

**PROPOSALS MUST BE SEALED AND ADDRESSED TO:**

**AGENCY ADDRESS:**

Department of Health & Family Services  
 Division of Long Term Care  
 Bureau of Long Term Support  
 1 West Wilson St  
 P.O. Box 7851  
 Madison, WI 53707-7851

**REQUEST FOR PROPOSAL**

**THIS IS NOT AN ORDER**

PROPOSER (Name and Address)

Remove from proposer list for this commodity/service. (Return this page only.)

Proposal envelope must be sealed and plainly marked in lower corner with due date and Request for Proposal #1623-DLTC-BC. Late proposals will be rejected. Proposals MUST be date and time stamped by the soliciting purchasing office on or before the date and time that the proposal is due. Proposals dated and time stamped in another office will be rejected. Receipt of a proposal by the mail system does not constitute receipt of a proposal by the purchasing office. Any proposal which is inadvertently opened as a result of not being properly and clearly marked is subject to rejection. Proposals must be submitted separately, i.e., not included with sample packages or other proposals. Proposal openings are public unless otherwise specified. Records will be available for public inspection after issuance of the notice of intent to award or the award of the contract. Proposer should contact person named below for an appointment to view the proposal record. Proposals shall be firm for acceptance for sixty (60) days from date of proposal opening, unless otherwise noted. The attached terms and conditions apply to any subsequent award.

Proposals MUST be in this office no later than <b>2:00 PM CST Friday, April 4, 2008</b>	Public Opening <input type="checkbox"/> No Public Opening <b>XX</b>
--	--

Name (Contact for further information) Bernadette Connolly	
Phone (608) 266-1138	Date Wednesday, February 20, 2008

**FAXED PROPOSALS ARE NOT ACCEPTED**

Description

**Self Directed Supports Waiver Program  
 for the Division of Long Term Care, Bureau of Long Term Support  
 INDEPENDENT CONSULTANT AGENCY**

**RFP #1623-DLTC-BC**

**Issued by the State of Wisconsin  
 Department of Health & Family Services  
 Division of Long Term Care  
 On February 20, 2008**

**Proposals must be submitted no later than 2:00p.m. CST  
 on  
 Friday, April 4, 2008**

**LATE PROPOSALS WILL BE REJECTED**

**Payment Terms:**

**Delivery Time:**

We claim minority bidder preference [Wis. Stats. s. 16.75(3m)]. Under Wisconsin Statutes, a 5% preference may be granted to CERTIFIED Minority Business Enterprises. Bidder must be certified by the Wisconsin Department of Commerce. If you have questions concerning the certification process, contact the Wisconsin Department of Commerce, 5th Floor, 201 W. Washington Ave., Madison, Wisconsin 53702, (608) 267-9550.

We are a work center qualified under Wis. Stats. s. 16.752. Questions concerning the qualification process should be addressed to the Work Center Program, State Bureau of Procurement, 6th Floor, 101 E. Wilson St., Madison, Wisconsin 53702, (608) 266-2605.

Wis. Stats. s. 16.754 directs the state to purchase materials which are manufactured to the greatest extent in the United States when all other factors are substantially equal. Materials covered in our bid were manufactured in whole or in substantial part within the United States, or the majority of the component parts thereof were manufactured in whole or in substantial part in the United States.

Yes  No  Unknown

In signing this proposal we also certify that we have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a proposal; that this proposal has been independently arrived at without collusion with any other proposer, competitor or potential competitor; that this proposal has not been knowingly disclosed prior to the opening of proposals to any other proposer or competitor; that the above statement is accurate under penalty of perjury.

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

Name of Authorized Company Representative (Type or Print)	Title	Phone ( )
		Fax ( )
Signature of Above	Date	e-mail:

## TABLE OF CONTENTS

- 1.0 GENERAL INFORMATION
  - 1.1 Introduction and Background
  - 1.2 Project Scope
  - 1.3 Objectives
  - 1.4 Who May Apply
  - 1.5 Procuring and Contracting Agency
  - 1.6 Definitions
  - 1.7 Clarifications or Revisions
  - 1.8 Reasonable Accommodations
  - 1.9 Calendar of Events
  - 1.10 Contract Term and Funding
  - 1.11 Vendor Net Registration
  - 1.12 Debarment
- 2.0 PREPARING AND SUBMITTING A PROPOSAL
  - 2.1 General instructions
  - 2.2 Incurring costs
  - 2.3 Submitting the proposal
  - 2.4 Fixed Price Period
  - 2.5 Proposal organization and format
  - 2.6 Multiple proposals
  - 2.7 Withdrawal of proposals
- 3.0 PROPOSAL SELECTION AND AWARD PROCESS
  - 3.1 Mandatory requirements
  - 3.2 Technical and Cost Evaluation
  - 3.3 Oral Presentation
  - 3.4 Scoring and Evaluation Criteria
  - 3.5 Right to reject proposals and negotiate contract terms
  - 3.6 Award and Final Offer
  - 3.7 Notification of intent to award
  - 3.8 Appeals Process
- 4.0 PROPOSAL REQUIREMENTS
  - 4.1 Transmittal Letter
  - 4.2 Technical Proposal Requirements
    - 4.2.1 Respondent's Organization, Capabilities, Qualifications, and Experience
    - 4.2.2 Respondent's References
    - 4.2.3 Staff Qualifications and Experience
    - 4.2.4 Project Work Plan
  - 4.3 Performance Outcomes

- 5.0 PRICING PROPOSAL ORGANIZATION
- 6.0 OPEN RECORDS LAW AND CONFIDENTIALITY
- 7.0 SPECIAL CONTRACT TERMS AND CONDITIONS
  - 7.1 Mandatory Terms and Conditions
  - 7.2 General Terms and Conditions
- 8.0 GENERAL CONTRACT REQUIREMENTS
  - 8.1 Prime Contractor and Minority Business Subcontractors
  - 8.2 Executed Contract to Constitute Entire Agreement
  - 8.3 Termination of Contract
- 9.0 STANDARD TERMS AND CONDITIONS
- 10.0 REQUIRED FORMS AND ATTACHMENTS
  - Form (DOA-3027) Designation of Confidential and Proprietary Information
  - Form (DOA- 3054) Standard Terms and Conditions
  - Form (DOA-3261) Request for Proposal Coversheet
  - Form (DOA-3477) Vendor Information
  - Form (DOA-3478) Vendor References
  - Form (DOA-3681) Supplemental Standard Terms and Conditions for Procurements for Services
  - Attachment A - Cost Proposal Instructions and Form
  - Attachment B - HIPAA Business Associate Agreement

## **1.0 GENERAL INFORMATION**

### **1.1 Introduction and Background**

Wisconsin's Self Directed Supports Waiver Program has been approved by the Centers for Medicaid and Medicare Services (CMS) effective January 1, 2008. The program will serve as the alternative choice to the state's managed care program known as "Family Care". The initial approval is for a three (3) year period. Upon renewal, it will be extended to a five (5) year period.

The Self Directed Supports Waiver option in Wisconsin will be operated through the authority of home and community-based services waivers under Section 1915 (c) of the Social Security Act. Wisconsin will operate two parallel waivers (one for frail elders and persons with physical disabilities and one for persons with developmental disabilities) to serve the same target groups currently covered under the Family Care waiver program.

The State intends to contract with two agencies to support the participants in the SDS waiver; an Independent Consultant Agency (ICA) and a Financial Service Agency (FSA). This document provides interested parties with information to enable them to prepare and submit a proposal to provide statewide support services as an Independent Consulting Agency (ICA).

The Financial Services Agency contract includes claims processing, required data reporting to the State, development of monthly expenditure reports, and assurances that providers meet appropriate requirements. Effective communication between these two vendors is essential to the program's success. The Request for Proposal for Financial services is being released concurrently with this RFP.

The State is the sole point of contact for all Respondents from the date of release of the RFP until the Contract is fully executed and signed. This RFP has been officially released via the State's VendorNet System. The purpose of this RFP is to describe the Contract type and term, tentative schedule, procurement rules and processes, and detailed proposal submission requirements for responding to this RFP. The State retains the right to accept of the successful respondent is based on open and free competition in accordance with State law.

The ICA will provide support services to participants in the SDS waiver under contract with the Department of Health and Family Services (DHFS) Division of Long Term Care (DLTC) hereinafter referred to as the State or the Department. For the purposes of this Request for Proposals (RFP), the designation of Independent Consulting Agency (ICA) will be used to identify the entity with which an agreement is sought.

The SDS waiver is intended to provide long term care users an alternative option to the state's managed care (Family Care) program and the program's implementation will be synchronized with Family Care expansion. As Family Care begins in a county, the SDS waiver will also be available in that county. Upon being found eligible for publicly funded long term care services at the ADRC, people will be given the opportunity to enroll in the SDS waiver or in Family Care either as they transition from the current waivers or as they are taken off the waitlist. Respondents may review information describing the ADRC role and other enrollment counseling details at:

<http://www.dhfs.wisconsin.gov/LTCare/Generalinfo/RCs.htm> Current managed care members will also be offered this choice at the time of their annual program eligibility certification. With the exception of long term usage of regulated residential settings (AFH, CBRF and RCAC), the SDS Waiver will include a service package based on Wisconsin's current home and community-based waivers (HCBW) and one additional service referred to as "customized good or service". Access to these services would occur only if the State amends its federally approved Waiver Program.

Participants in the SDS waiver will be assigned an individual budget amount, calculated from the results of their Long Term Care Functional Screen (LTCFS). The ADRC will complete the LTCFS and the budget calculation methodology will be imbedded into the LTCFS tool. This budget will be used to plan for and self-direct all of their waiver supports and services. Participants will also be able to use their Medicaid card for other Medicaid covered services. This program allows for maximum flexibility for a participant to coordinate services and supports. It assumes the participant and/or his or her representative will be responsible for self-directing all of their waiver supports and services. The Family Care program also allows an option for self direction. An individual may only be involved in the SDS Waiver or in Family Care but not in both at the same time.

## **1.2 Scope of Project**

The State as represented by the Wisconsin Department of Health and Family Services, Division of Long Term Care intends to use the results of this solicitation to award a contract under the Wisconsin's Self Directed Supports Waiver program to an ICA to: provide limited case management services (referred to in this RFP as consultation), assist participants in developing a service and support plan and plan approval, provide limited ongoing contacts with participants to monitor implementation of service and support plans, and to review monthly expenditure reports generated by the FSA to assure expenses do not exceed the authorized individual support and service plan and budget, and follow up with participants surrounding topics such as quality assurance, critical incident management, and ongoing program eligibility.

