**WASHINGTON STATE INVESTMENT BOARD**

**OPTIONAL-USE CONTRACT FOR**

**PRE-QUALIFIED POOL OF GOVERNANCE, RISK, AND COMPLIANCE SERVICES**

**[Drafting Note: The WSIB recognizes that there is a wide range of possible services that could be provided under this pool, and a wide range of entities that may provide those services. Therefore, certain sections of either or both of the Special Terms and Conditions and the General Terms and Conditions (Att. A) may not be applicable to a certain Offeror. Nonetheless, the WSIB prefers to keep those sections in all final Contracts. If an Offeror has reasons *other than* simple non-applicability to delete a given section, please provide that explanation in the Contract mark-up included in the Response.**

**Further, the WSIB reserves the right to further edit various sections in the final Contract to account for (1) the scope or nature of the services included in the Contract, (2) the nature of the entity serving as a Contractor, (3) the contents of Contractor’s response, or (4) any other reason the WSIB determines to be in its best interest.]**

This contract, including all attachments and documents incorporated by reference, (collectively, the “Contract”) is made by the Washington State Investment Board, 2100 Evergreen Park Drive SW, P.O. Box 40916, Olympia, Washington 98504-0916 (the “WSIB” or the “Board”) and [FIRM name and address] (the “Contractor”), collectively, the “Parties”. The Contractor submitted a written response (the “Response”) to the WSIB’s Request for Proposals #25-06 (the “RFP”), which the WSIB received on [date]. The WSIB desires to engage the Contractor to create a pre-qualified pool of consultants to provide services and advice on the subject areas of [governance, risk management, and compliance], and the Contractor desires to be so engaged.

PURPOSE

The purpose of this Contract is to meet the WSIB’s current and future needs on an as needed project basis for [governance, risk, and/or compliance consulting services]. The role of the Contractor will be to cooperatively assist the WSIB by providing consulting and technical guidance on a wide array of topics and, in doing so, provide the WSIB with independent, clear, unbiased, and unconflicted advice. This strategic partnership is an important relationship to the WSIB. In consideration of the terms and conditions contained herein, the Parties agree as follows:

SPECIAL TERMS AND CONDITIONS

1. SCOPE OF SERVICES

The Contractor shall provide the services and deliverables set forth in this “Scope of Services” and as specified in the required elements of the RFP and in conformance with Contractor’s Response. The services to be provided include, but are not limited to, the following:

* 1. **Governance.** The Contractor shall provide the WSIB with governance-related projects, for example:
		1. Provide guidance and direction as to pension fund governance best practices,
		2. Provide examples of relevant governance practices at WSIB peer organizations,
		3. Provide Board and committee charters and policies to identify updates for consideration,
		4. Provide coaching to the Board or committee members,
		5. Perform interviews of stakeholders to gain an understanding and obtain feedback on current practices, and
		6. Conduct education sessions or presentations to the Board and/or WSIB staff on key industry trends, changes, and updates.
	2. **Enterprise Risk Management.** The Contractor shall provide the WSIB with risk-related projects, for example:
		1. Provide consulting services directly relating to advancing the WSIB’s enterprise risk management (“ERM”) framework and tools,
		2. Work with the WSIB in the enhancement of its mature ERM program, and
		3. Conduct specific risk identification, management, or mitigation consulting projects (e.g., specific risk program development, risk surveys, table-top risk projects, etc.).
	3. **Compliance.** The Contractor shall provide the WSIB with compliance-related projects, for example:
		1. Work with WSIB staff to identify requirements and solutions to address new or novel compliance-related issues, and
		2. Perform gap analysis and/or effective testing of existing WSIB compliance activities and provide actionable feedback on areas for improvement.
	4. The Contractor will work on a project basis. In any given project, the Contractor will ensure that the WSIB has fully addressed all relevant issues pertaining to the project.
	5. The scope of each discrete project will depend on the particular issue or fund on which the WSIB requests consultant assistance and according to the needs of the various current and future WSIB programs.
		1. Prior to issuing a Project Work Request, WSIB staff will clearly delineate the scope of the project, the timeline, expected completion date, WSIB contact information, project background information, and a deadline for response if interested in the proposed project. The WSIB will send the Project Work Request to one or more contractors in the Pool.
		2. A project will be assigned to the contractor possessing the subject matter expertise, required availability, and total project cost based upon the contractor’s estimate of necessary project completion hours. A particular project may require the contractor to meet with the WSIB, its committees, and/or WSIB staff as required on a period basis at a location and time specified by the WSIB.
		3. At the time any project assignment is made to the Contractor, a Project Work Order (“PWO”) will be executed by the WSIB and the Contractor setting forth the agreed-upon parameters and the project fee (based on the Fee Schedule in Attachment B). The Project Work Request, as well as the Project Work Order memorializing it, shall be subject to the terms and conditions of this Contract. The terms and conditions of any Project Work Order shall not conflict with the terms and conditions of the Contract; in the event of any conflict, the Contract shall govern. All Project Work Orders executed by the WSIB and the Contractor and are hereby attached to and made a part of this Contract.
	6. To the extent that the Contractor conducts client conferences or hosts other similar educational activities provided by the Contractor and normally offered to Contractor’s clients (collectively, “Client Conferences”), the Contractor shall invite Board members and relevant WSIB staff to participate in Client Conferences. Any invitations to Board members and relevant WSIB staff given by the Contractor to participate in Client Conferences will be considered part of services rendered by the Contractor under this Contract. All costs normally paid by the Contractor, such as registration fees, materials, conference meals and refreshments, related to such Client Conferences or similar educational activities, shall be deemed part of this Contract. If the costs normally borne by the Contractor are initially borne by the WSIB, the Contractor shall reimburse the WSIB for such costs.
1. PERIOD OF PERFORMANCE

