAR DAYS following the end of each QUARTER. The claim summary report will include claim trending and claim categorization information.
  - j. A PARTICIPANT forfeitures report for the prior PLAN YEAR. At the close of the PLAN YEAR, any unused funds not able to be rolled over to the next PLAN YEAR are forfeited back to the appropriate BENEFIT PROGRAM. The forfeited funds are used to offset administrative expenses. The CONTRACTOR will provide the DEPARTMENT a PARTICIPANT forfeitures reports for the prior PLAN YEAR through the end of the runout period (March 31) as follows: a preliminary, materially correct PARTICIPANT forfeitures report by April 30 and an audited PARTICIPANT forfeitures report by May 31.
  - k. A monthly BENEFIT PROGRAM CONTRIBUTIONS report in a format mutually agreed upon by the CONTRACTOR and the DEPARTMENT. The report will include, at a minimum, the name of the PARTICIPANT, the PAYROLL CENTER associated with the PARTICIPANT, total CONTRIBUTIONS made by the EMPLOYER and the PARTICIPANT that month, total CONTRIBUTIONS made by the EMPLOYER and the PARTICIPANT year to date. The monthly CONTRIBUTIONS report will be due within ten (10) DAYS following the end of each month.
8. Reports should remain static, for example: if a report is run/received for January it should be the same whether the DEPARTMENT receives it in February or December. Any changes should be reflected and noted on the following month's report. PARTICIPANT information should also remain relevant to that benefit month. For example, if a PARTICIPANT works at the Department of Revenue in January, and transfers to the Department of Corrections in May, any January reporting pulled after May should still reflect the Department of Revenue as the PARTICIPANT'S EMPLOYER for the month of January.
9. The CONTRACTOR must maintain supporting data and documentation that is sufficient for the DEPARTMENT or the DEPARTMENT'S auditor to validate CONTRACTOR'S reported performance; such validation materials will be mutually agreed upon between the CONTRACTOR and the DEPARTMENT and be provided to the DEPARTMENT on an as needed basis as requested.
10. For the ERA BENEFIT PROGRAM, the CONTRACTOR must:
- Provide a stale-dated check report listing CONTRACTOR reimbursement checks that were not cashed or deposited within six (6) months of the date the check was issued.

- The CONTRACTOR will follow up with the payee/PARTICIPANT when a check is not cashed within three (3) months of the date the check was issued to determine if the check should be reissued due to loss, incorrect address or bank details, or other issue.
  - The CONTRACTOR will refund the DEPARTMENT for the total amount of reimbursement checks that are not cashed within six (6) months of the check issue date. The CONTRACTOR will send the funds to the DEPARTMENT within thirty (30) CALENDAR DAYS after the six (6) month period following the date the check was issued. The DEPARTMENT will hold these funds and resolve payouts, if possible, through the DEPARTMENT'S stale-dated check process. If a PARTICIPANT contacts the CONTRACTOR about the uncashed check, the CONTRACTOR will refer the PARTICIPANT to the DEPARTMENT for resolution.
  - The stale-dated check report must be provided MONTHLY to the DEPARTMENT and include the payee/PARTICIPANT name, PARTICIPANT ID number, check number, check date, check amount, PLAN YEAR for which the check pertains, and BENEFIT PROGRAM.
11. The CONTRACTOR must provide ad hoc reporting. The CONTRACTOR must deliver such reports to the DEPARTMENT within a mutually agreed upon timeframe.
  12. The DEPARTMENT reserves the right to refine/modify reporting requirements as appropriate and necessary to monitor the CONTRACT and the BENEFIT PROGRAM. The DEPARTMENT will provide the CONTRACTOR with at least forty-five (45) DAYS' notice prior to implementation of a report modification. The DEPARTMENT and CONTRACTOR will meet to discuss the DEPARTMENT'S reporting requirements and CONTRACTOR'S current capacity to meet those requirements, and mutually agree upon how the reports and data elements can be refined. The DEPARTMENT retains ownership of all reports produced by the CONTRACTOR for the DEPARTMENT in the CONTRACTOR'S performance of the SERVICES.
  13. The CONTRACTOR must continue to submit the required reports during the six (6) month period following termination of the Contract (the run-out period), if applicable as determined by the Department.
  14. During the development and implementation of all reports (including but not limited to, BENEFIT PROGRAM Plan Finalization Report, Business Debt, monthly administrative invoicing, supporting data reports, claims invoicing, substantiation, stale check report, etc.), the DEPARTMENT will provide the CONTRACTOR with two (2) opportunities to submit an acceptable report as outlined in Section 185 Reporting Requirements to the DEPARTMENT. If the first submission is unacceptable, the CONTRACTOR must submit a corrected report to the DEPARTMENT within ten (10) BUSINESS DAYS of being notified the prior report contained errors. Report submissions after the 10-BUSINESS DAY period (if an extension is not granted by the DEPARTMENT) must be approved in writing by the DEPARTMENT. Any delays in submissions after the dates allowed for corrections will result in penalties as specified in Section 205C Reports 21. Implementation of Reports.
  15. After the implementation of all reports, if the DEPARTMENT notifies the CONTRACTOR of a reporting error during ongoing operations, the CONTRACTOR will have one (1) opportunity to submit a corrected report. The corrected report must be delivered to the DEPARTMENT within

five (5) BUSINESS DAYS of being notified the prior report contained errors. Delivery of the corrected report after the five (5) BUSINESS DAYS (if an extension is not granted by the DEPARTMENT) will result in a penalty as specified in Section 205C Reports 22. Ongoing Reporting. Any additional submissions beyond the one (1) opportunity to correct the report will also result in a penalty, as specified in the sections listed above.

16. The CONTRACTOR must complete a quality control process for all reports that includes three (3) levels of quality review to validate the accuracy of the data within all reports. The process must be completed prior to submitting reports to the DEPARTMENT. Each reviewer must log the quality checks they completed. Final sign-off of the reviews must be obtained from a staff member not involved in the report creation after all three (3) levels of review are completed and before the report is submitted to the DEPARTMENT. Failure to complete the quality control process, will result in a penalties, as specified in Section 205C 23. Quality Checks. This process is required to ensure that reports are accurate and meet the DEPARTMENT'S standards.

## **200 Deliverables**

The DEPARTMENT will provide the CONTRACTOR with instructions on how and to whom to submit the deliverables. The frequency and the due dates of the deliverables are subject to change. In addition to other deliverables specified throughout this AGREEMENT, the following deliverables to the DEPARTMENT and to PARTICIPANTS are required:

### **200A Deliverables to the Department**

<b>1. Implementation Plan</b>	
<b>Description</b>	The CONTRACTOR must submit an updated implementation plan in a mutually agreed upon format and timeline to the DEPARTMENT Program Manager or designee. <i>(See Section 155I Implementation.)</i>
<b>Due</b>	Within ten (10) CALENDAR DAYS of CONTRACT execution
<b>2. Debit Card Issuance Delays</b>	
<b>Description</b>	The CONTRACTOR must notify the DEPARTMENT Program Manager of any delays with issuing the DEBIT CARDS. <i>(See Section 130C Debit Cards.)</i>
<b>Due</b>	Upon identification of issue.
<b>3. Debit Card Confirmation</b>	
<b>Description</b>	The CONTRACTOR must send a written confirmation to the DEPARTMENT Program Manager indicating the date(s) the DEBIT CARDS were issued. <i>(See Section 130C Debit Cards.)</i>
<b>Due</b>	January
<b>4. Key Contacts Listing</b>	
<b>Description</b>	The CONTRACTOR must provide the DEPARTMENT with contact information for key CONTRACTOR staff, which the DEPARTMENT will share with EMPLOYERS. <i>(See Section 155A Account Management and Staffing.)</i>
<b>Due</b>	April, August



<b>5. Fraud and Abuse Review Plan</b>	
<b>Description</b>	The CONTRACTOR must submit a fraud and abuse review plan to the DEPARTMENT. (See Section 155G Fraud and Abuse.)
<b>Due</b>	Within thirty (30) CALENDAR DAYS of CONTRACT execution. Annually thereafter.
<b>6. OPEN ENROLLMENT Information</b>	
<b>Description</b>	<p>The CONTRACTOR must submit the following information to the DEPARTMENT, in the format specified by the DEPARTMENT, for inclusion in the communications from the DEPARTMENT for the OPEN ENROLLMENT PERIOD:</p> <ul style="list-style-type: none"> <li>• CONTRACTOR information, including address, toll-free customer service telephone number, and web site address.</li> <li>• CONTRACTOR'S content to be included on the DEPARTMENT'S informational webpages.</li> <li>• Information for PARTICIPANTS to access the CONTRACTOR'S MERCHANT directory on its web site, including a link to the MERCHANT directory.</li> </ul> <p>(See Section 140B Open Enrollment Materials; 140D Merchant Directory.)</p>
<b>Due</b>	July
<b>7. OPEN ENROLLMENT Informational Materials Review</b>	
<b>Description</b>	The CONTRACTOR must submit all informational materials intended for distribution during the OPEN ENROLLMENT PERIOD to the DEPARTMENT for review and approval. (See Section 140B Open Enrollment Materials.)
<b>Due</b>	August
<b>8. OPEN ENROLLMENT Informational Participant Outreach</b>	
<b>Description</b>	The CONTRACTOR must send a notice to PARTICIPANTS prior to the OPEN ENROLLMENT PERIOD reminding PARTICIPANTS them to enroll and identifying any BENEFIT PROGRAM changes. (See Section 140B Open Enrollment Materials.)
<b>Due</b>	September
<b>9. Enrollment and Contribution Audit (Projected Contribution Report)</b>	
<b>Description</b>	The CONTRACTOR must complete an enrollment verification and contribution audit comparing the PAYROLL CENTERS' program enrollment report to the CONTRACTOR'S enrollment record for the STATE. (See Section 155F.6.)
<b>Due</b>	Quarterly
<b>10. Web Content and Web-Portal Design and Changes</b>	
<b>Description</b>	The CONTRACTOR must submit web page and web-portal content and design for review, as directed by the DEPARTMENT. The CONTRACTOR must notify the DEPARTMENT Program Manager of any substantial changes being made to the website prior to implementation. (See Section 140C Contractor Benefit Program Web Content and Web-Portals.)
<b>Due</b>	As directed by the DEPARTMENT.
<b>11. Major Administrative and Operative System Changes</b>	
<b>Description</b>	The CONTRACTOR must submit written notice to the DEPARTMENT at least one hundred eighty (180) CALENDAR DAYS prior to undertaking a major system change or conversion for, or related to, the system used to deliver SERVICES for the BENEFIT PROGRAM. (See Section 145.2 Information Systems.)
<b>Due</b>	As needed.