The federal government requires that the state indicate the maximum number of people to be served in the waiver. Based on our experience of people choosing to self-direct a few of their services in Family Care, and based on the SDS waiver experience in other states, the Department estimates that the maximum number of people served in the first year of the waiver will be 750 people. In the second year this will increase to 1000, and in the third year to 1500. These estimates are not a guarantee of the number of people that may choose to enroll in the State's SDS Waiver. Respondents may obtain current information on Family Care expansion at:

<http://dhfs.wisconsin.gov/managedltc/generalinfo/pdf/startdates.pdf> The State must provide quarterly enrollment reports to the CMS and will amend the approved waiver to allow more persons than originally expected to participate if demand exceeds these projections.

## **1.3 Objectives**

Wisconsin's Self Directed Support Waiver Program is designed to remove barriers to community living for adults of all ages with developmental disabilities, physical disabilities and persons meeting the definition of frail elders and serves as the CMS

required alternate choice which must be offered to consumers. The program is designed to ensure that all people have the opportunity to learn and develop skills, engage in productive work, choose where to live and participate in community life. Recognition of the strengths, preferences and desired outcomes of individuals with disabilities and their families is essential in the development and delivery of effective and meaningful support and service. By allowing the elderly and/or individuals with disabilities, or their families, to direct the design and delivery of their own support services, they will experience higher levels of satisfaction, avoid unnecessary institutionalization, and use resources more effectively.

#### 1.4 **Who May Apply**

Except as otherwise noted, Businesses, Organizations, Associations, Cooperatives and any other legitimately organized entity with relevant experience in providing limited case management services, developing service and support plans, and experience in or knowledge of DHHS-CMS-Medicaid, Home and Community-Based Service Waivers (HCBSW), and the concept and philosophy of Self-Directed Services and Supports are encouraged to submit proposals. Wisconsin Managed Care Organizations are not eligible to apply.

Note: It is necessary that project personnel be available upon short notice for face-to-face meetings with the Department.

A vendor and their subcontractors cannot provide ICA services to an individual for whom it also provides direct long term care services funded by Medicaid or a Medicaid waiver program in Wisconsin. Vendors that provide direct long term care services to individuals otherwise eligible to select this program and believe they should be allowed to apply must describe how these individuals may exercise choice to receive their publicly funded long term care supports and services through the SDS Waiver option.

#### 1.5 **Procuring and contracting agency**

This Request for Proposal (RFP) is issued by the Wisconsin Department of Health and Family Services, Division of Long Term Care, Bureau of Long Term Support which is the sole point of contact for the State of Wisconsin during the selection process. The person responsible for managing the procurement process is Bernadette Connolly, Procurement Lead.

The contract resulting from this RFP will be administered by the Department of Health and Family Services, Division of Long Term Care, Bureau of Long Term Support. The contract administrator will be John O'Keefe, Self Directed Supports Waiver Manager.

#### 1.6 **Definitions**

The following definitions and Terms are used throughout the RFP.

**Department** means the Wisconsin Department of Health and Family Services.

**Respondent/vendor** means a firm submitting a proposal in response to this RFP.

**State** means State of Wisconsin.

**Aging and Disability Resource Center (ADRC)** – ADRCs provide information and assistance regarding the public benefits that may be available, as well as all other programs and services available in that geographic area. The ADRC completes the long term care functional screen on each prospective applicant for publicly funded long term care services to establish their functional eligibility. The LTCFS will calculate an individual budget allocation using information entered into the screen.

**Budget Authority** – Allows the SDS waiver participant either alone or with the assistance of another to manage and direct his or her entire service and support budget, including the ability to select services and supports, and the ability to move funds among waiver supports and services. Persons using this program will have budget authority.

**Contractor** - The term “Contractor” is used throughout the document to define the Contractor eventually selected as a result of this RFP.

**Cost Neutrality** – Waiver cost neutrality requires that, on average the cost of providing services to individuals using this waiver program does not exceed the cost of providing services to similar individuals who reside in an institution. For the SDS waiver, the Department must also ensure that participant service costs do not exceed the cost of serving comparable individuals in the Family Care program.

**Employer Authority** – In situations where paid staff is engaged, refers to the two ways which the waiver participant may exercise control and management over his or her care paid providers (staff). Employer of record or common law employer refers to the program participant serving as employer and engaging in all typical employer responsibilities. Co-employment authority refers to the case where an agency shares the employer responsibility with the participant, and the agency serves as employer of record, and the waiver participant shares in the employer tasks. Either of these two options may be utilized in this SDS Waiver Program. The cost incurred with co employment agency is a cost paid by the participant individual budget.

**Family Care** – A group of Wisconsin managed long-term care programs that provide Medicaid long-term support and health care management program for adults with developmental disabilities, adults with physical disabilities, and frail elders. Family Care combines funding and services from existing programs into one long-term support benefit package. The Family Care “brand” includes Family Care, Family Care Plus and Family Care Partnership.

**Financial Services Agency** – The Financial Services Agency (FSA) disburses funds on behalf of the SDS waiver participant according to the individual’s approved individual support and service plan. In the case of employed staff, the FSA maintains documentation that all employment eligibility laws are followed, and is responsible to ensuring that tax withholding; unemployment compensation and workers’ compensation responsibilities are met. Directed by the participant, the FSA makes disbursements for goods and services listed on the approved plan, and issues monthly expense reports to the waiver participant and also to the ICA. This entity is also known as fiscal agent or fiscal intermediary.

**Independent Consultant Agency (ICA)** – The agency with which the Department contracts to provide independent consultant services to SDS waiver participants.

**Independent Consultant** – The individual within the ICA Agency or subcontracted through the ICA agency, who provides information about the SDS waiver, processes waiver paperwork and provides other support and assistance to SDS waiver participants e.g. assuring adequacy of backup plans and other individualized quality assurance and program eligibility components.

**Individual Budget** – The dollar amount available to an SDS participant to pay for the services and supports he/she determines are needed. The individual budget is calculated based on data elements of the LTC Functional Screen by using the cost history for persons in Family Care with like characteristics and needs. The person creates a plan of services and supports where the total plan cost does not exceed the individual budget assignment.

**Long Term Care Functional Screen** – The web based, automated home and community-based waiver eligibility screening tool that determines institutional level of care and functional eligibility for publicly funded long term care programs such as Family Care and other home and community-based programs. The ADRC completes the LTCFS initially, when a persons condition changes, and annually thereafter as apart of the program eligibility recertification process.

**Medicaid and Medicaid Waiver** – Medicaid is a federal/state funded program that provides health care coverage to certain low-income groups, including children and families, elders, and individual with disabilities (also called MA, Medial Assistance or Title 19). Medicaid “Waiver” refers to a waiver of the rules that otherwise require that funding pay only for institutional care.

**Participant** – Refers to the eligible adult person who chooses the SDS Waiver as the way he/she would like to receive publicly funded long term care supports and services. Also known as the “consumer”, individuals are a member of one of the three long term care target groups of:

- persons with a developmental disability;
- persons with a physical disability;
- persons who are elderly and experiencing frail health.

**Respondent** - The term “Respondent” or “Applicant” is used throughout this document to define any and all entities submitting Proposals under this RFP.

**Self-determination** – Self-determination refers to a broad concept related to the overall life experience all people should have. Most simply, self-determination is people controlling their lives and their destinies. People exercise their rights of citizenship, liberty and the pursuit of happiness. The State of Wisconsin supports Self Determination for all and has woven these values and concepts into the programs we administer. Self Determination is the cornerstone of the Wisconsin Self Directed Supports waiver program.

**Self-direction** – The ability of the consumer and/or his/her representative to direct publicly funded services to meet needs and outcomes. Self-direction can apply as narrowly as choosing and directing attendant staff or as broadly as managing the entire

service budget. In the case of this Self Directed Supports Waiver program self direction refers to managing an entire services budget.

**Support Broker** –Refers to an allowable service that includes assistance to waiver participants in planning, securing, and directing self directed supports. Brokers must be knowledgeable of local service delivery system and community integrated approaches to service delivery as well as the appropriate waiver target group. Brokers must demonstrate adequate knowledge of these areas as a part of their certification as providers. Persons needing assistance in directing their plan are most likely to utilize the support broker service.

**Waiver (1915 (c) Waiver)** – The federal government authority that waives certain requirements of the Social Security Act to allow states to provide an array of home and community-based support options through Medicaid as an alternative to providing long term care in institutional settings. The Wisconsin SDS waiver will operate under Section (1915 (c) of the Social Security Act.

### **1.7 Clarification/Written Questions, and/or revisions to the specifications and requirements**

Any questions concerning this RFP must be submitted in writing through the postal service or via e-mail to:

Bernadette Connolly Procurement Lead  
Division of Enterprise Services  
1 West Wilson Street Room 750  
P.O Box 7850  
Madison, WI 53703  
E-Mail: [connobm@dhfs.state.wi.us](mailto:connobm@dhfs.state.wi.us)

Vendors are expected to raise any questions, exceptions, or additions they have concerning the RFP document at this point in the RFP process. If a vendor discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in this RFP, the vendor should notify immediately the above named individual of such error and request modification or clarification of the RFP.

In the event that it becomes necessary to provide additional clarifying data or information, or to revise any part of this RFP, revisions/amendments and/or supplements will be provided to all recipients of this initial RFP. Written questions and answers and any amendments will be posted to the Wisconsin VendorNet Web page for this RFP.

Submitting questions by telephone is discouraged. Any oral responses, information, dates, and/or advice (including telephonic responses, information and/or advise, and any oral responses given during a Vendor Conference or received by a prospective vendor from the Department or Department staff shall not, in any manner whatsoever and whether before or after the release of this RFP, be binding on the State of Wisconsin, unless followed-up and explicitly confirmed and stated in writing by the Procurement Lead or authorized designee.

Any contact with State employees concerning this RFP is prohibited, except as noted in this RFP and as authorized by the RFP procurement lead during the period from date of release of the RFP until the notice of intent to contract is released.

### **1.8 Reasonable accommodations**

The Department will provide reasonable accommodations, including the provision of informational material in an alternative format, for qualified individuals with disabilities upon request. If you think you need accommodations at a proposal opening/vendor conference, contact Bernadette Connolly, Procurement Lead at 608-266-1138.

### **1.9 Calendar of events**

Listed below are specific and estimated dates and times of actions related to this Request for Proposal (RFP). The actions with specific dates must be completed as indicated unless otherwise changed by the State. In the event that the State finds it necessary to change any of the specific dates and times in the calendar of events listed below, it will do so by issuing a supplement to this RFP. There may or may not be a formal notification issued for changes in the estimated dates and times.