Regardless of the date of signature and subject to its other provisions, the services provided under this Contract shall be delivered from [*date*] through [*date 5 years after starting date*]*,* unless terminated sooner under other provisions of this Contract. The WSIB reserves the option to extend the term of this Contract on the same terms and conditions for an additional five (5) years or such other period as determined by the WSIB and mutually agreed to by the Parties.

1. COMPENSATION AND PAYMENT
	1. **Fees.**
		1. All fees and expenses for the services provided hereunder shall be calculated and paid as set forth in a Project Work Order. The WSIB shall pay the Contractor in arrears after provision of services. The fees received by the Contractor under this Contract shall include the payment of or reimbursement for the cost of any activities that may be offered to the Board members and relevant WSIB staff by the Contractor pursuant to Section 1.6.
		2. Total payment under this Contract shall not exceed $250,000. This amount may be revised by amendment should the number of Project Work Orders exceed anticipated levels or the nature or intensity of the work assigned otherwise require it.
		3. The Contractor shall submit an invoice to the WSIB for payment no later than the twentieth (20th) Business Day of the month immediately following the completion of the work referenced in the PWO via email to FinanceServices@sib.wa.gov. Payment shall be made no later than thirty (30) days after receipt of a properly submitted and correct invoice for a period in which services have been rendered.
	2. **Expenses.** All expenses that may be incurred by the Contractor under this Contract are included in the fees paid under this Contract. The WSIB is not responsible for any additional costs or expenses incurred by the Contractor in the performance of work described in this Contract, which include, but are not limited to, travel, lodging, meals, and other miscellaneous operational expenses otherwise incurred by the Contractor.
	3. **Fee Schedule.** The hourly fees, if any, set forth in any Project Work Order shall not exceed those specified in Attachment B, Fee Schedule, which is incorporated by reference to this Contract. At the time of signing, the WSIB and the Contractor acknowledge and agree that the Fee Schedule is reasonable compensation to the Contractor for providing the services contemplated by this Contract.
	4. **Payment of Taxes.** The Contractor shall timely pay all applicable taxes assessed on the compensation received under this Contract and shall identify and pay those taxes in accordance with applicable law under Contractor’s federal and state identification number(s).
	5. **Withholding of Payment.** The WSIB reserves the right, with prompt notice to the Contractor, to withhold approval for an otherwise properly submitted invoice due to the Contractor’s failure to submit a written report of political contributions as called for by the “Notice of Political Contributions Required” section of this Contract. Similarly, the WSIB reserves the right, with prompt notice to the Contractor, to withhold payment for non-compliance and/or non-performance with any of the terms or conditions of this Contract. Payment shall not be unreasonably withheld. Nothing herein impairs the right of the WSIB to terminate the Contract as set forth in the “Termination” section of this Contract.
	6. **Right to Offset.** The WSIB reserves the right to offset any delinquent reimbursement or payment due to the WSIB from the Contractor from any payments due to the Contractor. For these purposes, a payment is delinquent if it is not paid within thirty (30) days of transmittal to the Contractor of an invoice setting forth the amount due and the basis for the invoice.
	7. **Advance Payments Prohibited.** The WSIB shall make no payment in advance or in anticipation of services or supplies to be provided under this Contract.
	8. **No Minimum Level of Requested Services and Non-exclusivity.** The WSIB makes no guarantee of a specific level of services that may be requested pursuant to this Contract. Additionally, the WSIB makes no guarantee of the Contractor’s exclusive right to provide the WSIB with the types of services enumerated herein and reserves the right to utilize other contractors to provide such services.
2. CONTRACT MANAGEMENT; NOTICES