<b>12. Notification of Account Manager or Key Staff Changes</b>	
<b>Description</b>	The CONTRACTOR must notify the DEPARTMENT if the CONTRACTOR'S Account Manager, backup, or other key staff changes. (See <i>Section 155A Account Management and Staffing.</i> )
<b>Due</b>	As needed.
<b>13. Notification of Legal Action</b>	
<b>Description</b>	If a PARTICIPANT files a lawsuit naming the CONTRACTOR as a defendant, the CONTRACTOR must notify the DEPARTMENT'S Program Manager and chief legal counsel within ten (10) BUSINESS DAYS of notification of the legal action. (See <i>Section 165I Notification of Legal Action.</i> )
<b>Due</b>	As needed.
<b>14. Notification of Privacy Breach</b>	
<b>Description</b>	The CONTRACTOR must notify the DEPARTMENT Program Manager and Privacy Officer within forty-eight (48) hours of discovering that the PROTECTED HEALTH INFORMATION (PHI) and/or PERSONALLY IDENTIFIABLE INFORMATION (PII) of one (1) or more PARTICIPANTS may have been breached, or has been breached, as defined by STATE and federal law, including <a href="#">Wis. Stat. § 134.98</a> , HIPAA, and GINA. (See <i>Section 155H Privacy Breach Notification and Section 24.0 of the Department Terms and Conditions.</i> )
<b>Due</b>	As needed.
<b>15. Notification of Significant Events</b>	
<b>Description</b>	The CONTRACTOR must provide notification of all significant events as described in Section 120.9.
<b>Due</b>	As needed.
<b>16. Recovery of Claims Overpayment</b>	
<b>Description</b>	The CONTRACTOR will provide a Negative Balance Report to the DEPARTMENT that lists PLAN YEAR overpayment claims that were not eligible for reimbursements before the end of the runout period (March 31). CONTRACTOR shall review the Negative Balance Report for the accuracy of overpaid claims before the report is given to the DEPARTMENT by April 16 of each year. (See <i>Section 135F Recovery of Overpayments.</i> )
<b>Due</b>	Annually
<b>17. Transition Plan</b>	
<b>Description</b>	The CONTRACTOR must provide a comprehensive transition plan in a mutually agreed upon format that provides a timeline of major tasks and activities, including those identified by the DEPARTMENT. (See <i>Section 155K Transition Plan.</i> )
<b>Due</b>	By July 1, 2026 and prior to CONTRACT expiration or termination as specified in Section 155K Transition Plan.
<b>18. Approval of Communications</b>	
<b>Description</b>	Communication materials specified by the DEPARTMENT shall be pre-approved by the DEPARTMENT prior to distribution to current PARTICIPANTS, potential PARTICIPANTS, and EMPLOYERS. This includes written and electronic communication, such as marketing collateral, informational notices, standard letters, PLAN DOCUMENTS, SUMMARY PLAN DESCRIPTIONS, claim denials and appeals. (See <i>Section 140 Informational Materials, Website.</i> )

<b>Due</b>	As needed.
<b>19. Benefit Program Plan Documentation</b>	
<b>Description</b>	The CONTRACTOR must provide the DEPARTMENT a compliant and comprehensive SECTION 125 CAFETERIA PLAN, PLAN DOCUMENT and any pertinent SUMMARY PLAN DESCRIPTION(S) prior to the start of each PLAN YEAR and prior to the effective date of any applicable plan change that would necessitate a PLAN DOCUMENT amendment or edited restatement. (See Section 155D Section 125 Cafeteria Plan Documentation.)
<b>Due</b>	As needed. At least annually.
<b>20. Web Content</b>	
<b>Description</b>	The CONTRACTOR'S BENEFIT PROGRAM website/web pages/web-portals customized for the DEPARTMENT, must be fully operational. (See Section 140C Contractor Benefit Program Web Content and Web-Portals .)
<b>Due</b>	14 CALENDAR DAYS prior to the start of the OPEN ENROLLMENT PERIOD

## 200B Deliverables to Participants

<b>1. DEBIT CARDS</b>	
<b>Description</b>	The CONTRACTOR must provide PARTICIPANTS with DEBIT CARDS within five (5) BUSINESS DAYS of generation of the enrollment file. (See Section 130C Debit Cards.)
<b>Due</b>	Upon enrollment.
<b>2. PARTICIPANT Enrollment Information</b>	
<b>Description</b>	<p>The CONTRACTOR must provide the following information, at a minimum, to PARTICIPANTS upon enrollment:</p> <ul style="list-style-type: none"> <li>• Information about accessing online account and mobile app.</li> <li>• Directions on updating profile information, view account balance(s), check claim status, set-up direct deposit, substantiate a claim, request a reimbursement, request a DEBIT CARD.</li> <li>• Information about how to properly manage account and PARTICIPANT responsibilities.</li> <li>• The CONTRACTOR'S contact information, including the dedicated toll-free customer service phone number, business hours, and website address.</li> </ul> <p>(See Section 130C Debit Cards.)</p>
<b>Due</b>	Upon enrollment.
<b>3. PARTICIPANT Notification of Grievance Rights</b>	
<b>Description</b>	The CONTRACTOR must provide the PARTICIPANT with notice of their grievance rights and a period of ninety (90) CALENDAR DAYS to file a grievance after written denial of a BENEFIT or other occurrence of the cause of the grievance along with the benefit contractual provision(s) upon which the denial is based. (See Section 165F Notification of Department Administrative Review Rights.)
<b>Due</b>	See description.
<b>4. PARTICIPANT Notification of DEPARTMENT Administrative Review Rights</b>	
<b>Description</b>	In the final grievance decision letter, the CONTRACTOR must inform the PARTICIPANT of their right to request a DEPARTMENT review of the grievance

	committee's final decision, using the language approved by the DEPARTMENT. (See Section 165F Notification of Department Administrative Review Rights.)
<b>Due</b>	See description.
<b>5. PARTICIPANT Appeals Process</b>	
<b>Description</b>	<p>The CONTRACTOR must send the PARTICIPANT a denial letter specifying the reason for the denial(s), including, but not limited to: 1) Denial of a claim, 2) Grace period and runout period, 3) Late reimbursement, 4) Late enrollment, and 5) Substantiation.</p> <p>The CONTRACTOR must issue a written decision within sixty (60) CALENDAR DAYS specifying the reason (s) for the decision, including references to applicable BENEFIT PROGRAM and PLAN DOCUMENT provisions. The written decision must inform the PARTICIPANT of the opportunity to appeal CONTRACTOR'S decision to the DEPARTMENT. (See Section 165J Compliance with Departmental Determination.)</p>
<b>Due</b>	See description.

## **205 Performance Standards and Penalties**

### **205A General**

1. By entering a CONTRACT with the DEPARTMENT, the CONTRACTOR guarantees performance sufficient to fulfill the requirements of the CONTRACT. The CONTRACTOR must meet all requirements and performance standards listed in Sections 205B – 205I. After the CONTRACT start date, if additional resources are needed, the CONTRACTOR will bear all costs necessary to satisfy the requirements of the CONTRACT.
2. The requirements and performance standards are specific to data from the BENEFIT PROGRAMS, not general data from the CONTRACTOR'S book-of-business.
3. The CONTRACTOR must track its performance using a template provided by the DEPARTMENT or another reporting format agreed to between the CONTRACTOR and the DEPARTMENT.
4. The CONTRACTOR must submit performance reports and maintain supporting data and documentation that is sufficient for the DEPARTMENT or the DEPARTMENT'S auditor to validate CONTRACTOR'S reported performance; such validation materials will be mutually agreed upon between the CONTRACTOR and the DEPARTMENT and requested from the DEPARTMENT on an as needed basis. The CONTRACTOR must provide the DEPARTMENT with QUARTERLY and annual performance standards reports as required in [Section 205C](#) Reports.
5. The CONTRACTOR must notify the DEPARTMENT upon realization that a performance standard will not be met, prior to the reporting deadline.
6. Performance standards reported by the CONTRACTOR will be reviewed by the DEPARTMENT on a QUARTERLY or an annual basis as appropriate for the Performance Standard. The DEPARTMENT reserves the right to waive a penalty in certain circumstances when the

DEPARTMENT determines it is warranted. If the DEPARTMENT elects to not exercise a penalty clause in a particular instance, this decision shall not be construed as an acceptance of the CONTRACTOR'S performance. The DEPARTMENT retains the right to pursue future assessment of that performance requirement and associated penalties.

7. The DEPARTMENT will provide the CONTRACTOR an invoice for each penalty assessed for the failure of CONTRACTOR to meet a performance standard listed in Sections 205B – 205H. The CONTRACTOR will have five (5) BUSINESS DAYS to cure the failure, or if agreed to by the DEPARTMENT, to provide an action plan of how the failure will be cured. Additional DAYS can be approved by the DEPARTMENT Program Manager if deemed necessary. If the failure is not resolved within this warning/cure period, penalties may be imposed retroactively to the start date of the failure to perform. The imposition of penalties is not in lieu of any other remedy available to the DEPARTMENT or BOARD.
8. The DEPARTMENT will provide CONTRACTOR with a penalty invoice for each QUARTER for which penalties are owed. Penalty payments owed by the CONTRACTOR to the DEPARTMENT must be either a) credited on the CONTRACTOR'S Administrative Fee invoice to the DEPARTMENT or b) paid by check within thirty (30) CALENDAR DAYS of receipt of the DEPARTMENT'S invoice, such arrangement to be agreed upon by the DEPARTMENT and the CONTRACTOR.
9. The DEPARTMENT will make the determination as to whether or not the CONTRACTOR meets a performance standard.

## 205B Invoices

Penalties (if any) will be assessed QUARTERLY.

