

CONTRACT

SERVICE: UNCLAIMED PROPERTY AUDITING, PROCESSING, AND

DELIVERY PERIOD OF CONTRACT: JULY 1, 2024, to JUNE 30, 2025

CONTRACT NUMBER 566505-W25-RDE1029-03

This contract is entered into by and between the State of Wisconsin Department of Revenue and Kelmar Associates, LLC

In the event of conflict, the following order or precedence of documents making up this Agreement shall be:

1. This Contract
2. State of Wisconsin Standard Terms and Conditions (DOA-3054)
3. State of Wisconsin Supplemental Standard Terms and Conditions for Procurements for Services (DOA-3681)
4. State of Wisconsin Department of Revenue Non-Disclosure Agreement

IN WITNESS WHEREOF, the parties have executed this Contract as of the date of execution by both parties below.

For: Kelmar Associates, LLC

By: David P. Kennedy
Name: David P. Kennedy

Title: General Counsel & Member

Address: 500 Edgewater Drive, Suite 525
Wakefield, MA 01880

Date: July 12, 2024

For: STATE OF WISCONSIN
DEPARTMENT OF
REVENUE

By: Maria Guerra Lapacek
Name: Maria Guerra Lapacek

Title: Deputy Secretary

Address: P.O. Box 8933
Madison, WI 53708-8933

Date: 7/18/2024 | 10:00 AM CDT

1.0 GENERAL INFORMATION

1.1 INTRODUCTION

The purpose of this document is to provide authorized Contractors with the terms and conditions for conducting Audits of Holders (see section 1.4.6 for definition) to verify compliance with the Wisconsin Uniform Unclaimed Property Act (Chapter 177 of the Wisconsin Statutes).

1.2 SCOPE OF THE CONTRACT

The State of Wisconsin Department of Revenue ("Wisconsin Department of Revenue") shall award contracts to one or more Contractors to conduct Audits of Holders to verify compliance with the Wisconsin Uniform Unclaimed Property Act. The number of awarded Contractors shall be determined by the best interests of the State. Procurement authority to award this contract is granted under the general waiver process (Wisconsin Statutes.16.75(6)(d)).

1.3 PROCURING AND CONTRACTING AGENCY

This contract is drafted and administered by the Wisconsin Department of Revenue. For Contract Administrator contact information, see Section 1.5.

1.4 DEFINITIONS

The following definitions are used through this contract:

- 1.4.1 "Audit(s)" means the examination of the books and records of a Holder, wherein the Contractor takes physical custody of or obtains access to the Holder's records, either on-site or off-site, and performs a physical examination of such records to determine whether the Holder is in compliance with reporting and remitting all unclaimed property to the State.
- 1.4.2 "Entity Affiliated with the Contractor" means any person or entity related to the Contractor under section 267 or 1563 of the Internal Revenue Code.
- 1.4.3 "Contract Administrator" means the individual from the Wisconsin Department of Revenue responsible for managing this contract.
- 1.4.4 "Contractor" means each entity which is awarded a contract.
- 1.4.5 "Custodian" means the entity that has been designated by the Contractor to serve as repository for the unclaimed property until delivery to the State.
- 1.4.6 "Holder(s)" as defined under Wis. Stat. § 177.01(8), means an individual, business association, government, governmental subdivision, instrumentality, agency, public corporation, estate, or any other legal entity obligated to hold property subject to Chapter 177 of the Wisconsin Statutes for the account of, or to deliver or pay to, the owner of property.
- 1.4.7 "Past Due Property" means unclaimed property that has reached its dormancy period and has not been reported to and remitted to the State as required by Chapter 177 of the Wisconsin Statutes.
- 1.4.8 "State" means the State of Wisconsin.

1.5 CONTRACT ADMINISTRATOR CONTACT INFORMATION

Amber Herman
Revenue Management Supervisor
Nexus Unit B
Wisconsin Department of Revenue
Ph: (608) 261-5826
Fax: (608)-266-5464
amber.herman@wisconsin.gov

Postal Address:
PO Box 8906
Madison, WI 53708-8906

Street Address:
2135 Rimrock Road, Mail Stop 2-233
Madison, WI 53713-1443

Upon written notification to the Contractor, the Wisconsin Department of Revenue, in its sole discretion, may change the Contract Administrator at any time it deems necessary.

2.0 FEE FOR SERVICE AND COSTS

2.1 FEE AMOUNT

Except as provided in Section 2.3, the monetary compensation for services rendered and costs incurred by the Contractor in the performance of the Audits under the terms and conditions of this contract shall be twelve percent (12%) of the value of Past Due Property, as defined above, reported and remitted to the State during the term of the contract ("Fee"). This Fee serves as full and complete compensation for all work performed during the Audit process, including the collection and review of books and records, the preparation of the owner reports submitted to the State, any fees or costs for handling and transmitting of Past Due Property and the disbursement of the Past Due Property to the State.