The Contract Manager for each of the Parties is the contact person for all communications regarding the performance of this Contract. Each Party shall promptly notify the other, in writing, of any change in its Contract Manager designation or any change in their Contract Manager’s contact information.

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| --- | --- |
| **The Contract Manager for [Contractor] is:** | **The Contract Manager for WSIB is:** |
| [Name][Title][Address]Phone:Email: | Liz SmithLegal, Risk, and Compliance DirectorWashington State Investment BoardP.O. Box 409162100 Evergreen Park Drive SWOlympia, Washington 98504-0916Phone: (360) 956-4744Email: liz.smith@sib.wa.gov |

Other than routine communications in the ordinary course of providing or receiving services, whenever notice is required pursuant to any provision of this Contract, unless otherwise specified in this Contract, such notice shall be in writing and made by hand delivery, by certified mail with return receipt requested, or by overnight delivery service, in each case with postage or charges prepaid, and shall be sent to the Contract Manager of the applicable Party at the addresses listed above or such other address as duly provided by the applicable Party. Notice by email can be accepted upon written confirmation of the notice by the receiving Party’s Contract Manager, which written confirmation will not include automatic responses. Unless otherwise specified under the Contract, any written consent or agreement must be signed by an authorized representative of the applicable Party.

1. MEMORANDUM OF UNDERSTANDING

Any communications that the Contract Managers for both Parties determine to be a communication which is intended to address more than just day-to-day operational concerns, but which do not modify the terms of this Contract, shall be documented by a dated, written memorandum of understanding signed by the WSIB Contract Manager.

1. INSURANCE

[**Drafting Note – Specific insurance coverages and limits described in part below will be edited in the final contract to reflect only those services proposed by Contractor and accepted by the WSIB.**]

* 1. The Contractor shall acquire and provide proof of insurance coverage as set out in this section*.*  The intent of the required insurance is to protect the state of Washington should there be any claims, suits, actions, costs, losses, damages or expenses arising from any negligent or wrongful act or omission or misconduct of the Contractor, any Subcontractor, or agents of either, or any breach of this Contract or fiduciary duty or applicable law by any such parties, while performing under the terms of this Contract.
	2. The Contractor shall provide insurance coverage which will be maintained in full force and effect during the term of this Contract, as follows, but not limited to:
		1. **Professional Liability Insurance (i.e., Errors and Omissions).**  The Contractor shall maintain professional liability insurance from an insurance carrier with an A.M. Best Financial Strength Rating of “A” or higher, at a level sufficient to protect against legal liability arising out of Contract activity but no less than [$X] per occurrence and [$X] for a general aggregate limit.  Additionally, the Contractor is responsible for ensuring that any Subcontractor maintain professional liability insurance coverage that the Contractor reasonably considers as adequate for the activities arising out of the relevant subcontract.  If defense costs are paid within the limit of liability, the Contractor shall maintain annual aggregate limits of no less than [$X].  The Contractor shall have the WSIB added to the professional liability insurance policy as an additional insured and specify that such coverage will only be for situations in which the WSIB is named as a co-defendant with the Contractor.  The Contractor’s professional liability insurance shall not have exclusions for cross claims or counterclaims brought by additional insureds.
		2. **[Fidelity Bond.**The Contractor shall maintain a fidelity bond from an insurance carrier with an A.M. Best Financial Strength Rating of “A” or higher, to cover losses resulting from loss of money, securities, or inventory resulting from crime such as employee dishonesty, forgery, robbery, safe burglary, theft, misappropriation, computer fraud, wire transfer fraud, counterfeiting, and other criminal acts.  The Contractor shall maintain this coverage with annual aggregate limits no less than [$X] and [$X] for a general aggregate limit.  The fidelity bond will apply when an individual causes a loss with the manifest intent to cause the insured to sustain such loss or with the manifest intent to obtain an improper financial benefit.  The WSIB will be named as a joint loss payee on the fidelity bond.]
		3. **Privacy and Cyber Liability.**  The Contractor shall maintain privacy and cyber liability insurance coverage from an insurance carrier with an A.M. Best Financial Strength Rating of “A” or higher, in adequate quantity to protect against privacy and cyber legal liability arising out of Contract activity, but no less than [$X] per occurrence and [$X] for a general aggregate limit.  The cyber liability insurance will provide coverage for data breach liability, electronic funds transfer liability, network security liability, and breach response expenses.
	3. All policies shall be primary to any other valid and collectable insurance.  If any of the policies described in Section 6.2 are “claims made” policies, the Contractor will either continue coverage in effect for at least three (3) years from expiration of this Contract or purchase run-off coverage for at least three (3) years from the expiration of this Contract.
	4. The Contractor shall be solely responsible for paying the self-insured retention or deductible.
	5. Upon request, the Contractor shall submit to the WSIB a certificate of insurance or certificates of insurance, which outlines the coverage and limits defined in this Section 6 and demonstrates that such limits and coverage have been met or exceeded. Certificates of insurance which are accepted by the WSIB are incorporated as part of the Contract. The Contractor shall provide renewal certificates as requested by the WSIB during the term of the Contract.  The Contractor shall give the WSIB written notice of the following with regards to any of the insurances described in this Section 6: (i) thirty (30) days’ advance written notice of cancellation or non-renewal, (ii) any increase in the self-insured retention or deductible, (iii) a reduction in the available limits of liability, whether such reduction is due to the outside vendor’s request or by payment of covered claims, and (iv) any significant change of coverage terms.
	6. By requiring insurance, the WSIB does not represent that coverage and limits will be adequate to protect the Contractor, or the WSIB, and such coverage and limits will not limit the Contractor’s liability under the indemnities and reimbursements or other provisions in this Contract.
	7. Failure of the Contractor to obtain and maintain the required insurance is a material breach of this Contract which may result in termination by the WSIB of the Contract, for cause, at the WSIB’s option.
1. ASSURANCES