<b>DATE</b>	<b>EVENT</b>
Wednesday, February 20, 2008	Date of issue of the RFP
Wednesday, February 27, 2008 2:00 PM	Last day for submitting written inquiries.
Friday, April 4, 2008 2:00 PM CST	Proposals due from vendors.
Tuesday, April 15, 2008	*Notification of intent to award sent to vendors.
July 1, 2008 (not later than)	Contract start date.
	*Estimated Dates

### **1.10 Contract term and funding**

The contract shall be effective on the date indicated on the purchase order or the contract execution date and shall run for one year from that date, with an option by mutual agreement of the state and contractor, to renew for two (2) additional one-year periods. The State of Wisconsin, Department of Health and Family Services reserves the right to extend beyond the Contract Term if deemed to be in the best interest of the State.

### **1.11 VendorNet registration**

The State of Wisconsin's purchasing information and vendor notification service is available to all businesses and organizations that want to sell to the state. Anyone may access VendorNet on the Internet at <http://vendornet.state.wi.us> to obtain information on state purchasing practices and policies, goods and services that the state buys, and tips on selling to the state. Vendors may use the same Web site address for inclusion on the bidders list for goods and services that the organization wants to sell to the state. A subscription with notification guarantees the organization will receive an e-mail message each time a state agency, including any campus of the University of Wisconsin System, posts a request for bid or a request for proposal in their designated commodity/service area(s) with an estimated value over \$25,000. Organizations without Internet access may request to receive mailed paper copies. Increasingly, state agencies also are using

VendorNet to post simplified bids valued at \$25,000 or less. Vendors also may receive e-mail notices of these simplified bid opportunities.

### **1.12 Debarment**

Federal Executive Order (E.O.) 12549 “Debarment” requires that all contractors receiving individual awards, using federal funds, and all sub recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government. Information on debarment is available at the following websites: [www.epls.gov](http://www.epls.gov) and [www.arnet.gov/far](http://www.arnet.gov/far).

## **2.0 PREPARING AND SUBMITTING A PROPOSAL**

### **2.1 General instructions**

The evaluation and selection of a contractor and any subsequent contract award will be based on the information submitted in the vendor's proposal plus references and any required on-site visits or oral interviews. Proposals must be clear, concise, and direct. The proposal response must fully describe the approach and solution to the requirements. Failure to respond to each of the requirements in the RFP may be the basis for rejecting a response.

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

Faxed or e-mailed proposals will not be accepted. Late proposals will be rejected and will be returned unopened. **There will be no exceptions.**

### **2.2 Incurring costs**

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

### **2.3 Submitting the Proposal**

Respondents must submit an original and five (5) copies of all materials required for acceptance of their proposal by **Friday, April 4, 2008, 2:00 p.m. CST** to:

Postal Address  
Bernadette Connolly, Purchasing Agent  
1 West Wilson Street Room 750  
P.O Box 7850  
Madison WI 53703

Vendors must also include a disk of their proposal; however the original hard copy of the proposal is their official response. Proposals must be received in the above office by the specified time stated above. All proposals must be time-stamped as accepted by the Purchasing Office by the stated time. Proposals not so stamped will not be accepted. Receipt of a proposal by the State mail system does not constitute receipt of a proposal by the Purchasing Office, for purposes of this RFP.

To ensure confidentiality of the document, all proposals must be packaged, sealed and show the following information on the outside of the package:

- Respondent's name and address
- Request for proposal title
- Request for proposal number
- Proposal due date

An original plus three (3) copies of the **Cost Proposal** must be sealed and submitted as a separate part of the proposal. The outside of the envelope must be clearly labeled with the words “Cost Proposal, RFP (Name of RFP)” and name of the vendor and due date. The envelope containing the cost proposal is due may be included in the same mailing as the other required response elements.

No mention of the cost proposal may be made in the response to the technical requirements of this Request for Proposal.

#### **2.4 Fixed price period**

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

#### **2.5 Proposal organization and format**

Proposals should use 12 pt font and be submitted on 8.5 X 11 inch paper and bound securely. Proposals should be organized in the same order as the following headings and subheadings noted below. Each heading and subheading should be separated by tabs or otherwise clearly marked.

All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal. Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

Respondents may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate appendix and must clearly identify any relevance to the requirements being responded to in the RFP.

#### **2.6 Multiple proposals**

Multiple proposals from a vendor will be permissible; however, each proposal must conform fully to the requirements for proposal submission. Each such proposal must be submitted separately and labeled as Proposal #1, Proposal #2, etc. on each page included in the response.

#### **2.7 Withdrawal of proposals**

Proposals shall be irrevocable until contract award unless the proposal is withdrawn. Respondents may withdraw a proposal in writing at any time up to the proposal closing date and time or upon expiration of three days after the due date and time if received by the RFP procurement lead. To accomplish this, the written request must be signed by an authorized representative of the vendor and submitted to the RFP project manager. If a previously submitted proposal is withdrawn before the proposal due date and time, the

respondent may submit another proposal at any time up to the proposal closing date and time.

### **3.0 PROPOSAL SELECTION AND AWARD PROCESS**

#### **3.1 Mandatory Requirements**

The proposals will be reviewed initially to determine if mandatory requirements are met. Failure to meet mandatory requirements will result in rejection of the proposal. In the event that all vendors do not meet one or more of the mandatory requirements, the State reserves the right to continue the evaluation of the proposals and to select the proposal which most closely meets the requirements specified in this RFP.

#### **3.2 Technical and Cost Evaluation**

Various costing methodologies and models are available to analyze the cost information to determine the lowest cost to the agency. The selected methodology will be available at the proposal opening or by calling the RFP lead procurement contact person identified in this RFP.

Accepted proposal responses will have their technical requirements reviewed by an evaluation committee and scored against the stated criteria. A respondent may not contact any member of an evaluation committee except at the State's direction. The committee may review references, request oral presentations, and/or conduct on-site visits and use the results in scoring the proposals. Proposals from certified Minority Business Enterprises may have points weighted by a factor of 1.00 to 1.05 to provide up to a five percent (5%) preference to these businesses (Wis. Stats. 16.75(3m)). The evaluation committee's scoring will be tabulated and proposals ranked based on the numerical scores received. Technical and Cost scores will be combined to determine total points awarded each proposal.

#### **3.3 Oral Presentations**

The evaluation committee may request oral presentations with top scoring technical proposal respondents. Every reasonable attempt will be made to schedule each oral presentation at a time that is convenient for the Respondents and the State's evaluation panel. Failure of a Respondent to complete a scheduled oral presentation to the Department on the date scheduled may result in rejection of the Proposal.

#### **3.4 Scoring/Evaluation Criteria**

Proposals will be evaluated and scored based on the following criteria:

	<u>Description</u>	<u>Percentage</u>
1.	<b>Mandatory Terms and Conditions Yes/ No</b>	<b>0 %</b>
2.	<b>Technical Proposal Requirements 100 % Possible</b>	
a.	Project Work Plan	<b>41%</b>

Points will be awarded for this evaluation factor based upon the quality and thoroughness of the project work plan. Work plans must be sufficiently detailed to identify tasks, staff assigned to the tasks and also include time tables.

- b. **Staff Qualifications and Experience** **21%**  
Points will be awarded for this evaluation factor based upon staff member's experience as it relates to their role and the needs of this contract. Respondents must specify sufficient experience and credential detail of staff already hired as well as those to be hired to work on this project.
  
  - c. **Respondent Organization, Capabilities, Qualifications and Experience** **13%**  
Points will be awarded for this evaluation factor based upon the Respondent's documented experience implementing similar projects and engagements.
  
  - d. **Respondent References** **8%**  
Points will be awarded for this evaluation factor based upon corporate/organizational references.
3. **Cost** **17%**  
Points will be awarded for this evaluation factor based upon the cost of the proposal.

### **3.5 Right to reject proposals and negotiate contract terms**

The State reserves the right to reject any and all proposals. The State may negotiate the terms of the contract, including the award amount, with the selected vendor prior to entering into a contract. If contract negotiations cannot be concluded successfully with the highest scoring respondent, the agency may negotiate a contract with the next highest scoring vendor.

### **3.6 Award and final offers**

The State will compile the final score for each proposal. The award will be granted in one of two ways. The award may be granted to the highest scoring responsive and responsible respondent.

Alternatively, the highest scoring vendor or vendors may be requested to submit final and best offers. If final and best offers are requested by the State and submitted by the vendor, they will be evaluated against the stated criteria, scored and ranked by the evaluation committee. The award then will be granted to the highest scoring respondent. However, a respondent should not expect that the State will request a final and best offer.

### **3.7 Notification of intent to award**

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

After notification of the intent to award is made, and under the supervision of Department staff, copies of proposals will be available for public inspection from 8:00 a.m. to 4:30 p.m. at 1 W. Wilson St., Madison WI. Vendors should schedule reviews with Bernadette Connolly who can be reached at telephone 608-266-1138.

### **3.8 Appeals process**

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

Any written notice of intent to protest the intent to award a contract must be filed with  
Mr. Kevin Hayden, Secretary  
Department of Health and Family Services  
1 W Wilson St.  
Madison, WI 53703

and received in his office no later than five (5) working days after the notices of intent to award are issued.

Any written protest must be received within ten (10) working days after the notice of intent to award is issued. In addition, a copy of the protest should be sent electronically to the purchasing office responsible for the procurement. The decision of the head of the procuring agency may be appealed to the Secretary of the Department of Administration within five (5) working days of issuance, with a copy of such appeal filed with the procuring agency. The appeal must allege a violation of a Wisconsin statute or a section of the Wisconsin Administrative Code.

## **4.0 PROPOSAL REQUIREMENTS**

### **4.1. Transmittal letter**

The Transmittal Letter must be on the official business letterhead of the prime Contractor submitting the proposal, and must be signed by an individual authorized to legally commit the Respondent to the scope of work proposed. It must be part of the Technical Proposal. The Transmittal Letter must include the following content:

- Agency does not provide direct client services as a Wisconsin Medicaid Provider. Any request for special consideration in this regard must be fully explained consistent with details described in section 1.4 of this document;
- Signature of an individual authorized to legally bind the respondent;
- The respondent is the prime contractor and is a corporation or other legal entity and meets the criteria contained in this document;
- A statement identifying any and all subcontractors that will be responsible for fulfilling the requirements of this RFP;

- No attempt has been made or will be made by the respondent to induce any other person or firm to submit or not to submit a proposal;
- No cost or pricing information has been included in the Transmittal Letter or the Technical Proposal;
- The Technical and Cost Proposal are valid for a minimum of six (6) months from the proposal due date;
- The person signing this proposal is authorized to make decisions on behalf of the respondent's organization as to the cost quoted and that the person has not participated, and will not participate, in any action contrary to the above statement; and
- Assure that the respondent will agree to execute and fulfill a contract according to the conditions and terms specified in this RFP;
- A statement stipulating that proposal is predicated upon the terms and conditions of this RFP and any supplements or revisions thereof.