1. Claims Invoicing	
<b>Description</b>	The CONTRACTOR must electronically submit an invoice to the DEPARTMENT for amounts owed to the CONTRACTOR for paid claims. The invoices must be in a format agreed upon by the DEPARTMENT and the CONTRACTOR and include details required by the DEPARTMENT. (See <a href="#">Section 135C.5.</a> )
<b>Frequency</b>	Weekly
<b>Penalty</b>	One-thousand (\$1,000) dollars per report or deliverable for which the standard is not met.
2. Administrative Fee Invoicing	
<b>Description</b>	The CONTRACTOR must electronically submit an invoice to the DEPARTMENT for amounts owing to the CONTRACTOR for administrative fees. The invoices must be in a format agreed upon by the DEPARTMENT and the CONTRACTOR and include details required by the DEPARTMENT. (See <i>Section 135C Fees, Invoicing, and Payments.</i> )
<b>Frequency</b>	Monthly, due by the fifteenth (15th) of the month following the month for which the invoice applies. If the fifteenth (15th) of the month falls on a non-BUSINESS DAY, the CONTRACTOR must send the invoice to the DEPARTMENT no later than the next BUSINESS DAY.
<b>Penalty</b>	One-thousand (\$1,000) dollars per BUSINESS DAY late

<b>3. Other Fee Invoicing</b>	
<b>Description</b>	The CONTRACTOR must electronically submit an invoice to the DEPARTMENT showing the amount due from the DEPARTMENT to the CONTRACTOR. <i>(See Section 135C Fees, Invoicing, and Payments.)</i>
<b>Frequency</b>	Monthly, due by the fifteenth (15th) of the month following the month for which the invoice applies. If the fifteenth (15th) of the month falls on a non-BUSINESS DAY, the CONTRACTOR must send the invoice to the DEPARTMENT no later than the next BUSINESS DAY.
<b>Penalty</b>	One-thousand (\$1,000) dollars per BUSINESS DAY late.

## 205C Reports

Penalties (if any) will be assessed QUARTERLY.

<b>1. Bank Reconciliation Report</b>	
<b>Description</b>	The CONTRACTOR must perform a monthly bank reconciliation and provide it to the DEPARTMENT. <i>(See Section 135D Banking / Record-Keeping.)</i>
<b>Frequency</b>	Monthly, due within twenty (20) CALENDAR DAYS following the last day of each month.
<b>Penalty</b>	One-thousand (\$1,000) dollars per CALENDAR DAY late.
<b>2. Claims Invoice Reconciliation Report</b>	
<b>Description</b>	The CONTRACTOR must submit a claims invoice reconciliation report each month for the prior month. The report reconciles the semi-monthly claims invoice into a monthly report that will match the claims data reported each month. <i>(See Section 135D Banking / Record-Keeping.)</i>
<b>Frequency</b>	Monthly, due within twenty (20) CALENDAR DAYS following the last CALENDAR DAY of each month
<b>Penalty</b>	One-thousand (\$1,000) dollars per CALENDAR DAY late.
<b>3. QUARTERLY Performance Standards Reports</b>	
<b>Description</b>	The CONTRACTOR will submit a report summarizing the CONTRACTOR'S performance under the performance standards specified in Sections 205B – 205I. <i>(See Section 185 Reporting Requirements and Sections 205B – 205I.)</i>
<b>Frequency</b>	QUARTERLY, due within twenty (20) CALENDAR DAYS following the last CALENDAR DAY of each QUARTER
<b>Penalty</b>	One-thousand (\$1,000) dollars per CALENDAR DAY late.
<b>4. Annual Performance Standards Report</b>	
<b>Description</b>	The CONTRACTOR must submit a report summarizing the CONTRACTOR'S performance under the performance standards specified in Sections 205B – 205I. <i>(See Section 185 Reporting Requirements and Sections 205B – 205I.)</i>
<b>Frequency</b>	Annually, due within thirty (30) CALENDAR DAYS following the end of each PLAN YEAR
<b>Penalty</b>	One-thousand (\$1,000) dollars per CALENDAR DAY late.

<b>5. Performance Standards Reports - Supporting Documentation</b>	
<b>Description</b>	The CONTRACTOR must maintain and provide the DEPARTMENT with supporting data and documentation that is sufficient for the DEPARTMENT or the DEPARTMENT'S auditor to validate CONTRACTOR'S reported performance. (See <i>Section 205A.4.</i> )
<b>Frequency</b>	As needed, within 5 BUSINESS DAYS of the DEPARTMENT'S request.
<b>Penalty</b>	Five-hundred (\$500) dollars per BUSINESS DAY late.
<b>6. Business Recovery Plan and Simulation Report</b>	
<b>Description</b>	The CONTRACTOR must submit to the DEPARTMENT a business recovery plan that is documented and tested annually, at a minimum. (See <i>Section 145.5.</i> )
<b>Frequency</b>	Annually, due prior to March 1, for the prior PLAN YEAR.
<b>Penalty</b>	One-thousand (\$1,000) dollars per CALENDAR DAY late after March 1.
<b>7. Fraud and Abuse Review Results</b>	
<b>Description</b>	The CONTRACTOR must perform QUARTERLY (unless another timeframe is agreed upon by the DEPARTMENT) fraud and abuse reviews and provide results of material findings to the DEPARTMENT. (See <a href="#">Section 155G</a> <i>Fraud and Abuse.</i> )
<b>Frequency</b>	QUARTERLY, due within thirty (30) CALENDAR DAYS following the last CALENDAR DAY of each QUARTER.
<b>Penalty</b>	One-thousand (\$1,000) dollars per CALENDAR DAY late.
<b>8. SOC 1 and SOC 2 Report</b>	
<b>Description</b>	The CONTRACTOR must provide its SOC 1 and SOC 2 audit results from an independent CPA firm to the DEPARTMENT. (See <i>Section 155F.2.d. and the Department Terms and Conditions.</i> )
<b>Frequency</b>	Annually, due within sixty (60) CALENDAR DAYS of CONTRACTOR'S receipt of the audit results from the CPA firm.
<b>Penalty</b>	One-thousand (\$1,000) dollars per CALENDAR DAY late.
<b>9. Nondiscrimination Testing Results Report</b>	
<b>Description</b>	The CONTRACTOR must perform annual non-discrimination testing and submit the results to the DEPARTMENT. (See <a href="#">Section 155E</a> <i>Nondiscrimination Testing.</i> )
<b>Frequency</b>	Annually, due no later than ninety (90) CALENDAR DAYS following the end of each calendar year.
<b>Penalty</b>	One-thousand (\$1,000) dollars per CALENDAR DAY late.
<b>10. Financial and Utilization Data Submission</b>	
<b>Description</b>	The CONTRACTOR must submit to the DEPARTMENT or its designee, as required by the DEPARTMENT, statistical report(s) showing financial and utilization data that includes claims and enrollment information (See <i>Section 120.6 and Section 185 Reporting Requirements.</i> )
<b>Frequency</b>	Annually, due within thirty (30) CALENDAR DAYS following the end of each calendar year.
<b>Penalty</b>	One-thousand (\$1,000) dollars per CALENDAR DAY late.

<b>11. Program Participation Statistics</b>	
<b>Description</b>	The CONTRACTOR will provide QUARTERLY enrollment statistics on the BENEFIT PROGRAM that includes total participation, total election amount, total estimated tax savings for PARTICIPANTS, total estimated tax savings for PAYROLL CENTERS, etc. <i>(See Section 185 Reporting, 7.d.)</i>
<b>Frequency</b>	QUARTERLY, due within twenty (20) CALENDAR DAYS following the end of each QUARTER.
<b>Penalty</b>	One-thousand (\$1,000) dollars per CALENDAR DAY late
<b>12. Customer Service Report</b>	
<b>Description</b>	The CONTRACTOR must provide QUARTERLY customer service summary reports. The customer service summary reports will include number and type/categorization of calls, and call trending. <i>(See Section 185 Reporting, 7.f.)</i>
<b>Frequency</b>	QUARTERLY, due within twenty (20) CALENDAR DAYS following the end of each QUARTER
<b>Penalty</b>	One-thousand (\$1,000) dollars per CALENDAR DAY late.
<b>13. Payroll Discrepancy Report</b>	
<b>Description</b>	The CONTRACTOR must provide the DEPARTMENT with a PAYROLL CENTER discrepancy status summary report on a monthly basis. The status summary report will include the name of the PAYROLL CENTER, payroll file date, discrepancy report issue date, total number of discrepancies, and resolution date. <i>(See Section 185 Reporting, 7.b.)</i>
<b>Frequency</b>	Monthly, due within twenty (20) CALENDAR DAYS following the end of each month.
<b>Penalty</b>	One-thousand (\$1,000) dollars per BUSINESS DAY late.
<b>14. Annual Report</b>	
<b>Description</b>	The CONTRACTOR must provide the DEPARTMENT an annual report of the prior PLAN YEAR'S performance each year. The annual report will include: program participation statistics, estimated PARTICIPANT tax savings, estimated employer tax savings, customer service activity, summary of customer survey results, benefit utilization, quality improvement efforts, program forfeitures, program carryovers, status audit recommendation, future enhancements, and plan design change recommendations. <i>(See <a href="#">Section 185 Reporting Requirements</a>.)</i>
<b>Frequency</b>	Annually, due by the last BUSINESS DAY of May each year.
<b>Penalty</b>	Two hundred and fifty dollars (\$250) per BUSINESS DAY late.
<b>15. Annual Participant Satisfaction Survey Report</b>	
<b>Description</b>	The CONTRACTOR must provide an annual PARTICIPANT satisfaction survey report to the DEPARTMENT. <i>(See Section 185 Reporting, 7.e.)</i>
<b>Frequency</b>	Annually, due no later than March 1 of each PLAN YEAR.
<b>Penalty</b>	Two hundred and fifty dollars (\$250) per BUSINESS DAY late.



<b>16. Claim Summary Report</b>	
<b>Description</b>	The CONTRACTOR must provide a QUARTERLY claim summary report. The claim summary report will include claim trending and claim categorization information. <i>(See Section 185 Reporting, 7.i.)</i>
<b>Frequency</b>	QUARTERLY, due within fifteen (15) CALENDAR DAYS following the end of each QUARTER.
<b>Penalty</b>	One-thousand (\$1,000) dollars per CALENDAR DAY late.
<b>17. Plan Finalization and Forfeitures Report</b>	
<b>Description</b>	<p>The CONTRACTOR must provide the DEPARTMENT a preliminary, materially correct BENEFIT PROGRAM finalization report, inclusive of forfeitures, for each PLAN YEAR by April 30 each year.</p> <p>The CONTRACTOR will provide the DEPARTMENT with a final, reviewed BENEFIT PROGRAM finalization report, inclusive of forfeitures, for each PLAN YEAR by May 31 each year including a completed and signed BENEFIT PROGRAM finalization report, including a reviewed and signed checklist. <i>(See Section 185 Reporting, 7.j.)</i></p>
<b>Frequency</b>	Annually (one preliminary, one final reviewed report), see due dates above.
<b>Penalty</b>	<p><u>Timeliness</u>: Three hundred and fifty dollars (\$350) per CALENDAR DAY per report late.</p> <p><u>Accuracy</u>: Two-thousand dollars (\$2,000) each time CONTRACTOR submits an inaccurate Plan Finalization and Forfeitures report for which the DEPARTMENT reasonably determines a corrected/replacement report is needed.</p>
<b>18. Stale-Dated Check Report</b>	
<b>Description</b>	The CONTRACTOR must provide a stale-dated check report listing reimbursement checks that have not been cashed or deposited within six (6) months of the check issue date. <i>(See Section 185.10.)</i>
<b>Frequency</b>	MONTHLY, due within thirty (30) CALENDAR DAYS after the end of each MONTH.
<b>Penalty</b>	One-thousand (\$1,000) dollars per CALENDAR DAY late.
<b>19. Late Enrollment Appeals and Unsubstantiated Claims/ Appeals Reports</b>	
<b>Description</b>	The CONTRACTOR must track all PARTICIPANT late enrollment appeals and unsubstantiated claims appeals it receives and provide an annual summary report to the DEPARTMENT. The report must include the number and type of appeals received, and the resolution or outcome. When applicable, this report should include the dollar amount of the related appeal. <i>(See Section 165B.6. Grievance Process Overview.)</i>
<b>Frequency</b>	Annually, due by the last BUSINESS DAY of the first QUARTER of each new PLAN YEAR.
<b>Penalty</b>	Two hundred and fifty dollars (\$250) per BUSINESS DAY late. late
<b>20. Business Debt Report</b>	
<b>Description</b>	The CONTRACTOR will provide an accurate and timely Business Debt Report to the DEPARTMENT that lists PLAN YEAR FSA unsubstantiated claims that were not resolved before the end of the runout period (March 31). CONTRACTOR shall review the Business Debt Report for the accuracy of unsubstantiated FSA claims before the report is given to the DEPARTMENT. The Business Debt Report must include the Summary Report and Claims Detail Report and be signed by CONTRACTOR-

