



STANDARD TERMS AND CONDITIONS FOR CONTRACTUAL SERVICES

The following Terms and Conditions are incorporated into the Agreement made and entered into by the Contractor and the Wisconsin Housing and Economic Development Authority (“WHEDA”).

1. **Applicable Law and Compliance.** The Agreement 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 the Agreement and which in any manner affect the work or its conduct. WHEDA 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.
2. **Assignment, Subcontracting and Delegation.** The Agreement may not be assigned by the Contractor without the prior written approval of WHEDA. The services provided for in the Agreement may not be subcontracted or delegated in whole or in part to any other person or entity without the prior written approval of WHEDA. The Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of WHEDA and the permitted successors and assigns (if any) of the Contractor. This Agreement may be assigned by WHEDA to any successor-in-interest to WHEDA without notice to, or the consent of, Contractor.
3. **Code of Ethics and Travel Policy.** The Contractor shall adhere to WHEDA’s Code of Ethics for Paid Consultants and Travel Policy for Consultants, a copy of each of which is attached hereto. The Contractor shall make written disclosures to WHEDA as required by the Code of Ethics.
4. **Confidentiality.** The Contractor acknowledges that all information, data, records and documents disclosed by WHEDA to the Contractor, or which come to the Contractor’s attention during the course of its performance under the Agreement constitute valuable and proprietary assets of WHEDA (“**Confidential Information**”). The Contractor agrees to not disclose the Confidential Information, either directly or indirectly, to any person, entity or affiliate unless required to do so by legal process of law without prior written authorization of WHEDA. If required to disclose the Confidential Information by legal process, the Contractor shall provide WHEDA with prompt notice so WHEDA may seek an appropriate protective order. Except as required during the course of its performance under the terms of the Agreement, the Contractor shall not use any Confidential Information for its own purposes.
5. **Dual Employment.** The Contractor will not engage the services of any person or persons now employed by WHEDA to provide services relating to the Agreement without the written consent of WHEDA.
6. **Entire Agreement.** The Agreement contains the entire agreement of the parties. No amendment of the Agreement and no waiver of any provision hereof shall be effective unless in writing and duly executed by the parties affected thereby. If any portion of the Agreement is found to be unenforceable, the remaining portions of the Agreement will continue to be enforced to the fullest extent permitted by law.
7. **Force Majeure.** Neither party shall be in default by reason of any failure in performance of the 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.
8. **Indemnification.** The Contractor shall indemnify, defend and hold harmless WHEDA, including its officers, agents and employees, from and against any and all claims, liabilities, losses, damages, costs and expenses to the extent caused or arising out of the negligent acts, reckless conduct, or errors or omissions of the Contractor, its officers, employees, agents or representatives in the performance of this Agreement.

9. **Independent Contractor.** The parties intend and agree that the Contractor is an independent contractor and not an employee or agent of WHEDA. Subject to the terms and conditions of the Agreement, the Contractor alone will control the manner and means by which the services delivered hereunder are provided. 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 WHEDA.

10. **Insurance Responsibility.** The Contractor shall maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in the work under the Agreement.

The Contractor shall maintain commercial liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out the Agreement. Minimum coverage shall be one million dollars (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations.

The Contractor shall maintain motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out the Agreement. Minimum coverage shall be one million dollars (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.

11. **Nondiscrimination.**

- a. The Contractor agrees not to discriminate against employee or applicant for employment on the basis of race, color, religion, national origin, sex, sexual preference, marital status, familial status, physical condition, developmental disability, age or any other basis prohibited by applicable law.
- b. Pursuant to 2019 Wisconsin Executive Order 1, the Contractor agrees it will hire only on the basis of merit and will not discriminate against any persons performing a contract, subcontract or grant because of military or veteran status, gender identity or expression, marital or familial status, genetic information or political affiliation.
- c. Pursuant to Section 16.75(10p), of the Wisconsin Statutes., the Contractor agrees it is not, and will not for the duration of the contract, engage in a prohibited boycott of the State of Israel as defined in s. 20.931(1)(b). State agencies and authorities may not execute a contract and reserve the right to terminate an existing contract with a company that is not compliant with this provision. This subsection 11(c) applies to contracts valued \$100,000 or over.

12. **Payment and Invoicing.** WHEDA 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.

13. **Pricing.** Prices established in the Agreement may be lowered unilaterally by the Contractor, but prices shall not be increased without the written approval of WHEDA.