The WSIB and the Contractor agree that all activity pursuant to this Contract will be conducted in accordance with all applicable federal, state and local laws, rules, and regulations.

1. ORDER OF PRECEDENCE

In the event of inconsistency in this Contract or with applicable law or regulation, inconsistency shall be resolved by giving precedence in the following order:

* 1. Applicable Federal and Washington State Statutes and Regulations;
	2. Special Terms and Conditions;
	3. General Terms and Conditions, Attachment A;
	4. Fee Schedule, Attachment B;
	5. WSIB’s RFP, Attachment C;
	6. Contractor’s Response, Attachment D; and
	7. Any other provisions of the Contract incorporated by reference or otherwise.
1. GOVERNANCE

This Contract is governed by the laws of the state of Washington. In the event of a lawsuit involving this Contract, venue will be proper only in the Superior Court of the state of Washington, in, and for, Thurston County, located in Olympia, Washington. The Contractor, by execution of this Contract, acknowledges the exclusive jurisdiction of the courts of the state of Washington.

1. SEVERABILITY

The provisions of this Contract are intended to be severable. If any provision of this Contract or any provision of any document incorporated by reference is held to be invalid, such invalidity shall not affect the other provisions of this Contract which can be given effect without the invalid provisions. To this end, the provisions of this Contract are declared to be severable if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Contract.

1. ENTIRE AGREEMENT

This Contract and all attachments and schedules constitute the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersede all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

1. NO WAIVER

No waiver under this Contract is effective unless it is in writing and identified as a waiver to this Contract. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated and does not operate as a waiver on any future occasion. None of the following constitutes a waiver or estoppel of any right, remedy, power, privilege, or condition arising from this Contract: (i) any failure or delay in exercising any right, remedy, power, or privilege or in enforcing any condition under this Contract, or (ii) any act, omission, or course of dealing between the Parties.

1. WEBSITE CONFIDENTIALITY

The Contractor agrees that, with respect to any website designated by the Contractor to deliver notices or to otherwise disseminate information to the WSIB, if the terms of use, end-user agreement, license agreement, or “clickwrap,” “clickthrough” or other confidentiality agreement of such website are inconsistent with or contrary to the terms of this Contract, the terms of this Contract shall control.

1. SOVEREIGN IMMUNITY

The Contractor acknowledges that the WSIB reserves all immunities, defenses, rights, or actions arising out of its sovereign status or under the U.S. Constitution, and no waiver of any such immunities, defenses, rights, or actions shall be implied or otherwise deemed to exist by reason of its entry into this Contract, or any agreement related thereto, by any express or implied provision thereof, or by any act or omissions to act by the WSIB or any representative or agent of the WSIB, whether taken pursuant to this Contract or prior to the WSIB’s execution hereof.