	authorized staff. (See Section 160D Substantiation, 4.e. Recovery of Other Business Debt; see Report Requirements document.)
<b>Frequency</b>	Annually, due by May 16.
<b>Penalty</b>	<p><u>Timeliness</u>: Three hundred and fifty dollars (\$350) per CALENDAR DAY late.</p> <p><u>Accuracy</u>: Two-thousand (\$2,000) each time CONTRACTOR submits an inaccurate final business debt report for which the Department reasonably determines a corrected/replacement report is needed.</p> <p><i>Accuracy: The report adheres to file formats, is in compliance with data schema and layout requirements, has correct and complete data values, ensures that all financial data ties out with the CONTRACTOR'S system data, is free from errors, and conforms to agreed-upon data standards.</i></p>
<b>21. Business Debt Appeals Report</b>	
<b>Description</b>	After the CONTRACTOR sends the Business Debt Report to the DEPARTMENT, the DEPARTMENT will mail business debt invoices to PARTICIPANTS and notify the CONTRACTOR the invoices were sent. The CONTRACTOR will monitor and track all business debt appeals and provide the DEPARTMENT with a comprehensive and up-to-date Business Appeals Debt Report ensuring that all appeals are accurately reflected. (See Section 160D Substantiation, 4.e. Recovery of Other Business Debt; see Report Requirements document.)
<b>Frequency</b>	Bi-weekly or as determined by the DEPARTMENT.
<b>Penalty</b>	<p><u>Timeliness</u>: Three hundred and fifty dollars (\$350) per CALENDAR DAY late.</p> <p><u>Accuracy</u>: Two-thousand (\$2,000) each time CONTRACTOR submits an inaccurate business debt appeals report for which the Department reasonably determines a corrected/replacement report is needed.</p> <p><i>Accuracy: The report adheres to file formats, is in compliance with data schema and layout requirements, has correct and complete data values, ensures that all financial data ties out with the CONTRACTOR'S system data, is free from errors, and conforms to agreed-upon data standards.</i></p>
<b>22. Implementation of Reports</b>	
<b>Description</b>	The CONTRACTOR will be provided two (2) opportunities to submit an acceptable report for each report listed in Section 185 Reporting Requirements. The CONTRACTOR must provide a corrected report to the DEPARTMENT within ten (10) BUSINESS DAYS of being notified the prior report contained errors. (See Section 185 Reporting Requirements, 14.)
<b>Frequency</b>	During implementation of each report.
<b>Penalty</b>	<p><u>Timeliness</u>: Three hundred and fifty dollars (\$350) per CALENDAR DAY late after the ten (10) BUSINESS DAY period noted above.</p> <p><u>Accuracy</u>: Two-thousand dollars (\$2,000) each time (after the first two reports are submitted) CONTRACTOR submits an inaccurate report for which the Department reasonably determines a corrected/replacement report is needed.</p> <p><i>Accuracy: The report adheres to file formats, is in compliance with data schema and layout requirements, has correct and complete data values, ensures that all financial data ties out with the CONTRACTOR'S system data, is free from errors, and conforms to agreed-upon data standards.</i></p>

<b>23. Ongoing Reporting</b>	
<b>Description</b>	During ongoing operations, if the DEPARTMENT notifies the CONTRACTOR of a reporting error, the CONTRACTOR will have one (1) opportunity to submit a corrected report. The corrected report must be delivered to the DEPARTMENT within five (5) BUSINESS DAYS of being notified the prior report contained errors. (See <i>Section 185 Reporting Requirements, 15.</i> )
<b>Frequency</b>	Varies
<b>Penalty</b>	<p><u>Timeliness</u>: Three hundred and fifty dollars (\$350) per CALENDAR DAY late (after the 5 BUSINESS DAY period noted above).</p> <p><u>Accuracy</u>: Two-thousand dollars (\$2,000) each time CONTRACTOR submits an inaccurate report for which the Department reasonably determines a corrected/replacement report is needed.</p> <p><i>Accuracy: The report adheres to file formats, is in compliance with data schema and layout requirements, has correct and complete data values, ensures that all financial data ties out with the CONTRACTOR'S system data, is free from errors, and conforms to agreed-upon data standards.</i></p>
<b>24. Quality Checks for All Reports</b>	
<b>Description</b>	The CONTRACTOR must complete a quality control process for all reports, including three (3) levels of quality review, with each reviewer completing a log of quality checks and obtaining sign-off prior to submitting reports to the DEPARTMENT. (See <i>Section 185 Reporting Requirements, 16.</i> )
<b>Frequency</b>	As required for each report submitted
<b>Penalty</b>	One-thousand dollars (\$1,000) per report the CONTRACTOR submits without completing the required quality review process.

## 205D Claims Processing

The CONTRACTOR must report monthly performance standard statistics to the DEPARTMENT on a QUARTERLY basis for the performance standards below. Monthly CONTRACTOR statistics for each performance standard will be averaged by the DEPARTMENT for each QUARTER to determine the penalty. Example:

If the performance standard is 98% and the CONTRACTOR reports monthly statistics of 79%, 82%, and 98% for the 3 months of the QUARTER, the penalty would be based on the average of the percentages for the 3 months for the performance standard, which, in this case, equals 86.33% for the QUARTER. The penalty is assessed for each percentage point or fraction thereof (rounded to two decimal points) under the performance standard of 98% ( $98 - 86.33 = 11.67$ ). If the penalty is \$1,000 for each percentage point or fraction thereof under 98%, the penalty would be  $\$1,000 \times 11.67$ , or \$11,670 for the performance standard for that QUARTER.

Penalties (if any) will be assessed QUARTERLY.

<b>Performance Standard</b>	<b>Penalty</b>
<b>1. Processing and Financial Accuracy:</b> At least a ninety-eight percent (98%) average for accurately processing all claims in the QUARTER. Processing accuracy means a claim is processed correctly in every	One thousand dollars (\$1,000) for each percentage point (or fraction thereof) for which the

<b>Performance Standard</b>	<b>Penalty</b>
respect, financial and technical (e.g., according to federal and STATE regulations, proper substantiation, coverage period, system, procedural, etc.). Processing accuracy will be measured by the number of all claims processed accurately, without error, divided by the total number of claims processed. (See <a href="#">Section 160 Claims</a> .) Monthly performance standard statistic reported QUARTERLY.	standard is not met in each QUARTER.
<b>2. Claims Processing Time:</b> At least ninety-eight percent (98%) of all claims received must be processed within three (3) BUSINESS DAYS of CONTRACTOR'S receipt of all necessary substantiation information. (See <a href="#">Section 160 Claims</a> .) Monthly performance standard statistic, reported QUARTERLY.	One thousand dollars (\$1,000) for each percentage point (or fraction thereof) for which the standard is not met in each QUARTER.
<b>3. PARTICIPANT Reimbursement:</b> At least ninety-eight percent (98%) of all PARTICIPANT reimbursements in the QUARTER will be paid via check or direct deposit within three (3) BUSINESS DAYS from the date the claim was processed. (See <a href="#">Section 160C Claims Processing and Reimbursement</a> .) Monthly performance standard statistic, reported QUARTERLY.	One thousand dollars (\$1,000) for each percentage point (or fraction thereof) for which the standard is not met in each QUARTER.
<b>4. Claims Processing System Availability:</b> CONTRACTOR'S claims processing system must be available at least an average of ninety-eight percent (98%) of the time (24/7/365) in the QUARTER for adjudication of DEBIT CARD claims and online claims submitted by PARTICIPANTS and MERCHANTS. This includes downtime for system maintenance. Monthly performance standard statistic, reported QUARTERLY.	One thousand dollars (\$1,000) for each percentage point (or fraction thereof) for which the standard is not met in each QUARTER.

## 205E Customer Service

The CONTRACTOR must report monthly performance standard statistics to the DEPARTMENT on a QUARTERLY basis for the performance standards below. Monthly CONTRACTOR statistics for each performance standard will be averaged by the DEPARTMENT for each QUARTER to determine the penalty. See calculation example in Section 205D. Penalties, if any, will be assessed QUARTERLY.

<b>Performance Standard</b>	<b>Penalty</b>
<b>1. Call Answer Timeliness:</b> At least an eighty percent (80%) average in the QUARTER for calls received by the CONTRACTOR'S customer service staff during operating hours that were answered by a live voice within thirty (30) seconds. (See <a href="#">Section 175 Customer Service, 5</a> .)	One thousand dollars (\$1,000) for each percentage point (or fraction thereof) for which the standard is not met in each QUARTER.
<b>2. Call Abandonment Rate:</b> Less than a five percent (5%) average for calls abandoned in the QUARTER; measured by the number of total calls that were not answered by customer service staff during operating hours (caller hangs up before answer) divided by the number of total calls received, excluding calls ended within twenty (20) seconds. (See <a href="#">Section 175 Customer Service, 5</a> .)	One thousand dollars (\$1,000) for each percentage point (or fraction thereof) for which the standard is not met in each QUARTER.