A single Transmittal Letter must be submitted with each Respondent's Proposal. The Transmittal Letter must be written on the Respondent's official business letterhead and must be the original document. The letter transmits the proposal and identifies all materials and enclosures being forwarded collectively in response to this RFP. An individual authorized to contractually and legally commit the Respondent to the scope of work proposed must sign the Transmittal Letter. The Transmittal Letter must include the following items in the order given:

- a list of all materials and enclosures being forwarded in response to this RFP;
- a reference, arranged by amendment issue date, to all RFP amendments posted to VendorNet and reviewed by the Respondent. This list of amendments indicates that the Respondent is aware of all such amendments. If no amendments have been posted prior to proposal submission, the Respondent must make a statement to that effect in the transmittal letter;
- a statement that the Respondent believes the proposed solution meets all the general, technical, and functional capability requirements set forth in this RFP;
- a statement that pricing was arrived at without any collusion or conflict of interest;
- a statement that the Respondent has read, understands, and agrees to the Standard Contract Terms and Conditions as listed in DOA Form 3054 in Section 10;
- a statement, if applicable, that the prime contractor is a Minority Business Enterprise (MBE) in accordance with Wis.Stats.16.75(3m).
- a statement that no pricing information has been included in the Narrative Proposal;
- a statement that the Respondent will develop and operate an Independent Consultant Agency as relates to operation of the Wisconsin Self Directed Supports Waiver Program that meets all performance requirements set forth in this RFP or has clearly specified any deviations from these performance requirements.

Respondents may not place any conditions, reservations, limitations, or substitutions in their proposal with regard to the Contract language found in Attachment A. The

Respondent selected under this RFP may subsequently request non-substantive changes to the Contract language, but the State reserves the sole right to accept or reject any requested changes.

## **4.2 TECHNICAL PROPOSAL REQUIREMENTS**

A detailed description outlining the scope of work and deliverables is described in this section. Respondents must provide a thorough narrative to each requirement defined in the RFP.

The narratives along with required supporting materials will be evaluated and awarded points accordingly. Failure to respond to any requirement in the narrative response may result in disqualification of the proposal.

### **4.2.1 Respondent Organization, Capabilities, Qualifications, and Experience**

Responses must include a description of all relevant experience and capabilities in providing the self directed supports within the long term care field. Responses must thoroughly describe expertise in performing work related to implementing self directed supports, in particular, the role of an Independent Consultant Agency and also the role of the Independent Consultant. Relevant experience with support and service coordination and/or case management and support brokerage with long term care recipients should be thoroughly described in the response.

The response must also describe and included documentation as to the extent of their agency's knowledge regarding the following programs and technology as related to individual support and service plan creation, and otherwise planning for and monitoring of the provision of long term care supports and services. To assess relevant experience, the State requires that respondents provide materials that describe their experience and expertise related to the following items:

- Self Determination
- Person Centered Planning
- Self Direction and Consumer Direction
- Support Broker usage, Independent Consultant, Support and Service Coordinator or Case Management Activities
- Importance of Quality Customer Service
- Quality Assurance and Quality Improvement Principles
- Size and Scope of Respondent's Business Experience – capitalized current billings (responding office and/or overall firm)
- Number of employees including specification of full time or what percentage of full time), number and location of offices, plus contact information
- Organization Background – founding date, brief history

Respondents must also:

- Include a copy of the organizations/entities most recent financial audit;
- Include copies of any relevant professional certifications.

### **4.2.2 Respondent References**

Proposals must include two (2) external contractor references from organizations/entities that have received ICA type services from the respondent entity for at least one (1) year. The minimum information that must be provided about each reference is:

Name of individual or company services were provided for  
Address of individual or company  
Name of contact person  
Telephone number of contact person  
Type of services provided and dates services were provided  
Manner in which quality of service delivery was or is measured

#### **4.2.3 Staff Qualifications and Experience**

Respondents must submit information regarding supervisory and direct service staff that will be employed under the contract. Experience narratives shall be attached that describes relevant experience of supervisory and direct service (consultant) staff members and/or position descriptions and recruitment plans for staff. For identified staff the narrative(s) should include the name of the individual(s) proposed and should include a thorough description of the education, knowledge, and relevant experience with long term care supports and services as well as certifications or other professional credentials. Staff not yet hired or identified, should be addressed through position descriptions that contain minimum qualifications and experience requirements for staff supervising and performing ICA type services.

The respondent must provide a plan that describes the process it will use to ensure that each of the independent consultants that will be used meets or exceeds the following minimum qualifications:

- The independent consultant must be 18 years of age or older;
- The independent consultant must pass a criminal background check;
- The independent consultant must complete not less than 40 hours of ICA provided or otherwise arranged for training.
- The independent consultant may have a college degree in a human service related field or must have relevant experience human/social services including:
  - a. Have strong interpersonal skills, know how to listen and communicate with individual participants, and know how to generate trust;
  - b. Possess an understanding of person specific quality assurance and quality improvement concepts;
  - c. Possess demonstrated knowledge about the preferences and types of needs of persons who will participate in the SDS wavier;
  - d. Possess demonstrated knowledge of concepts such as community integration;
  - e. Possess demonstrated knowledge of the local service delivery system.
  - f. Possess sufficient mathematical proficiency or use technology to demonstrate capacity to calculate total proposed individual support and service plan cost.
- The respondent shall provide an outline of the independent consultant training curriculum as a part of their response to this RFP. Training topics must include SDS philosophy, components of the ICA service, cultural competencies as related to frail elders and people with disabilities, and sufficient experience so as to prepare the

consultant to effectively work with persons from different ethnic and racial backgrounds. This training shall consist of 40 hours, and must be completed by Consultant staff before they begin working with SDS waiver participants.

- The ICA is encouraged to develop consultant networks that include engaging the skills of qualified waiver participants and their families in the consultant role.

#### **4.2.4 Project Work Plan**

Respondents must submit a thorough project work plan as part of the proposal. This plan should address the activities and tasks identified in this RFP and must identify the ICA staff that will be designated to complete each task. The project work plan must also include a time line that identifies the projected time frame for the completion of each task.

The respondent will provide independent consultation services for all participants in the Self Directed Supports Waiver Program. The selected Respondent will successfully provide said consultation services to those individuals on a statewide basis, in a timely and comprehensive manner and in accordance with the requirements of the U.S. Department of Health and Human Services - Center for Medicare and Medicaid Service's (HHS-CMS) approved Home and Community Based Medicaid Waiver Application.

The ICA will develop knowledge on the scope of choices and options related to self directed supports; provide assistance and direction in the development of service and support plans, individual budgets, and emergency back-up plans; provide periodic contact with consumers that includes five contacts in the first year of program participation and four contacts in subsequent years; and will maintain a responsive customer service system.

The ICA must demonstrate an understanding of, and commitment to, the premise that the participant (or the participant's family, e.g., any relative, significant other or recognized surrogate decision-maker) is responsible for developing and implementing the person-centered Individual Service and Support Plan (ISSP) in collaboration with the Consultant in all aspects of the organization project work plan.

##### **a. Policy and Procedure Manual**

The respondent must submit a detailed outline of the Policies and Procedures Manual it will create in their response to this RFP.

The Independent Consultant Agency (ICA) must prepare and maintain a comprehensive Policies and Procedures Manual that reflects all tasks that the DHFS requires the ICA to perform as outlined in this RFP. The policies and procedures in the Manual should demonstrate a high level of participant choice and autonomy, and afford the highest level of participant-directed activity.

The Policy and Procedure Manual will serve as a guide to both the independent consultant agency and also to the individual consultants and will include an indexed policy decision and implementation section that documents policies created and decisions made as the SDS Waiver is implemented.

The Policies and Procedures Manual must be submitted to DHFS for review and approval within 60 days after a contract is signed. DHFS intends to solicit input from the SDS

Waiver Stakeholder Implementation Committee as a component of its review. It is required that the manual be developed in an automated/read-only format so that it is easily accessed by ICA staff. The ICA will update the Policies and Procedure Manual on a periodic basis as needed. An incomplete Policy and Procedure Manual will not affect the not later than July 1, 2008 program start date requirement.

#### **b. ICA Quality Management/Assurance, Quality Improvement Plan**

The Wisconsin Independent Consultant Agency (ICA) must prepare and maintain a comprehensive quality assurance/ quality improvement plan. The plan must be grounded in the quality improvement principles of discovery, remediation and continuous improvement. The Quality Management Plan must contain clearly defined goals and standards for each required ICA service and/or responsibility. It will also include a description of the internal controls that will be used to monitor the agency's performance of its tasks and also the services provided by the independent consultants. The quality management plan must ensure that all responsibilities contained in the contract are accomplished within required time periods and according to best practice standards for participant-direction and other requirements as described in this RFP. The QM plan should include ongoing review to evaluate effectiveness in meeting responsibilities and must be formally reviewed not less than every 90 days.

The respondent must demonstrate that it has past or current experience creating and managing a Quality Management Plan. Either an example of a Plan it has created or has implemented may serve as evidence of this ability. In addition, Respondents must include a draft Quality Management Plan as relates to this RFP with their response.

#### **c. Participant Orientation Program**

The ICA will be responsible for providing a thorough orientation to SDS Waiver program participants and the respondent must describe details of the proposed orientation program in its response to this RFP. The orientation program will educate SDS Waiver participants and their representatives on how they may utilize the SDS Waiver Program, and also provide information on the opportunities and limits of self direction within this program. The orientation will include information and instruction on the use of Consultants and their role and will also identify the difference in roles of the consultant and support broker service. The State DHFS will specify the orientation program requirements, approve the curriculum, supply materials and resources for this purpose and also approve and then monitor the agency's program. The proposal must describe how this orientation will be provided to participants and/or family representatives and must also include design elements including how continuous quality improvement will occur. The orientation program must identify the degree of face to face interaction between the participants and trainers which will occur, and also describe the manner in which the orientation program will respond to the unique learning styles and ability levels of program participants. The ICA must regularly update all orientation materials. The ICA must create input opportunities for State staff, participants, and others such as members of the SDS Waiver Implementation Committee in its creation and ongoing review of the Participant Orientation Program.