1. INCORPORATION BY REFERENCE

This Contract including referenced attachments represents all the terms and conditions agreed upon by the Parties. Each of the attachments listed below is by this reference hereby incorporated into this Contract. No other understandings or representations, oral or otherwise, regarding the subject matter of this Contract are deemed to exist or to bind any of the Parties hereto. This Contract consists of [number (x)] pages and the following attachments:

Attachment A – General Terms and Conditions;

Attachment B – Fee Schedule;

Attachment C – RFP;

Attachment D - Response.

*Remainder of page intentionally blank; signature page to follow.*

This Contract is subject to the written approval of the WSIB’s authorized representative and is not binding until so approved. This Contract may be altered, amended, or waived only by a written amendment executed by both Parties.

IN WITNESS WHEREOF, the Parties have executed this Contract.

|  |  |  |
| --- | --- | --- |
| **WASHINGTON STATE INVESTMENT BOARD** |  | **[CONTRACTOR]** |
|  |  |  |
| By: |  | By: |
| [Name][Title] |  | [Name][Title] |
|  |  |  |
| Date: |  | Date: |
|  |  |

**ATTACHMENT A**

**GENERAL TERMS AND CONDITIONS**

1. DEFINITIONS

Unless the context clearly indicates otherwise, the following terms are defined in this CEnter type of servicesontract and its attachments as set forth below:

* 1. **“Business Day”** means any day of the week other than Saturday, Sunday, or a holiday observed by the Federal Reserve Board.
	2. **“Contract Manager”** means the representative identified in Section 4 of the Contract who is delegated the authority to administer the Contract.
	3. **“Chief Executive Officer” or “Executive Director”** means the individual described in RCW 43.33A.100 as executive director, who heads the investment, operational and administrative staff of the WSIB.
	4. **“Pool”** means a listing of contractors selected by the WSIB and eligible to perform services within specific categories of the “Scope of Services” section above.
	5. **“Project Work Request”** means a document issued by the WSIB to one or more members of the Pool to request a proposal and bid for services to complete a specific project.
	6. **“Project Work Order”** means the document which awards a project to a Pool member, which includes the statement of work or services, deliverables, start and completion dates, compensation, and other specific terms.
	7. **“Subcontractor”** means one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms “Subcontractor” and “Subcontractors” mean subcontractor(s) in any tier. The term does not include (a) the Contractor or (b) any broker, dealer or other counterparty.
1. NATURE OF RELATIONSHIP
	1. The contractual relationship embodied by this Contract is between the Contractor and the WSIB, an agency created and defined by RCW 43.33A. Pursuant to RCW 43.33A.100, the WSIB employs a Chief Executive Officer and staff necessary to carry out the duties of the WSIB. This Contract is authorized by RCW 43.33A.030, among other statutes, and by WSIB action.
	2. The Parties intend that an independent contractor relationship shall be created by this Contract. The Contractor and Contractor’s employees or agents performing under this Contract are not employees or agents of the WSIB. The Contractor shall not hold itself out as or claim to be an officer or employee of the WSIB or of the state of Washington by reason hereof, nor shall the Contractor make any claim of right, privilege or benefit which would accrue to such employee under applicable law. Conduct and control of the work shall be solely with the Contractor.
2. STANDARD OF CARE

The Contractor shall perform duties under this Contract with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent expert professional provider of the services under this Contract, acting in like capacity and familiar with such matters, would use in the performance of similar services, all in accordance with the applicable federal, foreign and state laws as well as WSIB policies, guidelines, and procedures.

1. NON-DISCRETIONARY

The WSIB retains all decision-making authority with respect to the management and administration of the assets under its management, including appointment and termination of investment managers and final decision regarding investment policy. The Contractor’s responsibility does not include discretionary control of any trust or the assets contained therein. The Contractor shall have no responsibility for the actions or advice of any other investment advisors or service providers to the WSIB or its assets, unless agreed to otherwise in writing.