<b><i>Performance Standard</i></b>	<b><i>Penalty</i></b>
<b>3. First Call Resolution Turn-Around-Time:</b> At least a ninety percent (90%) average in the QUARTER for customer service calls that were resolved by the first customer service representative the caller reached during operating hours during the measurement period. (See <a href="#">Section 175 Customer Service</a> .)	One thousand dollars (\$1,000) for each percentage point (or fraction thereof) for which the standard is not met in each QUARTER.
<b>4. Electronic Written Inquiry Response:</b> At least a ninety-eight percent (98%) average in the QUARTER for customer service issues submitted via CONTRACTOR'S web-portals and mobile app that were responded to within two (2) BUSINESS DAYS. (See <a href="#">Section 175 Customer Service</a> .)	One thousand dollars (\$1,000) for each percentage point (or fraction thereof) for which the standard is not met in each QUARTER.
<b>5. Customer Satisfaction:</b> CONTRACTOR must achieve a 70% or better Customer Satisfaction (CSAT) rate based on semi-annual surveys. The results are calculated on a post call basis, with responses on an 11-point scale (0-10). Satisfaction is defined as 6.6 or higher score by the customer. The total of all scores at or above 7 are divided by the number of survey participants to get a Customer Satisfaction (CSAT) % of greater than or equal to 70%. (See <a href="#">Section 175 Customer Service</a> , 11.)	One thousand dollars (\$1,000) for each percentage point (or fraction thereof) for which the standard is not met in each QUARTER.
<b>6. Service Level Response Time:</b> The CONTRACTOR must respond to the DEPARTMENT within two (2) BUSINESS DAYS from the confirmed delivery date of the DEPARTMENT'S inquiry. If the CONTRACTOR is unable to resolve the issue within two (2) BUSINESS DAYS, the CONTRACTOR must, within two (2) BUSINESS DAYS of the confirmed delivery date of the DEPARTMENT'S inquiry, confirm to the DEPARTMENT that the inquiry was received and provide an estimate of when the CONTRACTOR will resolve the issue. CONTRACTOR must respond to the DEPARTMENT and resolve issues in a timeframe mutually agreed upon by the CONTRACTOR and the DEPARTMENT. (See <a href="#">Section 175 Customer Service</a> , 12; and <a href="#">Section 155A.13. Dedicated CONTRACTOR Staff for Financial Reporting</a> , b.)	Two-hundred and fifty dollars (\$250) per BUSINESS DAY for which the standard is not met.

## 205F Data Breach

Penalties (if any) will be assessed QUARTERLY.

<b><i>Performance Standard</i></b>	<b><i>Penalty</i></b>
<b>1. Notification of Data Breach:</b> The CONTRACTOR must notify the DEPARTMENT Program Manager and Privacy Officer within forty-eight (48) hours of discovering that the PHI and/or PII of one (1) or more PARTICIPANTS may have been breached or has been breached. The CONTRACTOR must provide the DEPARTMENT with the information required in Section 24.0(m) of the Department Terms and Conditions related to all such suspected or actual breaches. See <a href="#">Section 155H Privacy Breach Notification</a> .	\$2,500 - first violation \$5,000 - second violation \$10,000 - third and any additional violations \$100,000 annual maximum
<b>2. First Notice:</b> The Contractor must notify the Department Program Manager and Department Privacy Officer no less than two (2) Business Days before Contractor releases any external communications regarding a data breach. See <a href="#">Section 24.0(m)(1) of the Department Terms and Conditions</a> .	\$2,500 - first violation \$5,000 - second violation \$10,000 - third and any additional violations \$100,000 annual maximum
<b>3. Privacy Violation:</b> The CONTRACTOR shall use or disclose PARTICIPANT PHI and/or PII only to perform functions, activities or provide the SERVICES specified in the CONTRACT, for or on behalf of	\$10,000 – First violation, plus \$1,000 per record affected by each breach or disclosure.

<b>Performance Standard</b>	<b>Penalty</b>
the DEPARTMENT, provided that such use or disclosure would not violate state and federal law, including, where applicable, the requirements of the HIPAA, HITECH, or GINA. See <i>Section 24.0 of the Department Terms and Conditions and Wis. Stat. §134.98.</i>	\$15,000 – Second violation, plus \$1,000 per record affected by each breach or disclosure. \$20,000 – Third and any additional violations, plus \$1,000 per record affected by each breach or disclosure.

## 205G Enrollment

The CONTRACTOR must report MONTHLY any CALENDAR DAY or BUSINESS DAY, as the performance standard requires, for which any of the following Performance Standards are not met.

Penalties (if any) will be assessed QUARTERLY.

<b>Performance Standard</b>	<b>Penalty</b>
1. <b>Eligibility File:</b> The CONTRACTOR must accept an eligibility file update on a schedule agreed upon by the DEPARTMENT'S IAS vendor, and the CONTRACTOR, and accurately process the enrollment file additions, changes, deletions, and discrepancies within three (3) BUSINESS DAYS of receipt of the file. Delays in processing the eligibility file must be communicated to the DEPARTMENT Program Manager or designee within one (1) BUSINESS DAY. (See <a href="#">Section 150D File Requirements.</a> )	One thousand (\$1,000) dollars per BUSINESS DAY for which the standard is not met.
2. <b>Enrollment File:</b> The CONTRACTOR must accept an enrollment file update on a schedule agreed upon by the DEPARTMENT'S IAS vendor and the CONTRACTOR and accurately process the enrollment file additions, changes, deletions, and discrepancies within three (3) BUSINESS DAYS of receipt of the file. Delays in processing the enrollment file must be communicated to the DEPARTMENT Program Manager or designee within one (1) BUSINESS DAY. (See <a href="#">Section 150D File Requirements.</a> )	One thousand (\$1,000) dollars per BUSINESS DAY for which the standard is not met.
3. <b>Eligibility Discrepancies:</b> The CONTRACTOR must resolve all eligibility discrepancies identified (any difference of values between the DEPARTMENT'S IAS database and the CONTRACTOR'S database) within three (3) BUSINESS DAYS of receipt of notification by the DEPARTMENT'S IAS vendor, or identification by the CONTRACTOR. (See <a href="#">Section 150D File Requirements.</a> )	One thousand (\$1,000) dollars per BUSINESS DAY for which the standard is not met
4. <b>Enrollment Discrepancies:</b> The CONTRACTOR must resolve all enrollment discrepancies identified (any difference of values between the DEPARTMENT'S IAS database and the CONTRACTOR'S database) as within three (3) BUSINESS DAYS of notification by the DEPARTMENT, or identification by the CONTRACTOR. (See <a href="#">Section 150D File Requirements.</a> )	One thousand (\$1,000) dollars per CALENDAR DAY for which the standard is not met
5. <b>DEBIT CARDS:</b> The CONTRACTOR must mail 100% percent of DEBIT CARDS to PARTICIPANTS within five (5) BUSINESS DAYS of successful account creation following receipt of the properly formatted enrollment file or eligibility file containing the addition or enrollment change, except as noted. (See <a href="#">Section 130C Debit Cards.</a> )	One thousand (\$1,000) dollars per BUSINESS DAY for which the standard is not met.
6. <b>DEBIT CARDS for elections made during the OPEN ENROLLMENT PERIOD:</b> The CONTRACTOR must mail DEBIT CARDS by December 15 for enrollment additions or changes effective the following January 1 (as reported on enrollment files generated from the OPEN ENROLLMENT PERIOD or before the first Tuesday of December). (See <a href="#">Section 130C Debit Cards.</a> )	One thousand (\$1,000) dollars per DAY for which the standard is not met.

<i><b>Performance Standard</b></i>	<i><b>Penalty</b></i>
<b>7. ENROLLMENT SYSTEM:</b> If the IAS is not available, the CONTRACTOR must provide an internet enrollment system that functions smoothly, timely, and is accessible 100% of each CALENDAR DAY during the annual OPEN ENROLLMENT PERIOD. (See <a href="#">Section 155B Contractor Open Enrollment Activities, 5.</a> )	Three thousand dollars (\$3,000) per incident and one thousand dollars (\$1,000) per CALENDAR DAY that the enrollment system is unavailable during the OPEN ENROLLMENT PERIOD.

## 205H Data Submissions

The CONTRACTOR must 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.

Penalties (if any) will be assessed QUARTERLY.

<i><b>Performance Standard</b></i>	<i><b>Penalty</b></i>
<b>1. Claims Data Transfer:</b> 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. (See <i>Section 150A Data Integration and Technical Requirements.</i> )	One thousand (\$1,000) dollars per BUSINESS DAY for which the standard is not met
<b>2. Data Warehouse Submission Delays:</b> 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. (See <i>Section 150 Data Requirements.</i> )	One thousand (\$1,000) dollars per BUSINESS DAY for which the standard is not met
<b>3. Data File Corrections:</b> Within two (2) BUSINESS DAYS of notification, unless otherwise approved by the DEPARTMENT in writing, the CONTRACTOR must resolve any data errors and quality issues on the file as identified by the DEPARTMENT'S data warehouse vendor or the DEPARTMENT. (See <i>Section 150G Data Warehouse File Submission Quality.</i> )	One thousand (\$1,000) dollars per BUSINESS DAY for which the standard is not met
<b>4. Two-Chance Rule:</b> 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 <i>Section 150G Data Warehouse File Submission Quality.</i> )	One thousand seven hundred fifty dollars (\$1,750) for each submission after the allowed submissions.
<b>5. One-Chance Rule:</b> 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 that is not accepted by the DEPARTMENT'S data warehouse vendor. (See <i>Section 150G Data Warehouse File Submission Quality.</i> )	One thousand seven hundred fifty dollars (\$1,750) for each submission after the allowed submissions.



<i><b>Performance Standard</b></i>	<i><b>Penalty</b></i>
<b>6. Pass-Through Data Warehouse Penalties:</b> The DEPARTMENT will pass through any penalties assessed by the DEPARTMENT'S data warehouse vendor for failure to submit data in accordance with the CONTRACT. (See <i>Section 150G Data Warehouse File Submission Quality</i> .)	The amount charged by the DEPARTMENT'S data warehouse vendor for the CONTRACTOR'S failure to meet data submission requirements not otherwise subject to a penalty as described above

## 205I Other

Penalties (if any) will be assessed QUARTERLY.