#### **d. Participant Skills Training Program**

In concert with the FSA, the ICA will be responsible to create a comprehensive skills training program for participants. Respondents are required to describe the content of this program, and also the manner in which content decisions are made including descriptions of how participants experiencing the SDS Waive program helped to determine content. The proposal must describe the manner in which this skills training program will be provided to participants and/or family representatives and must include design elements including quality improvement principles of discovery, remediation continuous quality improvement. Specific identification of the degree of face to face interaction between the participants and trainers is required as a part of the response and respondents must also include a description of the manner in which the skills training program will respond to the unique learning styles and ability levels of program participants. The ICA is responsible to regularly update all skills training materials. The ICA must work with State staff, participants, and the FSA on this skills training program. The state will engage the SDS Waiver Implementation Committee in its review of the skills training program.

#### **e. Role of the Consultants**

The Respondent shall develop and describe the policies and procedures it will use to hire and train Consultants to ensure that they have the knowledge, skills and abilities to provide the required consultation services for participants in this program. Expenses associated with the ICA provided independent consultant are not a part of each individual's calculated support and service budget, but are instead paid as a part of the ICA contract award referenced in this RFP. Independent Consultant responsibilities include but are not limited to the following:

##### Mandatory Consultant Tasks:

- Provide orientation and information to participants on the range and scope of choices and options, and rights, risks, and responsibilities associated with self-direction;
- Provide information to participants on service options including broker and co-employment vendors.
- Document individual's personal experience outcomes on the state prescribed form;
- Document participant selected supports and services on the state prescribed form;
- Review and approve of individual support and service plan to assure that spending falls within the defined individual budget amount, and that selected providers are qualified;
- Document the provider no show emergency back-up plan in place (as applicable);
- Document the individualized participant quality assurance plan;
- Interaction as necessary with Adult Protective Services and tasks surrounding vulnerable adult reporting systems.
- Provide necessary support to individuals surrounding ongoing eligibility issues. This includes financial eligibility (payment of cost share and spend down monitoring in conjunction with FSA and Income Maintenance staff) and also functional eligibility (ADRC completes LTCFS annually or when change in condition occurs);
- Interact with the FSA as relates to provider qualification verification and also as relates to participant budget spending irregularities/anomalies or concerns;
- Regular contact with the program participants, which includes, at no cost to the participant's support and service plan, up to 20 contacts of substance per year.

- Consultants are required to contact the participant at least five (5) times/year in the participant's first year, including three (3) face-to-face contacts.
- Two of the contacts of substance must occur within the first 45 days of the person's participation as a part of the basic quality assurance approach as is described in the state's approved waiver. In subsequent years the expectation for minimum contact with the participant is four (3) times per year including two (2) face to face contacts
- Requests for additional contacts beyond 20 per year are subject to review and approval by the DHFS program manager on a case-by-case basis. The Department defines contacts of substance" to exclude brief inquiries or happenstance interactions.

Necessary/Optional Consultant Tasks (performed when participant request)

- Assistance, as requested by the participant, including and during development of the support and service plan, including identifying needs and preferences, defining desired outcomes, identifying natural supports, identifying services and supports to be purchased by the participant; identifying providers of services and goods; and identifying options for provider training;
- Assistance, as requested by the participant, to help the participant create a support plan that is fundable within the identified individual budget;
- Assistance, as requested by the participant, in accessing services, including problem solving on how to recruit, hire, and if necessary, dismiss staff;
- Technical support, as requested by the participant during implementation of the Individual Support and Service Plan;
- Assistance, as requested by the participant, during and including development of an emergency back-up plan;
- Assistance, as requested by the participant, during and including development of an individualized participant quality assurance plan;
- Assistance, as requested by the participant to interpret results of criminal background checks.

**f. ICA Operational Details and Requirements**

The Respondent shall develop and describe the policies and procedures it will use to meet the operational requirements in the list that follows. Either samples of existing policy or examples of proposed policy surrounding operational details and requirements may be submitted as evidence of this ability.

- Policies must describe how the ICA will assure knowledgeable staff are available by telephone to answer questions and/or provide information within one business day of receiving a contact from a participant or representative;
- Written policies and procedures must address the system used to receive referrals from ADRCs;
- Policies and procedures must address the timeframe by which a referred participant will be contacted by the Consultant within 14 calendar days of the referral;
- Policies and procedures must address how participants will begin receiving services in a timely manner. The following timeframes will be required unless beyond the control of the Consultant (e.g. participant cancels meetings or otherwise does not cooperate, hospitalized, etc.):

- First face to face visit within 21 calendar days of the referral, this visit must include an SDS Waiver Program orientation for the participant and/or representative;
- The consultant is expected to assist the participant to complete their individual support and service plan within 30 calendar days of the participant orientation;
- Consultant Plan Review /Approval must occur within 10 calendar days of the plan completion date;
- Consultant sends approved plan to FSA immediately upon approval;
- Participant receives assistance with employment related duties and other supports within 10 calendar days of request;
- Production of periodic reports including demographic information, incident reports, individual contact reports, trend analysis and other reports as required by the participant, the state or providers, DHFS will provide prescribed formats for these reports;
- Coordination with the Financial Services Agency (FSA);
- Assistance to participants on issues including ongoing program eligibility;
- Provision of information about participant responsibilities, rights and concepts of self-direction;
- Instruction and guidance to participants in problem-solving, decision making, and recognizing and reporting critical events;
- Assistance to participants in monitoring support and service expenditures in collaboration with the FSA;
- Assistance to participants in modifying their individual support and service plan;
- Assistance to participants in notifying the FSA to ensure changes are implemented within the overall budget;
- Assistance to participants in monitoring the quality of their supports and services
- Assistance to participants in the use of risk management and back-ups, internal controls for monitoring this process must be included in the system and described in the policies and procedures;
- Written policies and procedures regarding quality assurance activities that will include but not be limited to: assurance that all applicable procedures related to the development of the service and support plan within the defined budget occur; monitoring of the implementation of the service plan; communication and review of reports from the SDS Waiver Program Financial Services Agency (FSA) and follow up with the participant as appropriate; support of the participant in developing and implementing his/her individual quality assurance plan and; facilitate re-screening and revision of the budget and service plan, as indicated, to meet the participant's changing needs;
- Determination of need for referral to ADRC when participant experiences a change of condition or choose to terminate participation;
- Determination of need to refer to the State for involuntary termination review.

**g. Participant Manual:**

The ICA must develop a process for producing and distributing a participant Information Manual. The Information Manual must be available in user friendly format. The Respondent must provide a detailed description of its intended Information Manual as a part of its response. The Participant Manual will serve as a resource for participants, and when appropriate their families and/or representatives. It should provide detailed information on the role of the Consultant, the responsibilities of the participant including

their role in developing the Individual Service and Support Plan, supervising employees, monitoring the budget, communicating with the ICA and FSA, etc. The manual, which must be approved by DHFS prior to publication and distribution, should include, at minimum information on the following subjects:

- Roles and responsibilities of the program participant
- Roles and responsibilities of the ICA
- Roles and responsibilities of the independent consultant as compared to the role of support broker
- Toll Free Number
- Hours of Operation
- Key ICA Staff and Contact Information

#### **h. Customer Service System**

The ICA must describe the customer service system that includes the following elements:

- A 24/7 toll free number with on-call service after regular business hours;
- Calls communicating a health or welfare emergency must be responded to immediately;
- A 24/7 high-speed fax machine;
- Web-based information regarding ICA services;
- Internet/e-mail communication;
- Translation and interpreter services (i.e. American Sign Language and services for persons with Limited English Proficiency);
- Informational materials available in alternate formats;
- Methods for receiving, returning and tracking calls from individuals and support service and support providers during and after regular business hours, making note of any resolution that occurs, calls with requests for information from participants must be returned within one business day;
- Methods for receiving, responding to and tracking grievances and complaints from individuals and support service and support providers within a reasonable time period, making note of any resolution that occurs;
- Customer service training for ICA staff;
- A participant/representative satisfaction survey; and
- A description of the customer service philosophy that promotes individual direction and cultural sensitivity in all business practices in order to communicate effectively with a diverse population of participants of all ages and with a variety of needs, disabilities and chronic conditions.

### **4.3 Performance Outcomes**

The respondent shall include a list of performance outcomes that it will use to assure its overall success with the program. The following two examples are required, and the respondent is expected to provide additional outcomes it will seek to achieve as a part of their response to this RFP.

1. Participants have the information they need to make informed choices. 80% of participants indicate their ICA provides them with the information they need as measured through the participant survey.

2. The ICA will assure that the service and support plan is complete and meets all documentation requirements, within X calendar days following the meeting with the participant. The participant and the ICA will review the plan and sign off on the plan and any changes to the plan.

## **5.0 Pricing Proposal Organization**

Respondents must propose one firm, fixed, fully-loaded Per Member/Per Month rate on the proposal cost form (Appendix B). The firm, fixed, fully-loaded rate must include travel, per diem, fringe benefits and any overhead costs for all Contractor personnel. Wisconsin gross receipts tax must also be included in the proposed maximum rate.

The service categories/ responsibilities of the ICA are as follows:

- A. Assistance to participants and/or their families and representatives in understanding all aspects of the Self Directed Supports program;
- B. Assistance to participants and/or their families and representatives in effectively developing and implementing their Service and Support Plans and budgets to purchase goods and services decided upon by the Self Directed Supports program participant and/or, as appropriate, his or her family and/or designated representative;
- C. Creating and managing all Self Directed Support participant's program specific documents and files (current and archived), the ICA must maintain separate files for each waiver participant and must use prescribed State forms and formats and identify how documents will be retained (paper or electronic media);
- D. Developing and providing training for staff on the SDS philosophy and application in the program;
- E. Coordination and collaboration with the Financial Services Agency;
- F. Preparing and disbursing required reports to the state and program participants, and;
- G. All ICA services must be delivered in a manner that meets all relevant Health Insurance Portability and Accountability Act (HIPAA) requirements (see Appendix B).

## **6.0 Open Records Law and Confidentiality**

The Wisconsin Open Records Law requires public disclosure of all sealed proposals and related documents upon Issuance of Intent to award. In addition, after issuance of the Notice of Intent to Award a Contract, all opened and qualified proposals are considered open records. Inspection is subject to the statutes and rules of the State of Wisconsin.

Respondents must complete Form DOA-3027, Designation of Confidential and Proprietary Information Form for items or materials that can be kept confidential under the Wisconsin Open Records Law. This form must be completed and submitted with each Respondent's Proposal. Form DOA-3027 is included in Section 10 of this RFP document.