For the purposes of this contract, the value of the Past Due Property does not include any interest or penalties applicable thereto and shall be determined as follows:

- 2.1.1 If cash, the cash value of the property.
- 2.1.2 If securities, the closing price of the security traded on an exchange within three (3) business days of the date the property is registered to the State or received in the State's securities custodian account.
- 2.1.3 If securities traded over the counter, the bid price within three (3) business days of the date the security is registered to the State or received in the State's securities custodian account.
- 2.1.4 If an unlisted security or other personal property without a listed value, the generally accepted valuation method applicable to such property. In the

event that there are multiple generally accepted valuation methods, the State shall solely determine which generally accepted valuation method is chosen and used for purposes of this section and contract.

2.2 CONDITIONS FOR PAYMENT OF FEE

2.2.1 No Fee shall be paid under this contract until all of the following are provided to the State:

2.2.1.1 The Audit report described in Section 3.3.2;

2.2.1.2 The property report described in Section 3.3.3; and

2.2.1.3 Remittance of the Past Due Property found in the Audit to the State.

2.2.2 No Fee shall be paid under this contract if required approval for an Audit was not granted by the State.

2.2.3 The Contractor will be compensated only on Past Due Property and will not be compensated on current or future property due. The Contractor will not be compensated for property delivered for an approved Audit if it is determined that the Contractor delayed the delivery to cause the property to become past due.

2.3 PARTIAL AUDITS

2.3.1 In cases where a Contractor begins an Audit but ceases work on the Audit at the Contract Administrator's request or the contract expires or is terminated before the Audit is complete, the fee shall be based on the lesser of:

2.3.1.1 The value of Past Due Property, as defined in Section 2.1, identified by the Contractor before ceasing to work on the Audit and delivered to the State by the Holder, or

2.3.1.2 The value of past Due Property, as defined in Section 2.1, delivered by the Holder multiplied by a ratio, the numerator of which is the Contractor's hours spent on the Audit and the denominator of which is the total hours spent on the Audit by both the Contractor and the Wisconsin Department of Revenue.

2.3.2 In cases where a Contractor begins an Audit but ceases work on the Audit because the Holder voluntarily delivers the Past Due Property before the Audit is complete, the fee shall be based on the net value of Past Due Property identified by the Contractor before ceasing to work on the Audit, as evidenced in the Contractor's Audit workpapers.

2.3.3 No Fee shall be paid unless the Past Due Property is delivered to the State by the Holder.

3.0 SPECIAL CONTRACT TERMS AND CONDITIONS

3.1 AUDIT AUTHORIZATION

- 3.1.1 The Contractor shall submit a written request to the State and must receive specific written authorization from the Contract Administrator to conduct an Audit of a Holder before commencing the Audit on the State's behalf.
- 3.1.2 The Contractor shall include the following information in its authorization request to the State:
 - 3.1.2.1 Names, Federal Employer Identification Numbers or Social Security Numbers (if applicable), and the state of incorporation of all Holders to be Audited including subsidiaries and any affiliated companies whether or not they are subject to the Audit;
 - 3.1.2.2 Address (physical and mailing), contact person, and telephone number of the Holder's principal place of business and, if applicable, of the Holder's transfer agent;
 - 3.1.2.3 Description of proposed scope of the Audit, including the property types and time period of the books and records to be examined;
 - 3.1.2.4 Description of the Holder's business activity which gives rise to potential unclaimed property owed to the State, including any known information about the Holder's business activities within the State or activities performed on behalf of customers in the State;
 - 3.1.2.5 Name of state which initially requested the Audit and the number of states which have already authorized the Audit; and
 - 3.1.2.6 Certification that neither the Contractor nor any affiliate of the Contractor has had a business relationship with regards to reporting, remitting, or processing unclaimed property for the Holder.
- 3.1.3 The State, in its sole discretion, may deny any Audit request.

3.2 AUDIT

- 3.2.1 After receipt of the written authorization letter from the State, the Contractor shall schedule an opening conference with the Holder within ninety (90) days of the State's authorization letter.
- 3.2.2 At the opening conference, the Contractor shall identify, in writing, the Contract Administrator to whom the Contractor is accountable, including his or her name, title, address, telephone number, and e-mail address, and advise the Holder's representatives that they are free to discuss the Audit directly with the Contract Administrator at any time.
- 3.2.3 The Audit of the Holder's books and records shall be completed within one (1) year from the date of the State's authorization letter, unless there are extenuating circumstances that are entirely beyond the control and management of the Contractor which are communicated in writing to the Contract Administrator at least 30 days before the expiration of the Audit period or as soon as practicable if not known 30 days before the expiration.