<i><b>Performance Standard</b></i>	<i><b>Penalty</b></i>
<b>1. Implementation and Go-Live Dates:</b> All SERVICES must take effect ("go live") and be fully operational on the due date specified in the agreed upon Implementation Plan. (See <a href="#">Section 155I Implementation</a> .)	Fifty thousand dollars (\$50,000) for the first (1 <sup>st</sup> ) CALENDAR DAY and five thousand dollars (\$5,000) for each subsequent CALENDAR DAY past the date the SERVICES were supposed to be fully operational
<b>2. Audits:</b> The CONTRACTOR must address any areas of improvement identified in any audit in the timeframe determined by the DEPARTMENT. (See <a href="#">Section 155F Audits</a> .)	One thousand dollars (\$1,000) per BUSINESS DAY for which the standard is not met
<b>3. Major System Changes and Conversions:</b> The CONTRACTOR must not undertake a major system change or conversion for, or related to, the system used to deliver SERVICES for the BENEFIT PROGRAMS without providing specific, prior written notice of at least one hundred-eighty (180) CALENDAR DAYS to the DEPARTMENT. (See <a href="#">Section 145 Information Systems</a> , 2.)	One thousand dollars (\$1,000) per CALENDAR DAY for which the standard is not met
<b>4. Web-Portal Availability:</b> The CONTRACTOR'S BENEFIT PROGRAM web-portals must be available at least ninety-nine and one-half percent (99.5%) of each CALENDAR DAY, excluding scheduled maintenance. In the event of downtime, the CONTRACTOR must notify the DEPARTMENT Program Manager of the expected duration of the downtime, post a notice on the website and web-portal (if possible) and provide a 24-hour "hot line" number. Notification must occur within 4 hours of a confirmed outage during normal business hours. (See <a href="#">Section 140C Contractor Benefit Program Web Content and Web-Portals</a> .)	Three thousand dollars per incident and three thousand dollars (\$3,000) per CALENDAR DAY thereafter that the availability of one or both web-portals drops below 99.5% in a CALENDAR DAY.
<b>5. Non-Disclosure:</b> The CONTRACTOR shall not use or disclose names, addresses, or other data for any purpose other than specifically provided for in the CONTRACT. (See <a href="#">Section 120 Contractor General Responsibilities</a> , 13.)	Five thousand dollars (\$5,000) per incident.
<b>6. Annual Training Requirement:</b> The CONTRACTOR must offer annual training to PAYROLL CENTER staff in November of each year related to the FSA Unsubstantiated Claims Process, election and CONTRIBUTION audit process, and other topics based on BENEFIT PROGRAM needs. (See <a href="#">Section 155C Staff Training</a> .)	Two hundred and fifty dollars (\$250) per BUSINESS DAY after November 30 for which the standard is not met.



**FORM H - Cost Proposal Workbook**

**RFPs ETD0052 / ETD0053 Third Party Administration of Health Savings Accounts, Section 125 Cafeteria Plan, Employee Reimbursement Accounts, Commuter Fringe Benefit Accounts**

*Representations made by the Proposer in this Cost Proposal must be maintained for the duration of the Contract term.*

**Cost Proposal Overview**

Vendors submitting Proposals in response to RFP ETD0052 and/or ETD0053 must complete and return this Cost Proposal Workbook per the instructions in the RFP and in this Cost Proposal Workbook. Please note the following:

ETF is under no obligation to implement any of the programs and/or services listed in the RFP and may choose to implement only certain programs and/or services.

All fees are quoted by Proposer on a firm, fixed-cost basis, including all direct and indirect costs, general and administrative overhead, purchasing burden and profit. No other fees or charges may be added to the Contract(s) after award.

The Proposer and any Subcontractors' travel expenses (e.g. airfare, lodging, meals, and insurance) and other miscellaneous expenses related to the provision of services list the RFP and the Proposal must be included in the Proposer's administrative fees and shall not be an additional charge to the Department.

All costs listed must reflect the requirements of the RFP (and its attachments), the level of customization and features represented in the Proposal, and the required items and services listed in Tabs 2 and 3 (as appropriate for the RFP being responded to).

Provide the Proposer's company name, person who completed this Workbook, and date of submission at the top of Tabs 2, 3, and 4 (as appropriate for the RFPs being responded to).

**Instructions**

**This workbook must be completed and submitted per the Requirements listed in the RFP. All Proposers must complete the appropriate tabs of the Cost Proposal workbook for the programs being proposed. Administrative fees should be entered in the appropriate form indicated (implementation, per participant per benefit per month (PPPBPM), additional services, etc.).**

- Complete Tab 2. ETD0052 HSA Cost if you are submitting a proposal for HSA program administration.
- Complete Tab 3. ETD0053 CafPlanERAComm Cost if you are submitting a proposal for Section 125 Cafeteria Plan/ERA program administration including Commuter Fringe Benefits.
- Complete Tab 4. ETD0052-53 Multi-RFP Pricing if you are submitting a proposal for both RFPs.

Complete all cells in the appropriate Tabs. When proposing a service/item at no charge to the Department indicate a "0" cost in the cell. Only dollar values will be accepted unless otherwise noted.

Proposers may enter additional costs for proposed Additional Services (per Section 8 of the RFP) only in the "Additional Services" section located near the bottom of Tabs 2 and 3.

The costs entered must include any and all one-time and recurring fees, charges, or costs for the duration of the Contract.

If your entered costs require an explanation/clarification or additional detail, enter that in the "Clarifications" section located at the bottom of Tabs 2 and 3.

Any sections and/or fees marked as Scored are required to be provided by the Proposer and will be used as a basis for award.

Changes are not allowed to the format or formulas of this Cost Proposal Workbook. **DO NOT CHANGE ANY FORMATS OR FORMULAS IN THIS WORKBOOK.**

Return this Cost Proposal Workbook as instructed in the RFP.

ETF reserves the right to evaluate all listed costs for reasonableness.

**Start Date**

For the purpose of Proposer planning, staffing, and pricing, Proposers should expect implementation to commence in May 2025 and continue through March 2026, or until all enrollment file issues and carryover balances have been resolved. The initial contract period will begin when the Contract is signed and extend through December 31, 2028.

FORM H - Cost Proposal Workbook

RFP ETD0052 Third Party Administration of Health Savings Accounts

Proposer:	TASC	Name of Person Completing this:	Derrick Daniel	Date of Submission:	BAFO pricing received 11/11/2024
-----------	------	---------------------------------	----------------	---------------------	----------------------------------

Enter \$ amounts in the cells shaded in yellow. Prices must include all personnel, operations, and maintenance for each item.  
Representations made by the Proposer in this Cost Proposal must be maintained for the duration of the Contract.

Section 1 - Annual Program Fees (Scored)

		Implementation 2025-26*							
Implementation Fees*									
H-1	Initial start-up / transition fee	\$	-						
H-2	Implementation / set-up fee	\$	-						
H-3	Plan Document/Summary Plan Description	\$	-						
H-4	Other (explain)	\$	-						
H-5	Other (explain)	\$	-						
H-6	Total Implementation Fees	\$	-						
		Initial Contract Term			First Renewal Term		Second Renewal Term		
		Year 1 (2026)	Year 2 (2027)	Year 3 (2028)	Year 4 (2029)	Year 5 (2030)	Year 6 (2031)	Year 7 (2032)	
Annual Fees									
H-6	Annual set-up / renewal fee	\$	-	\$	-	\$	-	\$	-
H-7	Ongoing account fees	\$	-	\$	-	\$	-	\$	-
H-8	Paper statements	\$	-	\$	-	\$	-	\$	-
H-9	Electronic eligibility file	\$	-	\$	-	\$	-	\$	-
H-10	Data file feed/data integration fee	\$	-	\$	-	\$	-	\$	-
H-11	Other (explain)	\$	-	\$	-	\$	-	\$	-
H-12	Other (explain)	\$	-	\$	-	\$	-	\$	-
H-13	Total Annual Fees	\$	-	\$	-	\$	-	\$	-

**Section 2 - HSA Administrative Fee (Scored)**

		Initial Contract Term			First Renewal Term		Second Renewal Term	
		Year 1 (2026)	Year 2 (2027)	Year 3 (2028)	Year 4 (2029)	Year 5 (2030)	Year 6 (2031)	Year 7 (2032)
HSA Administrative Fee - Per Participant Per Benefit Per Month (PPPBPM)								
	Number of Participants**	17,984	19,243	20,590	22,031	23,573	25,223	26,989
H-14	Total HSA Fee - PPPBPM	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

The following items/services must be included in the PPPBPM quoted above:

- H-15 Account closure fee
- H-16 Account opening fee
- H-17 Account rollover fees
- H-18 ACH or electronic withdrawal fee
- H-19 Ad hoc / additional reporting
- H-20 Administrative Guide
- H-21 Administrator trainings and webinars
- H-22 Copy of debit card receipts
- H-23 Custodian monthly maintenance fee
- H-24 Debit card issuance fees
- H-25 Deposit fees (payroll and non-payroll)
- H-26 Electronic reporting of account activity
- H-27 Insufficient funds from deposit
- H-28 Investment fees
- H-29 Load fees
- H-30 Manual withdrawal fee
- H-31 Marketing materials - customized
- H-32 Marketing materials - standard
- H-33 Member communications customization
- H-34 Minimum balance fees
- H-35 Open enrollment employer fairs
- H-36 Overdraft fee
- H-37 Paper statements
- H-39 Participant trainings and webinars
- H-40 Printed monthly statements
- H-41 Refund of excess contributions
- H-42 Report customization
- H-43 Stop payment fee
- H-44 Tax forms
- H-45 Wire transfer fee
- H-46 Retiree HSA account maintenance fee

Section 3 - Additional Services (Not scored)

		Included in Admin Fee	Paid By	Additional Fee	
		Select Yes or No from Dropdown	Select option from Dropdown	Select type from Dropdown	
Description of Additional Services					
H-47		(Select one)	(Select one)	\$ -	(Select one)
H-48		(Select one)	(Select one)	\$ -	(Select one)
H-49		(Select one)	(Select one)	\$ -	(Select one)
H-50		(Select one)	(Select one)	\$ -	(Select one)
H-51		(Select one)	(Select one)	\$ -	(Select one)
H-52		(Select one)	(Select one)	\$ -	(Select one)
H-53		(Select one)	(Select one)	\$ -	(Select one)
H-54		(Select one)	(Select one)	\$ -	(Select one)
H-55		(Select one)	(Select one)	\$ -	(Select one)
H-56		(Select one)	(Select one)	\$ -	(Select one)

\*Implementation fees must include all one-time start-up costs, including initial program set-up, file verification and testing, open enrollment and enrollment file discrepancy resolution. Implementation for the HSA program is estimated to last from May 1, 2025, through March 31, 2026, or until all enrollment file issues and carryover balances have been resolved.

\*\*The estimated number of Participants across 7 years is just an estimate and does not reflect an actual projection of Participants on an annual basis. ETF will not guarantee any minimum or maximum amount of actual participation. ETF will pay the per participant per benefit per month (PPPBPM) fee multiplied the number of actual Participants.