1. TERMINATION AND RESIGNATION
	1. **Termination for Convenience.** The Contract may be terminated by the WSIB, in whole or in part, at any time in its sole discretion upon written notice to the Contractor. For the avoidance of doubt, the WSIB may terminate the Contract or any PWO for any reason. Such termination will take effect on the date selected by the WSIB (the “Termination Date”).
	2. **Termination for Cause**. In the event the WSIB determines the Contractor has failed to comply with the conditions of this Contract in a timely manner, the WSIB has the right to suspend or terminate this Contract in whole or in part. The WSIB shall notify the Contractor in writing of the need to take corrective action. If corrective action is not completed within thirty (30) days, the Contract may be terminated in whole or in part, effective at the expiration of such 30-day period. The WSIB reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations during investigation of the alleged breach, or during such 30-day period for corrective action, or pending a decision by the WSIB to terminate the Contract. The termination shall be deemed to be a Termination for Convenience pursuant to Section 5.1 if it is determined that the Contractor: (1) was not in default, or (2) failure to perform was outside of Contractor’s control, fault, or negligence.
	3. **Resignation.** If the Contractor desires to resign or foresees a situation in which the Contractor is unable to provide the services required hereunder or under a then active PWO, the Contractor will:
		1. If there is no active PWO, provide at least thirty (30) days’ prior written notice of its intent to resign to the WSIB; or
		2. If there is an active PWO, provide at least one-hundred eighty (180) days’ prior written notice of its intent to resign to the WSIB.

A resignation under this clause shall be treated by the Contractor and the WSIB as a termination under this Section, and the resignation date shall constitute a Termination Date.

* 1. **Rights, Remedies and Responsibilities upon Termination.**
		1. In the event of (a) any termination of this Contract while there is an active PWO, and (b) the WSIB intends the services in such PWO will be transferred to a new service provider, then the Parties will negotiate a transition plan, including the expected duration (the “Transition Period”), for the orderly and reasonably expeditious transition of such services to a successor contractor, if any (with the intent to facilitate a transition as timely as possible), as well as those reasonable responsibilities the WSIB expects the Contractor to perform to facilitate such transition (the “Transition Plan”). All of the terms and conditions herein continue to apply through any Transition Period, during which the Contractor will continue to perform the services required under the Transition Plan. Unless otherwise directed by the WSIB, upon the Termination Date, the Contractor shall cease to perform any and all of its duties under this Contract.
		2. For all terminations, the termination does not affect any obligation or liability of either Party to each other incurred prior to the Termination Date. Unless otherwise directed by the WSIB, the Contractor shall continue to perform any and all of its duties under this Contract, including providing fully or partially complete deliverables, through the Termination Date. In no event shall the WSIB’s termination of this Contract be deemed a waiver of the WSIB’s right to make a claim against the Contractor for damages resulting from any act, omission or breach by the Contractor which occurred prior to the Termination Date or during any Transition Period. The WSIB reserves all rights and remedies (including, without limitation, setoff, deduction, recoupment, withholding, and conversion) that may be available under this Contract and under the statutory and case law of the applicable jurisdiction. This section survives the termination of the Contract.
	2. **Termination Invoice.** Following the Termination Date, if any services have been provided, the Contractor shall submit to the WSIB, in the form and with any reasonable certifications as may be prescribed by the WSIB, the Contractor’s final invoice (“Termination Invoice”). The Termination Invoice will only include days for which the Contractor has not been compensated through the Termination Date. The Contractor shall submit such Termination Invoice no later than thirty (30) days after the Termination Date. Upon the Contractor’s failure to submit its Termination Invoice within the time allowed, the WSIB may determine, on the basis of information available to it, the amount, if any, due to the Contractor and such determination shall be deemed final. After the WSIB has made such determination, or after the Contractor has submitted its Termination Invoice, the WSIB may authorize payment to the Contractor.
	3. **Cumulative Nature of Rights and Remedies.** The rights and remedies of the Parties provided by this Contract are not exclusive, but cumulative, and in addition to any other rights and remedies provided by law, in equity, by statute or under any of the provisions of this Contract.
1. FORCE MAJEURE

Neither Party shall be liable to the other or deemed in default under this Contract if, and to the extent that, such Party’s performance of this Contract is prevented by reason of force majeure, provided such Party has complied with this section. The Contractor shall, consistent with its standard of care: (i) be responsible for maintaining and preserving its operations, facilities, and systems in a manner consistent with commercial and supervisory standards prevalent in its industry, and (ii) maintain and comply with a demonstrably rigorous and fully tested business continuation plan structured to address and significantly mitigate the impacts of force majeure. So long as the Contractor has complied with the foregoing and provided that any delay or failure to take such action could not be prevented by the exercise of reasonable diligence by the Contractor, the Contractor shall not be liable for any delay or failure to take any action required by this Contract to the extent caused by force majeure. The preceding sentence shall not relieve the Contractor from performing its obligations in a timely manner in accordance with the terms of this Contract.