14. **Promotional Advertising and News Releases.** Reference to or use of WHEDA, its officers or employees for commercial promotion is prohibited. News releases pertaining to the Agreement shall not be made without prior approval of WHEDA.

15. **Public Records.** With certain exceptions, all records of WHEDA, including records relating to the Agreement, shall be open to the public. Contractors' records produced or collected under, or in relation to, the Agreement shall also be open to the public to the same extent as if such records were maintained by the Authority pursuant to Wis. Stat. § 19.36(3).

16. **Record Keeping and Record Retention.** The Contractor shall establish and maintain records of all expenditures incurred under the Agreement. All records must be kept in accordance with applicable law and generally accepted accounting procedures. WHEDA shall have the right to audit, review, examine, copy, and transcribe any pertinent records or documents relating to the Agreement. The Contractor will retain all documents applicable to the Agreement for a period of not less than three (3) years after final payment is made.
17. **Rights and Remedies.** No delay or omission by WHEDA in exercising any right or remedy under the Agreement shall be deemed to operate as a waiver of such right or remedy or any other right or remedy available hereunder or at law. No waiver by WHEDA of any default shall constitute a waiver of any other default or of the same default on a future occasion.
18. **Taxes.** WHEDA is exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases. WHEDA may be subject to other states' taxes on its purchases in that state depending on the laws of that state.
19. **Termination.** WHEDA may terminate the Agreement upon written notification to the Contractor. Upon termination of the Agreement, the Contractor will return to WHEDA all documents, financial statements or any other materials which it has received from WHEDA in the course of providing the services; the Contractor will deliver to WHEDA all finished or unfinished documents, data, studies and reports, and all other property, prepared or purchased by the Contractor in the course of performing the services; and the Contractor will promptly submit a final invoice for work performed up to the effective date of termination. The Contractor may terminate this Agreement if, and only if, it has not received payments for services rendered and not subject to dispute by WHEDA, for a period of sixty (60) days. However, the Contractor must give WHEDA thirty (30) day written notice of its intent to terminate and the right to cure amounts claimed as in arrears in the written notice.
20. **Written Notice.** Any notice required or permitted to be given under the Agreement will be deemed to have been given if made in writing and sent by recognized overnight courier service, delivered by hand or sent certified mail, postage prepaid, to WHEDA, attention General Counsel, 201 West Washington Avenue, Suite 700, Madison, WI 53703 or P.O. Box 1728, Madison, WI 53701-1728, and to the Contractor at the address supplied in the proposal made by it hereunder. Notice shall be deemed given one day after deposit with a recognized overnight courier service, upon receipt if delivered by hand and three days after being mailed.
21. **Gramm-Leach-Bliley Act.** If as part of the Agreement, the Contractor receives from WHEDA or otherwise obtains any "nonpublic personal information" as defined by the Gramm-Leach-Bliley Act ("**Personal Information**"), the following provisions shall apply:
 - a. The Contractor shall safeguard and retain in confidence all Personal Information, and shall not publish, disclose or otherwise disseminate such Personal Information, or allow any third party to gain access to such Personal Information, without the prior written consent of WHEDA or except as necessary in the performance of services under the Agreement. The Contractor shall only disclose Personal Information to its employees or agents who have a legitimate need to know such Personal Information for purposes of performing the service of the Contractor for WHEDA under the Agreement.
 - b. The Contractor shall properly safeguard and dispose of all Personal Information. The Contractor agrees to institute appropriate internal procedures and controls, and to also conduct periodic employee training and other management oversight activities in order to assure that employees understand the requirements contained herein and are cognizant of the need to strictly comply with all of these measures.
 - c. In the event the Contractor has a breach in its systems, processes and/or procedures which results in unauthorized access to Personal Information, the Contractor will immediately notify WHEDA. The Contractor, in conjunction with WHEDA, will take the appropriate actions, including but not limited to notifying potentially affected customers, in accordance with all applicable rules and regulations.

**CODE OF ETHICS FOR PAID CONSULTANTS OF THE WISCONSIN
HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY**

March 1, 2006

I. Declaration of policy. In keeping with the tenets of a free and open government, a code of ethics to guide Consultants will help them avoid material conflicts of interest while ensuring that the Authority gives all persons equal opportunity to act as a Consultant. A code of ethics will also guide the Authority in selecting and working with Consultants, recognizing private pecuniary interests, and not depriving Consultants of their rights to enter into other contracts or employment which do not conflict with the Consultant's Position with the Authority.