Section 4 - Clarifications

Line #	Clarification

FORM H - Cost Proposal Workbook

RFP ETD0053 Third Party Administration of Section 125 Cafeteria Plan and Employee Reimbursement Accounts including Commuter Fringe Benefits							
Proposer: TASC		Name of Person Completing this: Derrick Daniel			Date of Submission: BAFO pricing received 11/11/2024		

Enter \$ amounts in cells shaded in yellow. Prices must include all personnel, operations, and maintenance for each item.  
Representations made by the Proposer in this Cost Proposal must be maintained for the duration of the Contract term.

Section 1 - Annual Program Fees (Scored)

Implementation\*  
2025-26

Implementation Fees*		
CE-1	Initial start-up / transition fee	\$ -
CE-2	Implementation / set-up fee	\$ -
CE-3	Initial Plan Document composition fee	\$ -
CE-4	Initial Summary Plan Description composition fee	\$ -
CE-5	Initial non-discrimination testing set-up fee	\$ -
CE-6	Other (enter item name here and add'l explanation in Section 6 below)	\$ -
CE-7	Other (enter item name here and add'l explanation in Section 6 below)	\$ -
CE-8	Total Implementation Fees*	\$ -

Initial Contract Term			First Renewal Term		Second Renewal Term		
Year 1 (2026)	Year 2 (2027)	Year 3 (2028)	Year 4 (2029)	Year 5 (2030)	Year 6 (2031)	Year 7 (2032)	

Annual Fees							
CE-9	Annual set-up / renewal fee	\$ -	\$ -		\$ -	\$ -	\$ -
CE-10	Ongoing account fees	\$ -	\$ -		\$ -	\$ -	\$ -
CE-11	Paper statements	\$ -	\$ -		\$ -	\$ -	\$ -
CE-12	Electronic eligibility file	\$ -	\$ -		\$ -	\$ -	\$ -
CE-13	Data file feed/data integration fee	\$ -	\$ -		\$ -	\$ -	\$ -
CE-15	Other (enter item name here and add'l explanation in Section 6 below)	\$ -	\$ -		\$ -	\$ -	\$ -
CE-16	Total Annual Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Section 2 - Administrative Fees PPPBPM (Scored)

Initial Contract Term			First Renewal Term		Second Renewal Term		
Year 1 (2026)	Year 2 (2027)	Year 3 (2028)	Year 4 (2029)	Year 5 (2030)	Year 6 (2031)	Year 7 (2032)	

Health Care FSA Administrative Fee - Per Participant Per Benefit Per Month (PPPBPM)							
Estimated Number of Participants**		19,732	19,791	19,851	19,910	19,970	20,030
CE-17	Health Care FSA Fee - PPPBPM	\$ 0.75	\$ 0.75	\$ 0.75	\$ -	\$ -	\$ -
Monthly PPPBPM (PPPBPM x est. # of participants) =		\$ 14,799.00	\$ 14,843.40	\$ 14,887.93			
Annual PPPBPM (Monthly PPPBPM x 12) =		\$ 177,588.00	\$ 178,120.76	\$ 178,655.13			
Limited Purpose FSA Administrative Fee - PPPBPM							
Estimated Number of Participants**		1,145	1,148	1,152	1,155	1,159	1,162
CE-18	Limited Purpose FSA Fee - PPPBPM	\$ 0.40	\$ 0.40	\$ 0.40	\$ -	\$ -	\$ -
Monthly PPPBPM (PPPBPM x est. # of participants) =		\$ 458.00	\$ 459.37	\$ 460.75			
Annual PPPBPM (Monthly PPPBPM x 12) =		\$ 5,496.00	\$ 5,512.49	\$ 5,529.03			

Dependent Day Care Administrative Fee - PPPBPM								
	Estimated Number of Participants**	3,963	4,082	4,204	4,330	4,460	4,594	4,732
CE-19	Dependent Day Care FSA Fee - PPPBPM	\$ 0.75	\$ 0.75	\$ 0.75	\$ -	\$ -	\$ -	\$ -
	Monthly PPPBPM (PPPBPM x est. # of participants) =	\$ 2,972.25	\$ 3,061.42	\$ 3,153.26				
	Annual PPPBPM (Monthly PPPBPM x 12) =	\$ 35,667.00	\$ 36,737.01	\$ 37,839.12				
Parking Account Administrative Fee - Per Participant Per Benefit Per Month (PPPBPM)								
	Estimated Number of Participants**	2,501	2,526	2,551	2,577	2,603	2,629	2,655
CE-20	Parking Account Fee - PPPBPM	\$ 0.75	\$ 0.75	\$ 0.75	\$ -	\$ -	\$ -	\$ -
	Monthly PPPBPM (PPPBPM x est. # of participants) =	\$ 1,875.75	\$ 1,894.51	\$ 1,913.45				
	Annual PPPBPM (Monthly PPPBPM x 12) =	\$ 22,509.00	\$ 22,734.09	\$ 22,961.43				
Transit Account Administrative Fee - PPPBPM								
	Estimated Number of Participants**	753	761	768	776	784	791	799
CE-21	Transit Account Fee - PPPBPM	\$ 0.75	\$ 0.75	\$ 0.75	\$ -	\$ -	\$ -	\$ -
	Monthly PPPBPM (PPPBPM x est. # of participants) =	\$ 564.75	\$ 570.40	\$ 576.10				
	Annual PPPBPM (Monthly PPPBPM x 12) =	\$ 6,777.00	\$ 6,844.77	\$ 6,913.22				
Total Fees - Third Party Administration of Section 125 Cafeteria Plan and Employee Reimbursement Accounts including Commuter Fringe Benefits - PPPBPM								
CE-22	Total Fees - PPPBPM	\$ 3.40	\$ 3.40	\$ 3.40	\$ -	\$ -	\$ -	\$ -
	Monthly PPPBPM (PPPBPM x est. # of participants) =	\$ 20,669.75	\$ 20,829.09	\$ 20,991.49				
	Annual PPPBPM (Monthly PPPBPM x 12) =	\$ 248,037.00	\$ 249,949.12	\$ 251,897.92				
	3-year PPPBPM Fees	\$ 749,884.04						

The following items/services must be included in the PPPBPM quoted above:

- CE-23 Account closure fee
- CE-24 Account opening fee
- CE-25 Account rollover fees
- CE-26 ACH or electronic withdrawal fee
- CE-27 Ad hoc / additional reporting
- CE-28 Administrative Guide
- CE-29 Administrator trainings and webinars
- CE-30 Copy of debit card receipts
- CE-31 Custodian monthly maintenance fee
- CE-32 Debit card issuance fees
- CE-33 Deposit fees (payroll and non-payroll)
- CE-34 Electronic reporting of account activity
- CE-35 Load fees
- CE-36 Marketing materials - customized
- CE-37 Marketing materials - standard
- CE-38 Member communications customization
- CE-39 Minimum balance fees
- CE-40 Open enrollment employer fairs
- CE-41 Paper statements
- CE-42 Participant Guide
- CE-43 Participant trainings and webinars
- CE-44 Refund of excess contributions
- CE-45 Report customization
- CE-46 Stop payment fee
- CE-47 Wire transfer fee

Section 3 - Plan Documentation Annual Fees (Scored)							
	Initial Contract Term			First Renewal Term		Second Renewal Term	
	Year 1 (2026)	Year 2 (2027)	Year 3 (2028)	Year 4 (2029)	Year 5 (2030)	Year 6 (2031)	Year 7 (2032)
Plan Documentation Fees							
CE-48 Annual Plan Documentation revision / update fee	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CE-49 Annual Summary Plan Description revision / update fee	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CE-50 Other (enter item name here and add'l explanation in Section 6 below)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CE-51 Total Plan Documentation Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Section 4 - Non-Discrimination Testing Annual Fees (Scored)							
	Initial Contract Term			First Renewal Term		Second Renewal Term	
	Year 1 (2026)	Year 2 (2027)	Year 3 (2028)	Year 4 (2029)	Year 5 (2030)	Year 6 (2031)	Year 7 (2032)
Non-Discrimination Testing Fees							
CE-52 Annual non-discrimination testing fee	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CE-53 Additional testing / re-testing fee	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CE-54 Pre-testing informational sessions	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CE-55 Data validation (meetings / guidance)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CE-56 Other (enter item name here and add'l explanation in Section 6 below)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CE-57 Other (enter item name here and add'l explanation in Section 6 below)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CE-58 Total Non-Discrimination Testing Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Section 5 - Additional Services (Not scored)					
	Description of Additional Services	Included in Admin Fees	Paid By	Additional Fee	
		Select Yes or No from Dropdown	Select option from Dropdown	Select type from Dropdown	
CE-59		(Select one)	(Select one)	\$ -	(Select one)
CE-60		(Select one)	(Select one)	\$ -	(Select one)
CE-61		(Select one)	(Select one)	\$ -	(Select one)
CE-62		(Select one)	(Select one)	\$ -	(Select one)
CE-63		(Select one)	(Select one)	\$ -	(Select one)
CE-64		(Select one)	(Select one)	\$ -	(Select one)
CE-65		(Select one)	(Select one)	\$ -	(Select one)
CE-66		(Select one)	(Select one)	\$ -	(Select one)
CE-67		(Select one)	(Select one)	\$ -	(Select one)

\*Implementation fees must include all one-time start-up costs, including initial program set-up, file verification and testing, open enrollment, enrollment file discrepancy resolution, and delivery of initial program documentation. Implementation for the Section 125 Cafeteria Plan and ERA programs including Commuter Fringe is estimated to last from May 1, 2025, through March 31, 2026, or until all enrollment file issues and carryover balances have been resolved.

\*\*The Estimated Number of Participants should be used by Proposers as basis for the PPPBPM quoted. The Estimated Number of Participants across 7 years does not reflect an actual projection of Participants on an annual basis. ETF will not guarantee any minimum or maximum amount of actual participation. ETF will pay the per participant per benefit per month (PPPBPM) fee multiplied the number of actual Participants.