* 1. **Definition.** The term “*force majeure*” means an occurrence that is beyond the reasonable control of the Party affected and that could not have been avoided by exercising reasonable diligence. *Force majeure* includes, but is not limited to, suspensions of trading hours, national emergencies, acts of God, war, riots, strikes, fire, floods, earthquakes, or other natural disasters, epidemics or pandemics, terrorism, acts of the government, or any other similar events or circumstances to any of the foregoing not within the reasonable control of the Party affected.
	2. **Allocation of Service.** When *force majeure* affects only part of the Contractor’s capacity to perform, the Contractor may allocate services among its customers in any manner which is fair and reasonable.
	3. **Notification.** If either Party is delayed by *force majeure*, that Party will provide prompt notice that there will be delay or non-delivery of reports or services. The notification shall provide evidence of the *force majeure* to the satisfaction of the other party. The non-performing Party shall furnish the other Party with periodic reports regarding the progress of the *force majeure* event. Such delay shall cease as soon as practicable and written notification of the same shall be provided. The time of completion shall be extended by deemed contract modification for a period of time equal to the time that the results or effects of such delay reasonably prevented the delayed Party from performing in accordance with this Contract.
	4. **Rights Reserved.** The WSIB reserves the right to cancel the Contract and/or to obtain or purchase services from the best available source during the time of *force majeure*, and the Contractor will have no recourse against the WSIB.
1. CONFLICTS OF INTEREST

The Contractor warrants that neither the Contractor nor its employees presently have any interest and shall not acquire any interest, directly or indirectly that would materially impair the Contractor’s ability to provide services required under this Contract. If any potential conflict arises as described in the foregoing sentence, the Contractor shall provide prompt notice to the WSIB. The Contractor shall not provide both investment and consulting services to the WSIB directly or indirectly through any affiliates or parent companies, or to other firms that provide investment management services to the WSIB, except upon prior written approval of the WSIB.

* 1. Notwithstanding any determination by the Washington State Executive Ethics Board or other tribunal, the WSIB may, in its sole discretion, by written notice to the Contractor, terminate this Contract if it is found after due notice and examination by the WSIB that there is a violation of the Contractor’s warranties in this section; the Ethics in Public Service Act, Chapter 42.52 RCW; or any statute or regulation involving the Contractor in the procurement of, or services under, this Contract.
	2. In the event this Contract is terminated as provided above, the WSIB is entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Contract by the Contractor. The rights and remedies of the WSIB provided for in this clause are not exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the WSIB makes any determination under this clause are an issue that may be reviewed as provided in the “Disputes” section of this Contract.
1. CONTRACTOR COMPLIANCE CERTIFICATE
	1. Upon request from the WSIB, the Contractor shall complete and submit to the WSIB a completed Compliance Certificate which shall set forth that the Contractor is in material compliance with all provisions of this Contract, and which shall set forth the current levels of insurance maintained by the Contractor with copies of the then current certificate(s) of insurance attached.
	2. The Contractor shall, on an annual basis, have had an independent examination of the organization’s controls designed to demonstrate reliability and trust in its services to current and potential customers to include objectives related to information technology controls (including, but not limited to, System and Organization Controls “SOC” 1, 2, and 3; SSAE 18; or ISAE 3402). Upon completion of the review, a copy of the report on the service organization’s (Contractor’s) controls shall be submitted to the WSIB Contract Manager and to marketdocs@sib.wa.gov, no later than July of each year.
2. SEC RULE 206(4)-5 COMPLIANCE – NOTICE OF POLITICAL CONTRIBUTIONS REQUIRED
	1. As it pertains to its relationship with the WSIB, the Contractor shall at all times during this Contract, and any extension to its term, comply with the provisions of Securities and Exchange Commission Rule 206(4)-5 known as “Political Contributions by Certain Investment Advisers” as if such rule applied to the Contractor.
	2. The Contractor shall, upon request, disclose to the WSIB in writing, any political contribution provided by the Contractor, its “covered associates” as defined by Securities and Exchange Commission Rule 206(4)-5, or its affiliates to (i) any Board member or to a person with the ability to appoint a Board member or, (ii) to any political committee or state party which, to the Contractor’s knowledge, provided any political contribution to any Board member or to a person with the ability to appoint a Board member. The appointment authority for Board members is outlined in RCW 43.33A.020. For purposes of this provision a “contribution” is defined by RCW 42.17A and includes both direct contributions and indirect or independent expenditures made on behalf of a Board member. The report shall include, for each reportable item, the date of contribution, the name of the person or entity making the contribution, the Board member benefited or to whom the contribution is given, and the amount of the contribution or the estimated value of the independent expenditure item.
3. DATA PROTECTION AND COMPLIANCE WITH STATE DATA POLICIES