- 3.2.4 Contractor must have prior written approval from the State to conduct any estimate or sample used in any Audit. Contractor must present documentation as to the necessity, method, and procedure of any proposed estimate or sample as well as the method of apportionment to other states or parties. Statistical sampling to estimate the Holder's liability may not be used unless the Holder consents to the use of an estimate.
- 3.2.5 Contractor must assume a reasonable amount of Audit risk so as not to require the Holder to refute assertions that are only remotely possible.
- 3.2.6 Contractor, upon completion of the Audit, must instruct the Holder, and Holder's agent, if applicable, to file all future reports directly with the State pursuant to the requirements of Chapter 177 of the Wisconsin Statutes.
- 3.2.7 Contractor shall document the Audits it performs on behalf of the State consistent with industry standards and make the working papers gathered during the Audit available on demand for review by the State. Such working papers shall include planning information, correspondence and conference notes, description of books and records requested and reviewed, and any calculations, statistical analyses, and summarizations.

3.3 REPORTING

- 3.3.1 The Contractor shall prepare and submit monthly work-in-progress reports to the Contract Administrator on each Audit being conducted on behalf of the State. The reports shall, at minimum, include the following information:
 - 3.3.1.1 Name of Holder;
 - 3.3.1.2 Holder's Federal Employer Identification Number or Social Security Number;
 - 3.3.1.3 Date of opening conference with the Holder;
 - 3.3.1.4 Date of last contact with the Holder;
 - 3.3.1.5 Status of the Audit; and
 - 3.3.1.6 Any relevant comments regarding any unusual circumstances surrounding the Audit, difficulties encountered, or difficulties anticipated during the Audit process.
- 3.3.2 Upon completion of an Audit, the Contractor shall prepare and provide to the Contract Administrator a comprehensive and accurate Audit report that, at a minimum, includes:
 - 3.3.2.1 Name and Federal Employer Identification Number or Social Security Number of Holder;
 - 3.3.2.2 A listing of the property types with the amounts to be reported for each;

- 3.3.2.3 A total of the amounts to be reported;
- 3.3.2.4 A narrative summarizing the scope of the Audit, including records reviewed and periods covered;
- 3.3.2.5 Written certification, signed by the Holder, that due diligence was performed pursuant to Chapter 177 of the Wisconsin Statutes; and
- 3.3.2.6 Written certification, signed by the Contractor, that the Contractor determined the Holder's liability through the Contractor's examination of the Holder's books and records and not through reliance on the books, records, or reports of a third party.

3.3.3 Pursuant to the findings of an Audit, the Contractor shall report all Past Due Property electronically using the NAUPA (National Association of Unclaimed Property Administrators) format which shall include at a minimum:

- 3.3.3.1 Name/address of Holder(s);
- 3.3.3.2 Federal Employer Identification Number or Social Security Number of Holder;
- 3.3.3.3 Name/address of owner of unclaimed property;
- 3.3.3.4 Social security number or Federal Tax Identification Number of owner;
- 3.3.3.5 Owner account number;
- 3.3.3.6 Class of security;
- 3.3.3.7 CUSIP (Committee on Uniform Security Identification Procedures) number;
- 3.3.3.8 Description of property;
- 3.3.3.9 Maturity date and accrued interest;
- 3.3.3.10 Date of last account activity;
- 3.3.3.11 Accrued dividends;
- 3.3.3.12 Market value of transfer of registration to Wisconsin;
- 3.3.3.13 Total cash received;
- 3.3.3.14 Total property received by Contractor; and
- 3.3.3.15 Fee(s) due.

3.3.4 The State shall review the Contractor's Audit report prepared under Section 3.3.2 and Past Due Property electronic report under Section 3.3.3. After the State's review of the Contractor's work and findings, the State shall make a final determination regarding the unclaimed property that is reportable to the State under the Wisconsin Uniform Unclaimed Property Act (Chapter 177 of the Wisconsin Statutes). The Contractor acknowledges and agrees that it only makes recommendations to the State and the State makes all final decisions regarding what property, if any, is legally reportable to the State under the Wisconsin Uniform Unclaimed Property Act (Chapter 177 of the Wisconsin Statutes).

DELIVERY OF PROPERTY

3.4

At the conclusion of the Audit, the State shall demand the Past Due Property directly from the Holder pursuant to the findings of the Audit.

3.5

ACKNOWLEDGEMENTS

The Contractor acknowledges and agrees to the following:

3.5.1 In performing services under this contract, Contractor shall not Audit any entity with whom Contractor, or any entity affiliated with the Contractor, has a current agreement or has had a prior agreement to represent the entity, or any related affiliate of the entity, in any capacity, including the filing of unclaimed property reports, Audit defense, consulting, or any other professional services or activity that could be construed as being in conflict with the work for the State under this contract. Contractor shall immediately notify the Contract Administrator, identified under Section 1.5, with information of any relationship it had and/or has with a Holder. The State will then make a determination whether or not a conflict of interest exists.

3.5.2 The Contractor and its staff, and any entity affiliated with the Contractor and its staff, are prohibited from soliciting, accepting, contracting for, or receiving compensation any form or manner from any Holder for whom the Contractor has received the State's authorization to conduct an Audit within one (1) year from the date of the State's authorization or the date the Audit is complete, whichever is later. For purposes of this section, the Audit is not complete until the State accepts the Audit report, property report, and remittance of the Past Due Property found in the Audit.