Section 6 - Clarifications	
Line #	Clarification

## **Report Requirements**

### **Benefit Program Plan Finalization Report, Business Debt Report, and Business Debt Appeals Report Requirements**

**for  
Contracts/RFPs ETD0052 and ETD0053**

4.2.2025

---

## **Benefit Program Plan Finalization Report**

### **Data Requirements**

The CONTRACTOR'S BENEFIT PROGRAM Plan Finalization Report must contain the following data points and be in the format specified by the DEPARTMENT:

- PARTICIPANT name (last name, first name)
- PARTICIPANT full SSN
- PARTICIPANT EMPLOYEE ID (a unique number from the PAYROLL CENTERS)
- PARTICIPANT effective date of employment
- Employment status (active, leave, terminated, retired)
- PAYROLL CENTER (PAYROLL CENTER that the PARTICIPANT'S EMPLOYER is tied to)
- BENEFIT PROGRAM type (the BENEFIT PROGRAMS in which the PARTICIPANT is enrolled, such as HCFA, LPFA, DCAP, Parking, and transit)
- Effective date of each BENEFIT PROGRAM (date on which the BENEFIT PROGRAM type(s) became effective)
- BENEFIT PROGRAM cancellation date (date on which the BENEFIT PROGRAM was cancelled)
- Annual election amount (annual election the PARTICIPANT elected for the PLAN YEAR)
- Total PLAN YEAR contribution (total contribution the PARTICIPANT contributed within the PLAN YEAR)
- Carryover from prior PLAN YEAR (incoming carryover amount that was carried over from the prior PLAN YEAR)
- Total claims paid (total claims paid out from the PARTICIPANT'S account)
- Carryover into new PLAN YEAR (outgoing carryover amount that will be carried over into new PLAN YEAR)
- Available balance (amount of funds available after contributions, withdrawals, claims and carryover applied; at end of plan year and carryover completed, balance should be zero)
- Forfeitures (amounts that are forfeited due to ineligibility, termination, or excessive carryover)
- Notes (comments from the CONTRACTOR to assist in understanding the status of the account)



- Any additional fields agreed upon by the DEPARTMENT and the CONTRACTOR on or before January 31 proceeding the PLAN YEAR.

## Assessment and Review

In addition to completing the quality control process specified in Appendix 6 ETD0052 Section 180.15 and Appendix 7 ETD0053 Section 185.16 Reporting Requirements for the BENEFIT PROGRAM Plan Finalization Report the CONTRACTOR must perform the following quality checks and corrective actions (as necessary) on the Preliminary and Final BENEFIT PROGRAM Plan Finalization Reports prior to submission to the Department:

### 1. General:

- File Format & Schema: Ensure the report matches the required file format, schema, and layout and any discrepancies have been corrected.
- Column Headings Consistency: Verify column headings are consistent across all versions and update inconsistencies as needed.
- SSN & EMPLOYEE ID: Ensure SSN is matched to the correct EMPLOYEE ID. Correct any mismatches or missing data.
- Missing EMPLOYEE IDs & SSNs: Ensure no EMPLOYEE IDs or SSNs are missing.
- Duplicate SSNs and EMPLOYEE IDs: Ensure each EMPLOYEE'S data is combined on one line for each account type. If duplicates exist across different lines for the same EMPLOYEE, merge the data into a single line and resolve any discrepancies.
- Employment Status and Employment Status Date: Verify employment status and employment status date match the information in CONTRACTOR'S system. Update discrepancies.
- PARTICIPANT CONTRIBUTIONS: Verify contributions match the information in CONTRACTOR'S system. Reconcile any discrepancies.
- Claims Details: Verify claims data matches the information in CONTRACTOR'S system. Correct any inconsistencies.
- Available Balance: Verify all available balances at the end of the runout period are zero. Research all accounts with balances that are not zero (positive or negative), identify the root cause, and make necessary corrections.

### 2. Carryover, Contribution and Available Balance:

- Confirm carryover from the prior PLAN YEAR is less than or equal to the eligible carryover amount for all accounts and resolve any discrepancies;
- Confirm carryover into the new PLAN YEAR is less than or equal to the eligible carryover amount for PARTICIPANTS with an 'Active' or 'On Leave' employment status and resolve any discrepancies;
- Ensure annual election does not exceed the maximum contribution limit for all accounts and resolve any discrepancies;
- Confirm total prior PLAN YEAR CONTRIBUTIONS do not exceed the maximum contribution limit for all accounts and resolve any discrepancies;
- Verify carryover into the new PLAN YEAR is \$0 for employees with 'Terminated' or 'Retired' employment status and resolve any discrepancies;
- Confirm carryover into the new PLAN YEAR is \$0 for accounts canceled prior to the new plan year and resolve any discrepancies; and

- Ensure the following equation is used for Health Care FSA and Limited Purpose FSA Available Balances:  $\text{annual election} + \text{carryover from prior PLAN YEAR} - \text{carryover into new PLAN YEAR} - \text{total paid claims} + \text{forfeitures} = \$0$  for all accounts.
  - Ensure the following equation is used for Dependent Day Care Account Available Balance:  $\text{Total PLAN YEAR Contributions} - \text{Total Paid Claims} + \text{Forfeiture} = \$0$  for all accounts.
  - Ensure the following equation is used for Parking Account and Transit Account Available Balance:  $\text{Total PLAN YEAR Contributions} + \text{Carryover from prior PLAN YEAR} - \text{Carryover into new PLAN YEAR} - \text{Total Paid Claims} + \text{Forfeiture} = \$0$  for all accounts.
3. Account Reconciliation:
- Investigate accounts for which the annual election does not equal total PLAN YEAR CONTRIBUTIONS, identify the cause of any discrepancies and resolve any discrepancies, when appropriate;
  - Check for negative account balances, identify the cause, and make corrections as necessary;
  - Investigate accounts with high election amounts (where the annual election does not match the total CONTRIBUTION amount) and make corrections as necessary; and
  - Investigate accounts with high contribution amounts (where CONTRIBUTIONS do not match the annual election), identify cause, and make corrections as necessary.
  - The CONTRACTOR will make efforts to collect any outstanding negative balances from the PARTICIPANT following the submission of the Plan Finalization Report to the DEPARTMENT on May 31. By the end of August, the CONTRACTOR will provide a Negative Balance Report to the DEPARTMENT, detailing repayments or collections for invoicing purposes. The Negative Balance Report will be developed in a format that meets the DEPARTMENT's business requirements.
4. Summary:
- After the delivery of the BENEFIT PROGRAM Plan Finalization Report (within a timeframe agreed to by the DEPARTMENT and the CONTRACTOR), the CONTRACTOR must provide a summary of all identified discrepancies including recommended steps to resolve each issue and prevent reoccurrence of such issues in the future.

## Business Debt Report

### Data Requirements

For the HEALTH CARE FSA and LIMITED PURPOSE FSA BENEFIT PROGRAMS, annually, the CONTRACTOR must provide the DEPARTMENT with a comprehensive Business Debt Report. CONTRACTOR'S Business Debt Report must contain the following:

1. Summary Report, including:
  - SSN (full SSN)
  - Number of claims (number of claims that is subject to collections)
  - Sum of amount Due (total amount that is subject to collections)
  - First name
  - Last name
2. Claims Detail Report, including:
  - EMPLOYER (State of Wisconsin)
  - Claim ID (claim ID number that is outstanding)
  - Claim amount (the original claim amount that is submitted)
  - Amount due (amount due from the claim)
  - Service date (service date for this claim)
  - Account Type (the account benefit plan)
  - Service Type/Category (description of the service type such as medical, vision, pharmaceutical, OTC expenses, co-pays, etc.)
  - Plan Year (the year in which the claim expense occurred in)
  - Invoice # (invoice # that the claim was on or billed for payment)
  - Last name
  - First name
  - SSN (full SSN)
  - PAYROLL CENTER (PAYROLL CENTER that the PARTICIPANT'S EMPLOYER is tied to)
  - Division (the institution, STATE agency ID, or division of the PARTICIPANT'S EMPLOYER)
  - PARTICIPANT email (primary email contact)
  - PARTICIPANT street address
  - City
  - State
  - Zip code
  - EMPLOYEE ID
  - Employment status (active, leave, terminated, retired)

## Assessment and Review

The CONTRACTOR must assess and review the Business Debt Report and make any necessary corrections before submitting it to the DEPARTMENT. At a minimum, the CONTRACTOR must:

- Identify claims from the five-step recovery process (see Section 160D.4) that fall under the following categories:
  - Claims with no payroll withholding applied
  - Claims with partial payroll withholding applied, with the remaining balance designated as business debt
- Identify claims submitted after December 31 through the end of the runout period (March 31) that are still pending documentation, substantiation, and/or repayment;

- Request a final determination for any PLAN YEAR claim currently in an 'Under Review' status by a claims adjudicator;
- Ensure that PARTICIPANTS are unable to upload documents to claims after the PLAN YEAR runout period (March 31) has ended;
- Confirm that appeals are directed to the CONTRACTOR'S designated appeal inbox for review;
- Ensure that all business debt claims are finalized without modification, unless an appeal is submitted and approved by the DEPARTMENT;
- Ensure that CONTRACTOR customer service representatives are properly trained and knowledgeable about the DEPARTMENT'S business debt process and can assist PARTICIPANTS with their claims;
- Confirm that repayments cannot be made by the PARTICIPANT directly to the CONTRACTOR after the runout period ends, and that providing documentation via the portal account will not resolve any business debt from the DEPARTMENT. PARTICIPANTS may appeal a non-payment decision by completing and submitting the business debt appeal form available on the CONTRACTOR'S web portal; and
- Provide reporting to the DEPARTMENT for any claim changes or transfers between PLAN YEARS or related to prior PLAN YEARS.

## Business Debt Appeals Report

1. For the HEALTH CARE FSA and LIMITED PURPOSE FSA BENEFIT PROGRAMS, the CONTRACTOR must create a business debt appeal form and make the form available to PARTICIPANTS on the CONTRACTOR'S web portal. The CONTRACTOR will collaborate with the DEPARTMENT to ensure the appeal process is streamlined and efficient.
2. The CONTRACTOR must track all business debt appeals. For the HEALTH CARE FSA and LIMITED PURPOSE FSA BENEFIT PROGRAMS, the CONTRACTOR must provide a Business Debt Appeals Report to the DEPARTMENT as appeals are received and updated at a frequency determined by the DEPARTMENT. The Business Debt Appeals Report must include, at a minimum, the following data fields:
  - Last name
  - First name
  - SSN (full SSN)
  - EMPLOYEE ID (ID is unique from the PAYROLL CENTERS)
  - Claim # (the claim ID that is outstanding)
  - PAYROLL CENTER (PAYROLL CENTER that the PARTICIPANT'S EMPLOYER is tied to)
  - Amount owed (amount that is subject to collections)
  - Status of appeal (in-progress, approved, denied)
  - Additional notes as needed

## Quality Checks

The CONTRACTOR must complete the quality control review process specified in Appendix 6 ETD0052 Section 180.15 and Appendix 7 ETD0053 Section 185.16 for the Business Debt Report and Business Debt Appeals Report. CONTRACTOR'S review must verify that the Business Debt Report and Business Debt Appeals Report were completed completely and correctly without errors. Failure to complete the quality control process will result in the penalties specified in Appendix 6 ETD0052 Section 205C.15 and Appendix 7 ETD0053 Section 205C.24. Quality Checks for All Reports.