The State will make an independent determination as to which items or materials may be considered closed records or nonpublic records. If the proposal includes material that is considered by the Respondent to be proprietary and confidential under Wisconsin law, the Respondent must clearly designate the material as such. The Respondent must identify each page or section of the proposal that, in the Respondent's opinion, contains proprietary or confidential information. Additionally, the Respondent must provide sufficient grounds to justify each exemption from release, including the prospective harm that would be caused to the competitive position of the Respondent if the identified material were to be released.

In all cases, Pricing Proposals will be considered open records upon the Department's issuance of the Notice of Intent to Award. Therefore, Respondents may not declare their Pricing Proposals or any portion thereof as confidential or proprietary. The contents of the RFP Proposal and Pricing Proposal, as accepted by the State, will become part of any Contract awarded as a result of this RFP.

## **7.0 SPECIAL CONTRACT TERMS AND CONDITIONS**

### **7.1 Mandatory Terms and Conditions**

#### **a. Physical environment**

The Respondent must describe the physical environment in which the ICA will perform the requirements of the RFP. This would include but not be limited to the location of the office(s) where the work would be done and records kept, adequacy of space available to store current and archived files in a confidential and secure manner and a description of the information systems, software, equipment and other technologies that will affect the contract and/or this procurement. While the agency headquarters may be in another state, the agency is required to maintain at least one primary office site in Wisconsin. This office must meet ADA accessibility standards. Consultants must be located around the State in order to assure they are within two hours of participants served by the SDS program and must be available to travel for in-person meetings with the participants in their homes or another place that the participant chooses (for a minimum of three in person contacts per year for the first year of participant enrollment and two in person contacts per year for subsequent years). The ICA must be able to schedule meetings with participants in a timely fashion; it is expected the ICA will be available for meetings with program participants within one week of a request for a meeting.

#### **b. Communications Capabilities**

Describe how the Respondent will assure that the Contractor and any proposed subcontractor (s) have the ability to communicate effectively and directly with program participants who have a variety of functional impairments and/or language barriers. Methods of communication include large print and/or telecommunications devices for the hearing and speech impaired and access to a translation service and to an interpreter. Any written reports or materials provided to individuals must be available in alternative format if requested (e.g., large print, use of telecommunication devices for the hearing and speech impaired) and should be available in English, Hmong, Spanish and other languages that may reflect participant needs.

**c. Certification as a Wisconsin Medicaid Provider**

The successful Respondent will provide documentation that it is a Wisconsin Medicaid Provider, according to Medicaid Program certification rules prior to the contract effective date.

**7.2 General Terms and Conditions**

**a. Initial Meeting with DHFS**

The Contractor shall meet with representatives from DHFS immediately after receiving the notice of intent to award this contract. At this meeting terms of the contract and any proposed program startup and operation issues and/or expenses shall be discussed and reviewed. Respondents must include a detailed explanation and justification for all start up operational costs they would like considered.

**b. ICA Relationship with the SDS Waiver Program Financial Services Agency**

The ICA must describe how they will develop a formal relationship with the FSA. The plan will describe how the ICA will work with the FSA to ensure that all required processes, procedures and forms are completed and shared with the FSA for their use in providing financial management services to program participants. The processes identified in this relationship should be elements of the ICA Quality Management Plan.

**c. Billing DHFS**

The ICA must describe the system for billing DHFS. A standard vendor contract will be established with the selected vendor. A vendor that believes it is in need of special consideration for any start up costs shall provide a formal request to the DHFS with the response that fully describes the need for such resources and why such resources are necessary. Internal controls for monitoring the process used to bill the Department must be described in the Quality Management Plan.  
Software Description

The ICA must describe the software that will be used by the ICA for client tracking and case management, and how it will meet the requirements of the participants, the State, and the ICA.

**d. Employment Packets**

The ICA must manage a system whereby it hires or contracts the individual consultant staff. The Respondent must describe its planned approaches in this regard as an element of their response to this RFP.

**e. Confidentiality, Record Retention, and Security**

The ICA must describe confidentiality practices all program operations including how consumer confidentiality is respected and protected. The ICA should describe the system for establishing and maintaining current and archived individual and

consultant created files in a secure and confidential manner, for the proscribed period of time as required by federal and state rules of Medicaid, and also any and all applicable HIPAA requirements.

#### **f. Disaster Recovery Plan**

The ICA must develop and demonstrate an effective disaster recovery plan for restoring software, master and electronic files and hard copy files. This plan will include a description of hardware backup if management information systems are disabled, and the process which would allow for the continuation of tracking of services and payment to consultants, and would ensure the rapid return to limited operation:

- The accuracy of software and data at return to operation;
- The ability to return to full capacity as soon as possible;
- A complete backup of all non-software data sets at the end of each production day;
- The resultant discs are removed to an external secure site, these back-up discs should be cycled on at least a weekly basis;
- Upon the installation of any software (new or upgraded) a complete back-up (copy) of the software should be made with the resultant tape(s) removed to an external secure site. ;
- The server should be designed to employ a method of redundancy for operational integrity and production;
- All workstations attached to the network should have sufficient processing capability to be used interchangeable and should be able to backup one another until repair or replacement can be affected on a failed workstation;
- Server should be connected to systems which will condition incoming power to the server and provide sufficient processing time for the server to be correctly shutdown in the event of a power failure;
- There should also be a description of the change of communication and command in the case of a systems or power failure.

### **8.0 General Contract Requirements**

#### **8.1 Prime Contractor and Minority Business Subcontractors**

The prime contractor will be responsible for contract performance when subcontractors are used. However, when subcontractors are used, they must abide by all terms and conditions of the contract. If subcontractors are to be used, the respondent must clearly explain their participation both in narrative and also on the budget sheets located in Attachment A.

The State of Wisconsin is committed to the promotion of minority business in the state's purchasing program and a goal of placing 5% of its total purchasing dollars with certified minority businesses. Authority for this program is found in ss. 15.107(2), 16.75(4), 16.75(5) and 560.036(2), Wisconsin Statutes. The contracting agency is committed to the promotion of minority business in the state's purchasing program.

#### **8.2 Executed contract to constitute entire agreement**

In the event of contract award, the contents of this RFP (including all attachments), RFP addenda and revisions, and the proposal of the successful respondent, and additional terms agreed to, in writing, by the agency and the contractor shall become part of the contract. Failure of the successful respondent to accept these as a contractual agreement may result in a cancellation of award. The following priority for contract documents will be used if there are conflicts or disputes:

- a. Official Purchase Orders
- b. Vendor's Proposal Dated
- c. State Request for Proposal
- d. Standard Terms and Conditions

### **8.3 Termination of contract**

The agency may terminate the contract at any time at its sole discretion by delivering 180 days written notice to the contractor. Upon termination, the agency's liability will be limited to the pro rata cost of the services performed as of the date of termination plus expenses incurred with the prior written approval of the agency. In the event that the contractor terminates the contract, for any reason whatsoever, it will refund to the agency within 30 hours/days of said termination, all payments made hereunder by the agency to the contractor for work not completed or not accepted by the agency. Such termination will require written notice to that effect to be delivered by the contractor to the agency not less than 180 days prior to said termination.

### **8.4 Contract Amendments**

The contract may be amended within the contract period by mutual consent of the parties. No modification or amendment to the contract shall become valid unless in writing and signed by both parties. All correspondence regarding modifications or amendments to the contract must be forwarded to the Department of Administration, attention Patricia Conley, for prior review and approval.

### **9.0 STANDARD TERMS AND CONDITIONS**

The State of Wisconsin reserves the right to incorporate standard State contract provisions into any contract negotiated with any proposal submitted responding to this RFP. Failure of the successful respondent to accept these obligations in a contractual agreement may result in cancellation of the award.

### **10.0 REQUIRED FORMS**

The following forms must be completed and submitted with the proposal in accordance with the instructions given in Section 2.4. Blank forms are attached to this RFP.

Form (DOA-3027) Designation of Confidential and Proprietary Information

Form (DOA- 3054) Standard Terms and Conditions

Form (DOA-3261) Request for Proposal Coversheet

Form (DOA-3477) Vendor Information

Form (DOA-3478) Vendor References

Form (DOA-3681) Supplemental Standard Terms and Conditions for Procurements for Services

Attachment A - Cost Proposal Instructions and Form

Attachment B - HIPAA Business Associate Agreement

### DESIGNATION OF CONFIDENTIAL AND PROPRIETARY INFORMATION

The attached material submitted in response to Bid/Proposal # \_\_\_\_\_ includes proprietary and confidential information which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or is otherwise material that can be kept confidential under the Wisconsin Open Records Law. As such, we ask that certain pages, as indicated below, of this bid/proposal response be treated as confidential material and not be released without our written approval.

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

Other information cannot be kept confidential unless it is a trade secret. Trade secret is defined in s. 134.90(1)(c), Wis. Stats. as follows: "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique or process to which all of the following apply:

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

We request that the following pages not be released

Section	Page #	Topic

IN THE EVENT THE DESIGNATION OF CONFIDENTIALITY OF THIS INFORMATION IS CHALLENGED, THE UNDERSIGNED HEREBY AGREES TO PROVIDE LEGAL COUNSEL OR OTHER NECESSARY ASSISTANCE TO DEFEND THE DESIGNATION OF CONFIDENTIALITY AND AGREES TO HOLD THE STATE HARMLESS FOR ANY COSTS OR DAMAGES ARISING OUT OF THE STATE'S AGREEING TO WITHHOLD THE MATERIALS.

Failure to include this form in the bid/proposal response may mean that all information provided as part of the bid/proposal response will be open to examination and copying. The state considers other markings of confidential in the bid/proposal document to be insufficient. The undersigned agrees to hold the state harmless for any damages arising out of the release of any materials unless they are specifically identified above.

Company Name \_\_\_\_\_

Authorized Representative \_\_\_\_\_  
Signature

Authorized Representative \_\_\_\_\_  
Type or Print

Date \_\_\_\_\_

## 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 Respondent which are demonstrated to be industry wide. 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. Contractor's 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:** 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 twenty-five thousand dollars (\$25,000) 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 twenty-five (25) 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.
- 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.