3.5.3 The Contractor, and any entity affiliated with the Contractor, are prohibited from engaging or entering into a contract with a potential unclaimed property owner, identified during an Audit of the Holder's books and records, for a fee.

4.0 CONFIDENTIALITY

Contractor agrees to maintain in confidence and not disclose any confidential information as provided in the Unclaimed Property Third-Party Auditor Confidentiality & Non-Disclosure Agreement ("Confidentiality Agreement"), which is attached and incorporated into this Contract. Contractor acknowledges the requirements under Subchapter XIV of Chapter 177 of the Wisconsin Statutes and agrees that it must strictly comply with the terms and conditions set forth in the Confidentiality Agreement.

5.0 PRIME CONTRACTOR AND MINORITY BUSINESS SUBCONTRACTORS

The State of Wisconsin's policy provides that minority owned business enterprises certified by the Wisconsin Department of Administration, Office of Minority Business Program should have the maximum opportunity to participate in the performance of its contracts. The Contractor is strongly urged to use due diligence to further this policy by awarding subcontracts to minority owned business enterprises, or by using such enterprises to provide goods and services incidental to this requested service or contract, with a goal of awarding at least 5% of the award amount of this request for bid to such enterprises.

A listing of certified minority businesses, as well as the services and commodities they provide, is available from the Department of Administration, WI Supplier Diversity Program at [WISDP Home](#). Contact Information: WI Supplier Diversity Program, Department of Administration, PO Box 7970, Madison, WI 53707-7970.

6.0 RESPONSIBILITY OF SUBCONTRACTORS

The Contractor will be responsible for contract performance when subcontractors are used. If the Contractor agrees with any subcontractor(s) to perform any services arising out of or relating to this contract, the agreement between the Contractor and any subcontractor(s) shall incorporate all the terms and conditions of this contract. If subcontractors are to be used, the Contractor must clearly explain the scope and nature of their activities and responsibilities.

7.0 EXECUTED CONTRACT TO CONSTITUTE ENTIRE AGREEMENT

In the event of contract award, the contents of this contract, including all attachments, addenda and revisions, and the proposal of the Contractor, and additional terms agreed to, in writing, by the State and the Contractor shall become part of the contract.

8.0 TERMINATION OF CONTRACT

The State reserves the right to terminate this contract, without cause, by giving thirty (30) days written notice to Contractor. Contractor shall discontinue Audit services action as of the contract termination date and shall be entitled to receive a fee, as prescribed under section 2.3.1, for work completed before the contract termination date.

Contractor may terminate this contract, without cause, with sixty (60) days written notice to the Contract Administrator. Upon termination, the State's liability will be limited to the fee, as prescribed under section 2.3.1, for work completed before the contract termination date.

LIMITATION OF LIABILITY

9.0

Except with respect to a breach of confidentiality, neither party will be responsible for indirect, consequential, punitive, or exemplary damages. Kelmar Associates LLC liability shall be based only on Kelmar Associates LLC negligent acts or omissions, or willful misconduct and Kelmar Associates LLC total aggregate liability shall not exceed the amount of its annual revenue under the contract, except with respect to a breach of confidentiality.

10. GOVERNING LAW AND VENUE

This contract shall be governed by and construed and enforced in accordance with the laws of the State of Wisconsin, without regard to principles of conflicts of law. Each of the parties hereto irrevocably and unconditionally agree to submit to the exclusive jurisdiction of the federal or state courts located in Dane County, Wisconsin for any actions, suits or proceedings arising out of or relating to this contract.

Standard Terms and Conditions (Request for Bids / Proposals)

- 1.0 SPECIFICATIONS:** The specifications in this request are the minimum acceptable. When specific manufacturer and model numbers are used, they are to establish a design, type of construction, quality, functional capability and/or performance level desired. When alternates are bid/proposed, they must be identified by manufacturer, stock number, and such other information necessary to establish equivalency. The State of Wisconsin shall be the sole judge of equivalency. Bidders/proposers are cautioned to avoid bidding alternates to the specifications which may result in rejection of their bid/proposal.
- 2.0 DEVIATIONS AND EXCEPTIONS:** Deviations and exceptions from original text, terms, conditions, or specifications shall be described fully, on the bidder's/proposer's letterhead, signed, and attached to the request. In the absence of such statement, the bid/proposal shall be accepted as in strict compliance with all terms, conditions, and specifications and the bidders/proposers shall be held liable.
- 3.0 QUALITY:** Unless otherwise indicated in the request, all material shall be first quality. Items which are used, demonstrators, obsolete, seconds, or which have been discontinued are unacceptable without prior written approval by the State of Wisconsin.
- 4.0 QUANTITIES:** The quantities shown on this request are based on estimated needs. The state reserves the right to increase or decrease quantities to meet actual needs.
- 5.0 DELIVERY:** Deliveries shall be F.O.B. destination freight prepaid and included unless otherwise specified.
- 6.0 PRICING AND DISCOUNT:** The State of Wisconsin qualifies for governmental discounts and its educational institutions also qualify for educational discounts. Unit prices shall reflect these discounts.