II. Definitions. In this code:

A. Anything of Value: any money or property, favor, service, payment, advance, forbearance, loan or promise of future employment, but does not include compensation and expenses paid by the Authority, or hospitality extended for a purpose unrelated to Authority business.

B. Authority: the Wisconsin Housing and Economic Development Authority or any successor.

C. Consultant: (a) any person or Organization which is engaged to provide professional or technical advice, assistance or opinions for compensation; or (b) any person who is not an employee of the Authority but who is engaged to provide professional or technical advice, assistance or opinions for compensation, whether such compensation is given directly to the person or to any Organization which employs the person.

D. Department: means the Legislature, the University of Wisconsin System any authority or public corporation created and regulated by an act of the Legislature and any office, department, independent agency or legislative service agency created under Chapter 13, 14, or 15 of the Wisconsin Statutes, and vocational, technical and adult education district or any constitutional office including a judicial office.

E. Immediate Family: any person's parents, siblings, spouse, children and grandchildren.

F. Organization: any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual.

G. Position: the position of a Consultant in relation to the Authority which results from the Consultant's contract with the Authority.

III. Standards of Conduct.

A. Except as provided for by contract with the Authority, no Consultant may use or attempt to use his/her position to obtain gain or Anything of Value for anyone. No Consultant may use or attempt to use his/her position to influence or gain, for anyone, unlawful benefits, advantages or privileges. This section is not intended to preclude,

upon prior written approval, the listing of the Authority as a reference, or the inclusion of the Authority in a list of the Consultant's representative clients.

B. No Consultant may solicit or accept, directly or indirectly, Anything of Value if it could reasonably be expected to influence an official's action or inaction or could reasonably be considered a reward for any action or inaction.

C. No Consultant may intentionally use or disclose confidential information which could result in the receipt of Anything of Value for the Consultant, a member of his/her Immediate Family, or an Organization with which he/she is associated.

D. No Consultant may represent a person or Organization for compensation before the Authority, except as permitted by the Authority after receiving full disclosure of the nature of the Consultant's relationship with the person or Organization.

E. No Consultant may represent, in connection with any proceeding, application, contract, claim, or charge which was under the Consultant's responsibility or he/she was personally and substantially involved with in the twelve months prior to ceasing to be a Consultant, for compensation, any person or Organization before the Authority within twelve months after leaving the Department.

F. All Consultants' contracts shall provide that if the Consultant or former Consultant has failed to adhere to the provisions of this code of ethics, and if the Authority determines such failure to adhere to the code of ethics involves a material conflict of interest, the contract may be declared to be void by the Authority and any amounts paid under the contract may be recovered by the Authority.

IV Disclosure

A. Consultants shall include within each proposal a written statement that discloses and provides relevant information on each of the following matters which are known to the Consultant or could reasonably be expected to be known to the Consultant:

1. A member or an employee of the Authority, or his/her Immediate Family, or a Consultant owns or controls directly or indirectly any equity in, or is associated with, the Consultant;

2. The Consultant currently employs, or has offered to employ, any person who is or has been a member or management level employee of the Authority within the twelve-month period preceding the date of the proposal;

3. The Consultant, or any of its employees, provides services for compensation to, or anticipates providing services for compensation during the term of the contract to, a member or employee of the Authority, any Organization with which a member or employee of the Authority is associated, a person or Organization indebted to the Authority, or a person who or Organization which has, within the twelve month period preceding the proposal, received a loan or grant from the Authority; and

4. The names of those professionals within a Consultant's Organization who have responsibility for and direct contact with the Authority regarding

its bonds or notes, who in addition to, own notes or bonds which have been issued by the Authority.

B. If none of the above matters exist, the Consultant shall state so in writing.

C. The Authority shall review the statement and provide in writing, only if the information disclosed under sub. A interferes with fair competition among Consultants, or proves that awarding the contract to the Consultant is not in the best interests of the Authority.

D. Unless otherwise exempted pursuant to sub. E, all contracts shall incorporate this Code of Ethics and shall provide that if a Consultant has failed to disclose any matters described above, and if the Authority determines such failure to disclose involves a material conflict of interest, the Consultant's contract may be declared to be void by the Authority and any amounts paid under the contract may be recovered by the Authority. All contracts shall also require a Consultant to advise the Authority of any changes in the information provided in sub. A which occur during the contract period.

E. No disclosure under sub. A or section III, D, is required if (a) state or federal law prohibits the disclosure, or (b) it is improper under administrative rules or recognized professional code of the Department which is responsible for regulating or licensing the occupational group of which the Consultant is a member.