**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) 267-7577.

**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.

**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.

**VENDOR INFORMATION**

1. BIDDING / PROPOSING COMPANY NAME \_\_\_\_\_  
FEIN \_\_\_\_\_  
Phone ( ) \_\_\_\_\_ Toll Free Phone ( ) \_\_\_\_\_  
FAX ( ) \_\_\_\_\_ E-Mail Address \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip + 4 \_\_\_\_\_

2. Name the person to contact for questions concerning this bid / proposal.  
Name \_\_\_\_\_ Title \_\_\_\_\_  
Phone ( ) \_\_\_\_\_ Toll Free Phone ( ) \_\_\_\_\_  
FAX ( ) \_\_\_\_\_ E-Mail Address \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip + 4 \_\_\_\_\_

3. Any vendor awarded over \$25,000 on this contract must submit affirmative action information to the department. Please name the Personnel / Human Resource and Development or other person responsible for affirmative action in the company to contact about this plan.  
Name \_\_\_\_\_ Title \_\_\_\_\_  
Phone ( ) \_\_\_\_\_ Toll Free Phone ( ) \_\_\_\_\_  
FAX ( ) \_\_\_\_\_ E-Mail Address \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip + 4 \_\_\_\_\_

4. Mailing address to which state purchase orders are mailed and person the department may contact concerning orders and billings.  
Name \_\_\_\_\_ Title \_\_\_\_\_  
Phone ( ) \_\_\_\_\_ Toll Free Phone ( ) \_\_\_\_\_  
FAX ( ) \_\_\_\_\_ E-Mail Address \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip + 4 \_\_\_\_\_

5. CEO / President Name \_\_\_\_\_

This document can be made available in accessible formats to qualified individuals with disabilities.

**VENDOR REFERENCE**

FOR VENDOR: \_\_\_\_\_

Provide company name, address, contact person, telephone number, and appropriate information on the product and/or service(s) used for four (4) or more installations with requirements similar to those included in this solicitation document. If vendor is proposing any arrangement involving a third party, the named references should also be involved in a similar arrangement.

Company Name \_\_\_\_\_

Address (include Zip + 4) \_\_\_\_\_

Contact Person \_\_\_\_\_ Phone No. \_\_\_\_\_

Product(s) and/or Service(s) Used \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Company Name \_\_\_\_\_

Address (include Zip + 4) \_\_\_\_\_

Contact Person \_\_\_\_\_ Phone No. \_\_\_\_\_

Product(s) and/or Service(s) Used \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Company Name \_\_\_\_\_

Address (include Zip + 4) \_\_\_\_\_

Contact Person \_\_\_\_\_ Phone No. \_\_\_\_\_

Product(s) and/or Service(s) Used \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Company Name \_\_\_\_\_

Address (include Zip + 4) \_\_\_\_\_

Contact Person \_\_\_\_\_ Phone No. \_\_\_\_\_

Product(s) and/or Service(s) Used \_\_\_\_\_  
\_\_\_\_\_

This document can be made available in accessible formats to qualified individuals with disabilities.



## 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. The contractor will retain all documents applicable to the contract for a period of not less than three (3) years after final payment is made.

**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.

Cost Proposal (Attachment A)  
Independent Consultant Agency Budget and Budget Narrative Instructions

**Budget**

A line-item budget must be submitted for each contract year. The budget should be in Excel format and include a worksheet that provides narrative descriptions of each line. The file should be entitled “Budget-Proposer’s Name” and must identify the respective year. The format below lists minimum content requirements. Some line items may not be apply to all.

**Budget Narratives**

Although information to justify a line item (such as job descriptions for personnel) might be contained within the proposal, a separate and complete justification for each line item must be provided in the budget narrative. The budget narrative should be submitted with each budget and entitled “Budget Narrative-Proposer’s Name”. The budget narratives should include a detailed description of the specific item and a description of how the specific item relates to the proposal for each item. For travel and meeting related costs all narratives must indicate who is traveling, the purpose and destination of travel and the basis for calculation, estimated number of miles traveled (x) mileage reimbursement rate. Details of per diem meals lodging and parking should be included in the description.

The narrative descriptions of participant orientation and participant skills training program expenses should include all costs associated with the tasks as are listed and any other tasks necessary which may be noted elsewhere in this RFP.

The narrative descriptions of other costs should include all other costs excluding subcontract costs. Specify the projected expense for office items and materials such as telephone, printing, office furniture, etc. Expenses relate to the 24-hour on call telephone are to be entered in the participant support category and not here.

The narrative descriptions of subcontracts (if applicable) must identify the contracted entity, the purpose pr product of the subcontract including a clear explanation of why the subcontract is necessary to fulfill the project objectives, a detailed description of the cost basis each of any subcontracts and a scope of services statement for the actual sub contract.

The prime contractor is responsible for contract performance when subcontractors are used. However, when subcontractors are used, they must abide by all terms and conditions of the contract. The Department may not be named as a party to a subcontract. The contractor maintains fiscal responsibility for its contracts, which includes reporting expenses associated with the subcontract to the Department.

Proposer Name, Budget Period: (Beginning Date and End Date)

Fully Loaded Per Member/Per Month rate as described in Section 5.0 \$ \_\_\_\_\_

Line-Item Budget Format

I.	PERSONNEL (show specifics on staff worksheet)	
	Name, Position, Base Salary, % Time	_____
	Fringe Benefits	_____
	Staff Travel	_____
	Staff Training & meeting expenses	_____
	Personnel Subtotal	_____
II	INDIVIDUAL CONSULTANTS (show on consultant staff worksheet)	
	Name, Position, Base Salary, % Time	_____
	Orientation and Ongoing Training	_____
	Fringe Benefits	_____
	Staff Travel	_____
	Staff Training & meeting expenses	_____
	Independent Consultant Subtotal	_____
III.	PARTICIPANT SUPPORT EXPENSES, ORIENTATION & PARTICIPANT SKILLS TRAINING EXPENSES	
	Participant orientation expenses	_____
	Participant education expenses	_____
	24-hour toll-free telephone expenses	_____
	Participant orientation & Education Subtotal	_____
IV.	OTHER COSTS	
	Office Operations	_____
	Leased Space	_____
	Computer, programming expense (non staff)	_____
	Subtotal Other Costs	_____
V.	SUBCONTRACT(S)	
	Subcontractor (Name)/Amount	_____
	Subcontractor (Name)/Amount	_____
	Subtotal Sub contractor(s)	_____
V.	TOTAL I – V	_____

## ATTACHMENT B

### HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (Agreement) supplements and is incorporated into the existing Underlying Contract (Contract) Agreement between the SDS Waiver Contractor (Business Associate Name) and the Division of Long Term Care, Bureau of Long Term Support (Covered Entity ) effective (Date) and terminates any prior existing Business Associate Agreements.

This Agreement is specific to those services, activities, or functions performed by the Business Associate on behalf of the Covered Entity when such services, activities, or functions are covered by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Services, activities, or functions covered by this Agreement include, but are not limited to:

The Covered Entity and Business Associate agree to modify the Contract to incorporate the terms of this Agreement and to comply with the requirements of HIPAA addressing confidentiality, security and the transmission of individually identifiable health information created, used or maintained by the Business Associate during the performance of the Contract and after Contract termination. The parties agree that any conflict between provisions of the Contract and the Agreement will be governed by the terms of the Agreement.

#### 1. DEFINITIONS

*Protected Health Information (PHI)* means:

Health information, including demographic information, created, received, maintained, or transmitted by the Business Associate, on behalf of the Covered Entity, where such information relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the payment for the provision of health care to an individual, that identifies the individual or provides a reasonable basis to believe that it can be used to identify an individual.

PHI excludes individually identifiable health information in education records covered by the Family Educational Rights and Privacy Act (FERPA) and employment records held by the Covered Entity in its role as employer.

For the purposes of this Business Associate Agreement, PHI also includes the definitions of “registration record” and “treatment record” as defined in s. 51. 30 (1), Stats.:

(a) “Registration records” include all the records of the department, county departments under s. 51.42 or 51.437, treatment facilities, and other persons providing services to the department, county departments or facilities which identify individuals who are receiving or who at any time have received services for mental illness, developmental disabilities, alcoholism or drug dependence.

(b) “Treatment records” include the registration and all other records concerning individuals who are receiving or who at any time have received services for mental illness, developmental disabilities, alcoholism, or drug dependence which are maintained by the department, by county departments under s. 51.42 or 51.437 and their staffs, and by treatment facilities. Such records do not include notes or records maintained for personal use by an individual providing treatment services for the department, a county department under s. 51.42 or 51.437, or a treatment facility if such notes or records are not available to others.

*Individual* means:

The person who is the subject of protected health information or the personal representative of an Individual as defined and provided for under applicable provisions of HIPAA.

*Disclosure* means:

The release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

*Designated Record Set* means:

(1) A group of records maintained by or for a covered entity that is:

- (i) The medical records and billing records about individuals maintained by or for a covered health care provider;
- (ii) The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
- (iii) Used, in whole or in part, by or for the covered entity to make decisions about individuals.

(2) For purposes of this Agreement, the term record means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a covered entity.

*Incident* means:

A use or disclosure of PHI by the Business Associate or subcontractor not authorized by this Agreement or in writing by the Covered Entity. Also included in this definition are any attempted, successful or unsuccessful, unauthorized access, modification, or destruction of PHI, including electronic PHI, or interference with the operation of any information system that contains PHI.

## 2. PROHIBITION ON UNAUTHORIZED USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION

The Business Associate shall not use or disclose any PHI except as permitted or required by the Contract or this Agreement, as permitted or required by law, or as otherwise authorized in writing by the Covered Entity.

## 3. PERMITTED USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

The Business Associate may use or disclose PHI only for the following purpose(s):

- a. for the delivery of the services, program management, activities, or functions contracted for in the Contract; or
- b. for meeting contractual or legal obligations as established in any agreements between the parties evidencing their business relationship; or
- c. as permitted by HIPAA if such use or disclosure were made by the Covered Entity or otherwise required by applicable law, rule or regulation; or
- d. for use in the operations of the Business Associate as provided in paragraph 4 of this Agreement; or

- e. as otherwise authorized by the Covered Entity in writing; or
- f. data aggregation for the health care operations of the Covered Entity.

Note: For the purposes of the Contract and this Agreement, s. 51. 30, Stats., and HFS 92, Wis. Admin. Code, contain provisions that are more stringent than the federal HIPAA statutes and regulations. The Business Associate may disclose PHI without prior written informed consent from the individual or his/her legal representative only to the Covered Entity, the individual or his/her legal representative, to the county staff of the county believed to be the county of responsibility, nursing facility staff of the facility to which the individual is seeking admission or is a current resident, and, if applicable, to the hospital staff where the individual currently is located on an inpatient basis.