 - 6.1** Unit prices shown on the bid/proposal or contract shall be the price per unit of sale (e.g., gal., cs., doz., ea.) as stated on the request or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price, the unit price shall govern in the bid/proposal evaluation and contract administration.
 - 6.2** Prices established in continuing agreements and term contracts may be lowered due to general market conditions, but prices shall not be subject to increase for ninety (90) calendar days from the date of award. Any increase proposed shall be submitted to the contracting agency thirty (30) calendar days before the proposed effective date of the price increase and shall be limited to fully documented cost increases to the contractor which are demonstrated to be industrywide. The conditions under which price increases may be granted shall be expressed in bid/proposal documents and contracts or agreements.
 - 6.3** In determination of award, discounts for early payment will only be considered when all other conditions are equal and when payment terms allow at least fifteen (15) days, providing the discount terms are deemed favorable. All payment terms must allow the option of net thirty (30).
- 7.0 UNFAIR SALES ACT:** Prices quoted to the State of Wisconsin are not governed by the Unfair Sales Act.
- 8.0 ACCEPTANCE-REJECTION:** The State of Wisconsin reserves the right to accept or reject any or all bids/proposals, to waive any technicality in any bid/proposal submitted, and to accept any part of a bid/proposal as deemed to be in the best interests of the State of Wisconsin.

Bids/proposals MUST be date and time stamped by the soliciting purchasing office on or before the date and time that the bid/proposal is due. Bids/proposals date and time stamped in another office will be rejected. Receipt of a bid/proposal by the mail system does not constitute receipt of a bid/proposal by the purchasing office.
- 9.0 METHOD OF AWARD:** Award shall be made to the lowest responsible, responsive bidder unless otherwise specified.
- 10.0 ORDERING:** Purchase orders or releases via purchasing cards shall be placed directly to the contractor by an authorized agency. No other purchase orders are authorized.
- 11.0 PAYMENT TERMS AND INVOICING:** The State of Wisconsin normally will pay properly submitted vendor invoices within thirty (30) days of receipt providing goods and/or services have been delivered, installed (if required), and accepted as specified.

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

A good faith dispute creates an exception to prompt payment.
- 12.0 TAXES:** The State of Wisconsin and its agencies are exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below.

The State of Wisconsin, including all its agencies, is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on its purchases. The State of Wisconsin may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Contractors performing construction activities are required to pay state use tax on the cost of materials.
- 13.0 GUARANTEED DELIVERY:** Failure of the contractor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the contractor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include the administrative costs.
- 14.0 ENTIRE AGREEMENT:** These Standard Terms and Conditions shall apply to any contract or order awarded as a result of this request except where special requirements are stated elsewhere in the request; in such cases, the special requirements shall apply. Further, the written

contract and/or order with referenced parts and attachments shall constitute the entire agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the contracting authority.

- 15.0 APPLICABLE LAW AND COMPLIANCE:** This contract shall be governed under the laws of the State of Wisconsin. The contractor shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct. The State of Wisconsin reserves the right to cancel this contract if the contractor fails to follow the requirements of s. 77.66, Wis. Stats., and related statutes regarding certification for collection of sales and use tax. The State of Wisconsin also reserves the right to cancel this contract with any federally debarred contractor or a contractor that is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.
- 16.0 ANTITRUST ASSIGNMENT:** The contractor and the State of Wisconsin recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Wisconsin (purchaser). Therefore, the contractor hereby assigns to the State of Wisconsin any and all claims for such overcharges as to goods, materials or services purchased in connection with this contract.
- 17.0 ASSIGNMENT:** No right or duty in whole or in part of the contractor under this contract may be assigned or delegated without the prior written consent of the State of Wisconsin.
- 18.0 WORK CENTER CRITERIA:** A work center must be certified under s. 16.752, Wis. Stats., and must ensure that when engaged in the production of materials, supplies or equipment or the performance of contractual services, not less than seventy-five percent (75%) of the total hours of direct labor are performed by severely handicapped individuals.
- 19.0 NONDISCRIMINATION / AFFIRMATIVE ACTION:** In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation as defined in s. 111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities.
- 19.1** Contracts estimated to be over fifty thousand dollars (\$50,000) require the submission of a written affirmative action plan by the contractor. An exemption occurs from this requirement if the contractor has a workforce of less than fifty (50) employees. Within fifteen (15) working days after the contract is awarded, the contractor must submit the plan to the contracting state agency for approval. Instructions on preparing the plan and technical assistance

regarding this clause are available from the contracting state agency.