V. Action Upon Conflict

A. Any Consultant who, in the discharge of Consultant duties, is involved in any matter that could result in a material conflict of interest on the Consultant's part shall:

1. Prepare a written statement describing such matter and the nature of the possible conflict of interest;

2. Deliver a copy of the statement to the Authority's Executive Director; and

3. Take no further action with regard to such matter except in accordance with advice from the Authority's Executive Director.

B. A Consultant who disagrees with the advice of the Executive Director given under sub. A. 1. may bring the matter for review before the members of the Authority.

WISCONSIN HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY

TRAVEL POLICY FOR CONSULTANTS

(Based on current Wisconsin Uniform Travel Schedule Amounts)

The Wisconsin Housing and Economic Development Authority (the "Authority") is required by law, §234.02(3m)(b), Wisconsin Statutes, to adhere to the State of Wisconsin Uniform Travel Schedule. All consultants to the Authority must keep their expenditures, while on travel status, within those guidelines. This document provides basic details concerning travel policies and sets out administrative procedures to implement them.

The Authority will not approve payment for any travel expense which exceeds the maximum Uniform Travel Schedule Amount, except in unusual circumstances when accompanied by a receipt and a full explanation of the reasonableness of such expense. An "unusual circumstance" is defined as being outside the control of the consultant. An expense which exceeds a travel maximum is reasonable only when unavoidable additional expenses would be incurred by trying to adhere to the specified travel maximum.

Lodging

The maximum lodging rate for in-state travel is \$82 per night as of July 1, 2015, excluding sales and/or room taxes. The maximum lodging rate is \$90 per night for Milwaukee, Racine, and Waukesha counties.

The choice of lodging will be based on cost, with consideration given to accessibility in conducting business. Written justification is required whenever the maximum room allowance is exceeded.

All lodging expenses must be supported by a copy of the original receipt. Reimbursement will be made only at the single-room rate which must be shown on the receipt.

Meals

The maximum meal reimbursement rates, including tax and tip are (maximum reimbursable tip is 15%):

	In-State	Out-of-State
Breakfast	\$8.00	\$10.00
Lunch	\$10.00	\$15.00
Dinner	\$20.00	\$25.00

Reimbursement for meals will be made when it is necessary to be away from Madison or the consultant's permanent domicile on Authority business as follows:

<u>Departure Time</u>	<u>Return Time</u>	<u>Reimbursable Meals</u>
Before 6:00 a.m.	Before 2:30 p.m.	Breakfast
Before 6:00 a.m.	After 7:00 p.m.	Breakfast, Lunch, Dinner
Before 10:30 a.m.	After 2:30 p.m.	Lunch
After 2:30 p.m.	After 7:00 p.m.	Dinner
After 7:00 p.m.	N/A	None

Original, itemized receipts are required for all meals. Receipts and written justification are required for an unusual cost that exceeds the maximum allowance.

No reimbursement will be made for the cost of alcoholic beverages.

Air Travel

Reimbursement for commercial air travel will generally be limited to the lowest coach fare available at the time reservations for air travel are made.

Taxis and Airport Limousine

Reasonable charges for taxis and airport limousines, including tips of up to 15% are reimbursable when other modes of travel are not available or practical. Receipts are required for any one way fare that exceeds \$25.

Bus

Bus travel is recommended when traveling within Madison or between Madison and Milwaukee or Chicago. Receipts are required for reimbursement.

Telephone

Reimbursement will be made for business calls.

Personal calls are not reimbursable, except when the consultant's schedule is altered by a geographical location change. One call shall be reimbursed up to \$5.00 per call for each such required change. Such reimbursement shall also be allowed if a travel agenda must be extended by more than one hour.

Automobile Travel

Traffic citations, parking tickets and other traffic violation expenses when traveling on the Authority business are the consultant's responsibility.

Costs for parking and tolls when on travel status will be reimbursed.

1. Personal Vehicle

Reimbursement for the use of a personal automobile for business mileage will be 51 cents per mile.

2. Commercial Rental Vehicles

When commercial transportation is used to arrive at a destination and ground transportation is required at the destination, reimbursement for the cost of a rental car will be provided if:

- a. Written justification is provided indicating that such rental was the most time- and cost-efficient means of transportation available in the situation. The primary State vendor is Enterprise Rent-a-Car.
- b. An economy model was rented or the non-availability of this size automobile is documented.

Insurance

The consultant will be responsible for providing the Authority a Certificate of Insurance necessary to perform the contracted services.

All consultants must provide proof of insurance prior to operating their personal vehicle on Authority business.