#### 4. SAFEGUARDING AND MAINTENANCE OF PROTECTED HEALTH INFORMATION

- a. The Business Associate will develop, implement, maintain, and use:
  - (i) reasonable and appropriate administrative, technical, and physical safeguards to prevent improper use or disclosure of PHI, in any form or media; and,
  - (ii) reasonable and appropriate administrative, technical, and physical security measures that protect the confidentiality, integrity and availability of electronic PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- b. The Business Associate will document PHI safeguards and security measures and agrees to provide the Covered Entity with access and review of this documentation if requested by the Covered Entity or an agent of the Covered Entity. Security measures employed by the Business Associate must be sufficient to ensure that the Covered Entity is compliant with the HIPAA privacy and security requirements for those covered services, activities, or functions performed on behalf of the Covered Entity on or before the date such requirements become effective.
- c. The Business Associate agrees to conduct an accurate and thorough assessment of the potential risks and vulnerabilities to the confidentiality, integrity, and availability of electronic protected health information held by the Business Associate. The Business Associate and Covered Entity agree that all costs associated with performance of these activities will be the responsibility of the Business Associate unless the Covered Entity agrees to be responsible for some or all of the costs associated with the performance of these activities.

#### 5. USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION BY SUBCONTRACTORS AND AGENTS OF THE BUSINESS ASSOCIATE

The Business Associate agrees to require any agent, including subcontractors, to whom the Business Associate provides PHI to comply with the same restrictions and conditions applicable to the Business Associate with respect to PHI. Business Associate further agrees to ensure that any agents or subcontractors, to whom the Business Associate provides PHI received from, or created or received by the Business Associate on behalf of the Covered Entity agrees to the same restrictions and conditions applicable to the Business Associate with respect to such information. This provision does not apply to the use or disclosure of PHI by subcontractors that provide health care treatment to individuals or to other persons or organizations that have entered into an Organized Health Care Arrangement (OHCA) as provided for under the provisions of HIPAA.

#### 6. ACCESS TO PROTECTED HEALTH INFORMATION

At the request of the Covered Entity, the Business Associate agrees to provide access to PHI held by the Business Associate that the Covered Entity has determined to be part of the Designated Record Sets of the programs covered by the Agreement. Access to PHI will be provided to the Covered Entity

or to an Individual as directed by the Covered Entity to comply with applicable HIPAA requirements. The Covered Entity may delegate to the Business Associate responsibility for performing any or all obligations related to the Designated Record Set, including those activities required under HIPAA to permit an individual to exercise their HIPAA privacy rights.

7. AMENDMENT OR CORRECTION TO PROTECTED HEALTH INFORMATION

At the direction of the Covered Entity, the Business Associate agrees to amend or correct PHI that the Covered Entity determines is included in the Designated Record Set held by the Business Associate. The Business Associate agrees to complete any amendment or correction to PHI in accordance with HIPAA requirements.

8. REPORTING OF INCIDENTS TO COVERED ENTITY BY BUSINESS ASSOCIATE

The Business Associate agrees to inform the Covered Entity of any Incident covered by this Agreement within one (1) business day of becoming aware of such Incident. The Covered Entity, at its discretion, may require a written report. If a written report is requested by the Covered Entity, the Business Associate agrees to forward a written report to the Covered Entity not more than one (1) business day after such request is made. Written and verbal reports of Incidents will include:

- a. a complete description of the circumstances of the Incident;
- b. the name of persons assigned to review and investigate the Incident;
- c. a description of all PHI used or disclosed during the Incident;
- d. the names of persons and organizations involved in the Incident;
- e. the actions the Business Associate has undertaken or will undertake to mitigate any harmful effect of the Incident; and,
- f. a corrective action plan that includes steps the Business Associate has taken or will take to prevent future similar Incidents from occurring.

8. MITIGATING EFFECT OF UNAUTHORIZED DISCLOSURES OR MISUSE OF PROTECTED HEALTH INFORMATION

The Business Associate agrees to mitigate, to the extent practicable, any harmful effect known to the Business Associate created by an improper use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement.

12. STATUTORY DUTY OF COVERED ENTITY TO REPORT MATERIAL BREACHES BY BUSINESS ASSOCIATE TO SECRETARY OF HEALTH AND HUMAN SERVICES (HHS)

Business Associate and Covered Entity agree that if the Business Associate engages in a pattern of activity or practice that constitutes a material breach or violation of this Agreement, and the Covered Entity becomes aware of such pattern or practice, the Covered Entity is required to take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are not successful and termination of the Contract is not feasible, the Covered Entity is required to report the problem to the Secretary of HHS.

13. TRACKING AND ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION BY THE BUSINESS ASSOCIATE

- a. The Business Associate agrees to track disclosures of PHI as required by the applicable provisions of HIPAA and applicable Wisconsin State law. Specifically, the Business

Associate agrees that it will maintain a record of all PHI disclosures made to third parties, except as provided for by the subsections to this paragraph below. The Business Associate agrees that the following information will be recorded:

- (i) the date the PHI was disclosed;
  - (ii) the name and address, if known, of the person or entity that the PHI was disclosed to;
  - (iii) a brief description of the PHI disclosed; and
  - (iv) a brief statement describing the purpose for the disclosure.
- b. For repetitive disclosures that the Business Associate makes to the same person or entity for a single purpose, the Business Associate will provide:
- (i) the disclosure information as specified in paragraph 13(a)(i-iv) of this Agreement for the first of such repetitive disclosures;
  - (ii) the frequency, periodicity or number of such repetitive disclosures; and
  - (iii) the date of the most recent of such repetitive disclosures.
- c. The Business Associate will make the record of disclosures available to the Covered Entity within one (1) business day after receiving a request by the Covered Entity.
- d. Exceptions from Disclosure Tracking.  
The Business Associate is not required to track or record disclosures of PHI, or to provide an accounting of disclosures for PHI meeting the following conditions:
- (i) disclosures of PHI that are permitted under this Agreement, or otherwise expressly authorized by the Covered Entity in writing; and
  - (ii) disclosures of PHI for the following:
    - (1) for purposes of treatment, payment or health care operations activity of the Covered Entity;
    - (2) in response to a request from an Individual who is the subject of the disclosed PHI, or to that Individual's Personal Representative;
    - (3) made to persons involved in health care or payment for health care of the Individual;
    - (4) for disaster relief notification purposes;
    - (5) for national security or intelligence purposes; or,
    - (6) to law enforcement officials or correctional institutions regarding Individuals in custodial situations.
- e. Agreement to Obtain Valid Authorization or Informed Written Consent Prior to Disclosure of PHI.  
Business Associate agrees to obtain a valid authorization or informed written consent from the individual that is the subject of the PHI disclosure or a personal representative of such individual except for those exceptions listed in this Agreement or otherwise required by law.

- f. Disclosure Tracking Time Periods.  
Business Associate agrees to maintain and make available to the Covered Entity upon its request information on disclosures of PHI made by the Business Associate for the six-year period preceding the request, but not including disclosures made prior to April 14, 2003, or the date that the Business Associate began performing covered services, activities, or functions on behalf of the Covered Entity, whichever is later.

#### 14. ACCOUNTING TO THE COVERED ENTITY AND TO GOVERNMENT AGENCIES

The Business Associate agrees to make its internal practices, books, and records relating to the use and disclosure of PHI available to the Covered Entity, or to the Secretary of Health and Human Services (HHS) in a time and manner determined by the Covered Entity or the Secretary or designee, for purposes of determining compliance by the Covered Entity with the requirements of HIPAA. Further, the Business Associate agrees to promptly notify the Covered Entity of communications with HHS regarding PHI and will provide the Covered Entity with copies of any PHI or other information the Business Associate has made available to HHS under this provision.

#### 15. TERM AND TERMINATION OF AGREEMENT

- a. The Business Associate and Covered Entity agree that this Agreement becomes effective on (Date)
- b. The Business Associate agrees that if in good faith the Covered Entity determines that the Business Associate has materially breached any of its obligations under this Agreement, the Covered Entity at its discretion, has the right to:
  - (i) exercise any of its rights to reports, access and inspection under this Agreement, and, or
  - (ii) require the Business Associate to conduct monitoring and reporting, as the Covered Entity determines reasonably necessary to maintain compliance with this Agreement; and, or
  - (iii) provide the Business Associate with a defined time period to cure the breach; or
  - (iv) terminate the Agreement in accordance with applicable state statutes.
- c. Before exercising any of these options, the Covered Entity will provide written notice of preliminary determination to the Business Associate describing the violation and the action the Covered Entity intends to take.

#### 16. RETURN OR DESTRUCTION OF PROTECTED HEALTH INFORMATION

Upon termination, cancellation, expiration or other conclusion of this Agreement, the Business Associate will:

- a. Return to the Covered Entity, in accordance with Section VIII. of the Contract, or if return is not feasible, destroy all PHI and any compilation of PHI in any media or form. The Business Associate agrees to ensure that this provision also applies to PHI in possession of subcontractors and agents of the Business Associate provided to the agent or subcontractor by the Business Associate. The Business Associate agrees that any original record or copy of PHI in any media is included in and covered by this provision, as are all original or copies of PHI provided to subcontractors or agents of the Business Associate by the Business Associate. The Business Associate agrees to complete the return or destruction as promptly as possible, but not more than sixty (60) calendar days after the effective date of termination of this Agreement. The Business Associate will provide written documentation evidencing that

return or destruction of all PHI has been completed. Business Associate agrees to extend the requirements of this provision to contracts entered into with subcontractors and agents that create, receive, or maintain PHI on behalf of the Business Associate.

- b. If the Business Associate believes that the return or destruction of PHI is not feasible, the Business Associate shall provide written notification of the conditions that make return or destruction not feasible. If the Business Associate and Covered Entity agree that return or destruction of PHI is not feasible, the Business Associate shall extend the protections of this Agreement to PHI and prohibit further uses or disclosures of the PHI of the Covered Entity without the express written authorization of the Covered Entity. Subsequent use or disclosure of any PHI subject to this provision will be limited to the use or disclosure that makes return or destruction not feasible.

17. MISCELLANEOUS PROVISIONS

- a. Automatic Amendment: This Agreement shall automatically incorporate any change or modification to HIPAA as of the effective date of the change or modification. The Business Associate agrees to maintain compliance with all changes or modifications to HIPAA as required.
- b. Interpretation of Terms or Conditions of Agreement: Any ambiguity in this Agreement shall be construed and resolved in favor of a meaning that permits the Covered Entity and Business Associate to comply with HIPAA.
- c. Submission of Compliance Plan: The Business Associate agrees that a HIPAA compliance plan may be requested by the Covered Entity. If requested by the Covered Entity, the Business Associate agrees to provide periodic reports of the progress of the compliance plan. Further, the Business Associate agrees that the plan and progress reports will comply with the requirements of the Covered Entity.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed by their respective representatives.

\_\_\_\_\_  
Provider's Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Purchaser's Contract Administrator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Purchaser's Authorized Representative

\_\_\_\_\_  
Date