- 19.2** The contractor agrees to post in conspicuous places, available for employees and applicants for employment, a notice to be provided by the contracting state agency that sets forth the provisions of the State of Wisconsin's nondiscrimination law.
- 19.3** Failure to comply with the conditions of this clause may result in the contractor's becoming declared an "ineligible" contractor, termination of the contract, or withholding of payment.
- 19.4** Pursuant to s. 16.75(10p), Wis. Stats., contractor agrees it is not, and will not for the duration of the contract, engage in a prohibited boycott of the State of Israel as defined in s. 20.931(1)(b). State agencies and authorities may not execute a contract and reserve the right to terminate an existing contract with a company that is not compliant with this provision. This provision applies to contracts valued \$100,000 or over.
- 19.5** Pursuant to 2019 Wisconsin Executive Order 1, 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.
- 20.0 PATENT INFRINGEMENT:** The contractor selling to the State of Wisconsin the articles described herein guarantees the articles were manufactured or produced in accordance with applicable federal labor laws. Further, that the sale or use of the articles described herein will not infringe any United States patent. The contractor covenants that it will at its own expense defend every suit which shall be brought against the State of Wisconsin (provided that such contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits recoverable in any such suit.
- 21.0 SAFETY REQUIREMENTS:** All materials, equipment, and supplies provided to the State of Wisconsin must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code and all applicable OSHA Standards.
- 22.0 WARRANTY:** Unless otherwise specifically stated by the bidder/proposer, equipment purchased as a result of this request shall be warranted against defects by the bidder/proposer for one (1) year from date of receipt. The equipment manufacturer's standard warranty shall apply as a minimum and must be honored by the contractor.
- 23.0 INSURANCE RESPONSIBILITY:** The contractor performing services for the State of Wisconsin shall:
- 23.1** Maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in the work.
- 23.2** Maintain commercial liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out this agreement/contract. Minimum coverage shall be one million dollars (\$1,000,000) liability for bodily injury and property

damage including products liability and completed operations. Provide motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this contract. Minimum coverage shall be one million dollars (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.

- 23.3** The state reserves the right to require higher or lower limits where warranted.
- 24.0 CANCELLATION:** The State of Wisconsin reserves the right to cancel any contract in whole or in part without penalty due to nonappropriation of funds or for failure of the contractor to comply with terms, conditions, and specifications of this contract.
- 25.0 VENDOR TAX DELINQUENCY:** Vendors who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.
- 26.0 PUBLIC RECORDS ACCESS:** It is the intention of the state to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Bid/proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract. Pursuant to §19.36 (3), Wis. Stats., all records of the contractor that are produced or collected under this contract are subject to disclosure pursuant to a public records request. Upon receipt of notice from the State of Wisconsin of a public records request for records produced or collected under this contract, the contractor shall provide the requested records to the contracting agency. The contractor, following final payment, shall retain all records produced or collected under this contract for six (6) years.
- 27.0 PROPRIETARY INFORMATION:** Any restrictions on the use of data contained within a request, must be clearly stated in the bid/proposal itself. Proprietary information submitted in response to a request will be handled in accordance with applicable State of Wisconsin procurement regulations and the Wisconsin public records law. Proprietary restrictions normally are not accepted. However, when accepted, it is the vendor's responsibility to defend the determination in the event of an appeal or litigation.
- 27.1** Data contained in a bid/proposal, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data, documentation, and innovations become the property of the State of Wisconsin.
- 27.2** Any material submitted by the vendor in response to this request that the vendor considers confidential and proprietary information, and which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or material which can be kept confidential under the Wisconsin public records law, must be identified on a Designation of Confidential and Proprietary Information form (DOA-3027). Bidders/proposers may request the form if it is not part of the Request for Bid/Request for Proposal package. Bid/proposal prices cannot be held confidential.
- 28.0 DISCLOSURE:** If a state public official (s. 19.42, Wis. Stats.), a member of a state public official's immediate family, or any organization in which a state public official or

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

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

- 29.0 RECYCLED MATERIALS:** The State of Wisconsin is required to purchase products incorporating recycled materials whenever technically and economically feasible. Bidders are encouraged to bid products with recycled content which meet specifications.
- 30.0 MATERIAL SAFETY DATA SHEET:** If any item(s) on an order(s) resulting from this award(s) is a hazardous chemical, as defined under 29CFR 1910.1200, provide one (1) copy of a Material Safety Data Sheet for each item with the shipped container(s) and one (1) copy with the invoice(s).
- 31.0 PROMOTIONAL ADVERTISING / NEWS RELEASES:** Reference to or use of the State of Wisconsin, any of its departments, agencies or other subunits, or any state official or employee for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the State of Wisconsin. Release of broadcast e-mails pertaining to this procurement shall not be made without prior written authorization of the contracting agency.
- 32.0 HOLD HARMLESS:** The contractor will indemnify and save harmless the State of Wisconsin and all of its officers, agents and employees from all suits, actions, or claims of any character brought for or on account of any injuries or damages received by any persons or property resulting from the operations of the contractor, or of any of its contractors, in prosecuting work under this agreement.
- 33.0 FOREIGN CORPORATION:** A foreign corporation (any corporation other than a Wisconsin corporation) which becomes a party to this Agreement is required to conform to all the requirements of Chapter 180, Wis. Stats., relating to a foreign corporation and must possess a certificate of authority from the Wisconsin Department of Financial Institutions, unless the corporation is transacting business in interstate commerce or is otherwise exempt from the requirement of obtaining a certificate of authority. Any foreign corporation which desires to apply for a certificate of authority should contact the Department of Financial Institutions, Division of Corporation, P. O. Box 7846, Madison, WI 53707-7846; telephone (608) 261-7577.
- 34.0 WORK CENTER PROGRAM:** The successful bidder/proposer shall agree to implement processes that allow the State agencies, including the University of Wisconsin System, to satisfy the State's obligation to purchase goods and services produced by work centers certified under the State Use Law, s.16.752, Wis. Stat. This shall result in requiring the successful bidder/proposer to include products provided by work centers in its catalog for State agencies and campuses or to block the sale of comparable items to State agencies and campuses.

DOA-3054

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

State of Wisconsin
 Department of Administration
 Division of Enterprise Operations
 DOA-3681 (1/2017)
 ss. 16, 19 and 51, Wis. Stats.



State Bureau of Procurement
 101 East Wilson Street, 6th Floor
 Post Office Box 7867
 Madison, WI 53707-7867
 FAX (608) 267-0600
<http://vendornet.state.wi.us>

Supplemental Standard Terms and Conditions for Procurements for Services

- 1.0 ACCEPTANCE OF BID/PROPOSAL CONTENT:** The contents of the bid/proposal of the successful contractor will become contractual obligations if procurement action ensues.
- 2.0 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION:** By signing this bid/proposal, the bidder/proposer certifies, and in the case of a joint bid/proposal, each party thereto certifies as to its own organization, that in connection with this procurement:
- 2.1** The prices in this bid/proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder/proposer or with any competitor;
- 2.2** Unless otherwise required by law, the prices which have been quoted in this bid/proposal have not been knowingly disclosed by the bidder/proposer and will not knowingly be disclosed by the bidder/proposer prior to opening in the case of an advertised procurement or prior to award in the case of a negotiated procurement, directly or indirectly to any other bidder/proposer or to any competitor; and
- 2.3** No attempt has been made or will be made by the bidder/proposer to induce any other person or firm to submit or not to submit a bid/proposal for the purpose of restricting competition.
- 2.4** Each person signing this bid/proposal certifies that: He/she is the person in the bidder's/proposer's organization responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to 2.1 through 2.3 above; (or)
- He/she is not the person in the bidder's/proposer's organization responsible within that organization for the decision as to the prices being offered herein, but that he/she has been authorized in writing to act as agent for the persons responsible for such decisions in certifying that such persons have not participated, and will not participate in any action contrary to 2.1 through 2.3 above, and as their agent does hereby so certify; and he/she has not participated, and will not participate, in any action contrary to 2.1 through 2.3 above.
- 3.0 DISCLOSURE OF INDEPENDENCE AND RELATIONSHIP:**
- 3.1** Prior to award of any contract, a potential contractor shall certify in writing to the procuring agency that no relationship exists between the potential contractor and the procuring or contracting agency that interferes with fair competition or is a conflict of interest, and no relationship exists between the contractor and another person or organization that constitutes a conflict of interest with respect to a state contract. The Department of Administration may waive this provision,
- in writing, if those activities of the potential contractor will not be adverse to the interests of the state.
- 3.2** Contractors shall agree as part of the contract for services that during performance of the contract, the contractor will neither provide contractual services nor enter into any agreement to provide services to a person or organization that is regulated or funded by the contracting agency or has interests that are adverse to the contracting agency. The Department of Administration may waive this provision, in writing, if those activities of the contractor will not be adverse to the interests of the state.
- 4.0 DUAL EMPLOYMENT:** Section 16.417, Wis. Stats., prohibits an individual who is a State of Wisconsin employee or who is retained as a contractor full-time by a State of Wisconsin agency from being retained as a contractor by the same or another State of Wisconsin agency where the individual receives more than \$12,000 as compensation for the individual's services during the same year. This prohibition does not apply to individuals who have full-time appointments for less than twelve (12) months during any period of time that is not included in the appointment. It does not include corporations or partnerships.
- 5.0 EMPLOYMENT:** The contractor will not engage the services of any person or persons now employed by the State of Wisconsin, including any department, commission or board thereof, to provide services relating to this agreement without the written consent of the employing agency of such person or persons and of the contracting agency.
- 6.0 CONFLICT OF INTEREST:** Private and non-profit corporations are bound by ss. 180.0831, 180.1911(1), and 181.0831 Wis. Stats., regarding conflicts of interests by directors in the conduct of state contracts.
- 7.0 RECORDKEEPING AND RECORD RETENTION:** The contractor shall establish and maintain adequate records of all expenditures incurred under the contract. All records must be kept in accordance with generally accepted accounting procedures. All procedures must be in accordance with federal, state and local ordinances.
- The contracting agency shall have the right to audit, review, examine, copy, and transcribe any pertinent records or documents relating to any contract resulting from this bid/proposal held by the contractor.
- It is the intention of the state to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Bid/proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract. Pursuant to §19.36 (3), Wis. Stats., all records of the contractor that are produced or collected under this contract are subject to disclosure pursuant to a public records request. Upon receipt of notice from the State of Wisconsin of a public records request for records produced or collected under this contract, the contractor shall

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

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

January 27, 2023

Unclaimed Property Third-Party Auditor Confidentiality & Non-Disclosure Agreement

In consideration for contracting with the State of Wisconsin, Department of Revenue ("State"), the undersigned ("Contractor") agrees to the following:

1. Definitions.

- a. "Audit" means the examination of the books and records of a Holder to determine whether the Holder is in compliance with reporting and remitting all unclaimed property to the State.
- b. "Holder", as defined under Wis. Stat. § 177.01(8), means an individual, business association, government, governmental subdivision, instrumentality, agency, public corporation, estate, or any other legal entity obligated to hold property subject to Chapter 177 of the Wisconsin Statutes for the account of, or to deliver or pay to, the owner of property.
- c. "Confidential Information" means information defined as personal or confidential under Wis. Stats. §§ 177.1401 and 177.1402.

2. Purpose. The purpose of the Agreement is to protect Confidential Information that may be obtained, either intentionally or inadvertently, or examined by Contractor from a Holder or State during an Audit. Holders may possess or examine Confidential Information, which must be protected from unauthorized use and disclosure.

3. Applicable Confidential Information Statutes. Contractor acknowledges and agrees that it is bound by the requirements under Wis. Stats. §§ 177.1401 - 177.1403 (Subchapter XIV of Chapter 177 of the Wisconsin Statutes). Contractor understands that any violation may be criminally prosecuted.

4. Non-Disclosure. Contractor agrees to maintain in confidence any Confidential Information and acknowledge the requirements under Subchapter XIV of Chapter 177 of the Wisconsin Statutes, and that without the State's prior written consent, Contractor will not:

- a. disclose Confidential Information to any third party;
- b. make or permit to be made copies or other reproductions of Confidential Information;
- c. make any commercial use of the Confidential Information, other than in performing Audits for the State; and
- d. disclose Confidential Information to any employee, agent or representative of Contractor who does not meet the requirements of paragraph 6 below.

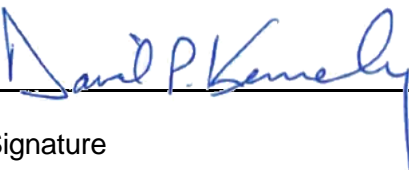
5. Use of Confidential Information: Contractor shall make use of Confidential Information only for the purpose of performing Audits for the State.

6. Contractor's Employees: Contractor will not disclose Confidential Information to its employees unless:

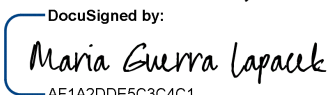
- a. they have a need to know the information in connection with their duties with respect to the purpose of performing Audits; and
- b. they are informed of the terms of this Nondisclosure Agreement, are instructed to abide by the terms of this Nondisclosure Agreement.

- 7. Upon Conclusion of Contract:** Contractor shall return all materials containing Confidential Information, and any copies, notes, or other documents in Contractor’s possession pertaining to Confidential Information, to the Holder. Contractor shall provide written confirmation of the destruction of any and all electronic files containing Confidential Information either obtained or created in performance of Audits.
- 8. Term of Agreement.** Contractor’s duty to hold Confidential Information in confidence shall remain in effect if state laws requiring confidentiality and nondisclosure of Confidential Information are in effect.
- 9. No Rights Granted.** Contractor understands and agrees that its contract with the State does not constitute a grant or an intention or commitment to grant any right, title, or interest in the Confidential Information to Contractor.
- 10. Notice of Breach.** If Contractor discloses Confidential Information to an unauthorized third-party or there is a data breach of Contractor in which Confidential Information is or may be disclosed, Contractor shall notify the State and Holder of the disclosure or breach within twenty-four (24) hours.
- 11. Attorney Fees.** If any legal action arises relating to this Nondisclosure Agreement, the prevailing party shall be entitled to recover all court costs, expenses, and reasonable attorney fees.
- 12. Modifications.** All additions or modifications to this Nondisclosure Agreement must be made in writing and must be signed by both parties to be effective.
- 13. No Agency.** This Nondisclosure Agreement does not create any agency or partnership relationship between the parties.
- 14. Applicable Law.** This Nondisclosure Agreement is made under the State of Wisconsin, and shall be construed according to the laws of the State of Wisconsin.

CONTRACTOR: Kelmar Associates, LLC

By: <u></u>	<u>General Counsel & Member</u>
Signature	Title
<u>David P. Kennedy</u>	<u>July 12, 2024</u>
Printed Name	Date

STATE OF WISCONSIN, DEPARTMENT OF REVENUE

By: <u></u>	<u>Deputy Secretary</u>
Signature	Title
<u>Maria Guerra Lapacek</u>	<u>7/18/2024 10:00 AM CDT</u>
Printed Name	Date