**[Drafting Note: If this Contract will involve sharing WSIB category 3 or 4 data, these following subsections should be struck and replaced with a reference to an attached DSA, otherwise the following language is sufficient for category 1 or 2 data (data that is *NOT* exempt from disclosure under the PRA).]**

* 1. The Contractor represents and warrants that the Contractor shall comply with all applicable state policies regarding IT, security, access, data protection, and privacy, including policies of state agency Washington Technology Solutions and its successors (“WaTech”). All WSIB data will be transferred, transmitted, and stored in a method that meets the data’s security classification as determined through application of WaTech standards. The Contractor and any Subcontractors shall adhere to industry standards such as National Institute of Standards and Technology Cybersecurity Framework (NIST CSF) and/or Center for Internet Security (CIS) Controls to protect IT systems, applications, and data, including verification of data being encrypted in transit and encrypted at rest.
	2. The purpose of sharing WSIB data is so that the Contractor is able to [insert limited purpose for which the WSIB confidential data can be used]. The legal authority for sharing confidential information is RCW 43.33A.010.
	3. Access and use of the data does not constitute a release of the data for the Contractor’s discretionary use. The Contractor must use the data received or accessed under this Contract only to carry out the purpose and justification of this Contract as set out in Section 10.2. Any analysis, use, or reporting that is not within the scope of Section 10.2 is not permitted without the WSIB’s prior written consent.
	4. This Contract does not constitute a release for the Contractor to share the data to third parties, including Subcontractors, without the WSIB’s prior written consent. Unless otherwise informed, all WSIB data accessed by Contractor shall be treated as Confidential Information pursuant to Section 18.
	5. All reports that contain WSIB data shared under this Contract, produced by the Contractor, and created with the intention of being published for or shared with external customers must be sent to the WSIB for review of usability, data sensitivity, data accuracy, completeness, and consistency with the WSIB standards prior to disclosure. The WSIB will take reasonable efforts to conduct and respond with suggestions, concerns, or approval to the Contractor within ten (10) Business Days. In no event shall the Contractor publish or share such report prior to receiving written approval from the WSIB.
	6. The Contractor must protect and maintain all data gained by reason of this Contract against unauthorized use, access, disclosure, modification, or loss. This duty requires the Contractor to employ reasonable security measures consistent with the policies and standards set forth in Section 10.1.
	7. The Contractor shall ensure that all staff with access to the data shared through this Contract is aware of the use and disclosure requirements of applicable WaTech policies and standards. The Contractor will comply with training requirements regarding handling, storage, and transmission of confidential information.
	8. Upon termination or expiration of this Contract, data must be destroyed consistent with the policies and standards set forth in Section 10.1.
1. NONDISCRIMINATION

During the term of this Contract, the Contractor shall comply with all applicable federal and state nondiscrimination statutes and regulations, and WSIB non-discrimination policies, including RCW 49.60.530. In addition, the Contractor, including any Subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or Subcontractor, has a collective bargaining or other agreement. In the event of Contractor’s noncompliance or refusal to comply with these nondiscrimination requirements, this Contract may be rescinded, canceled, or terminated in whole or in part, and Contractor may be declared ineligible for further contracts with the WSIB. The Contractor shall, however, be given a reasonable time (to be determined by the WSIB in its sole discretion) in which to cure the noncompliance. Any dispute may be resolved in accordance with the “Disputes” section of this Contract. The Contractor, including any Subcontractor, shall cooperate and comply with any Washington State agency investigation regarding any allegation that Contractor, including any Subcontractor, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3). The WSIB may suspend this Contract upon notice of a failure of Contractor, or any Subcontractor, to participate and cooperate with any such investigation.

1. HOLD HARMLESS AND INDEMNIFICATION
	1. The Contractor agrees that it is liable to the WSIB for any loss incurred by the WSIB resulting from or occurring due to negligence, misconduct, wrongful act or omission, breach of the standard of care, or the failure by the Contractor or any Subcontractor or any employee or agent of either for any reason to comply with the terms of this Contract or applicable law. The Contractor shall promptly reimburse the WSIB for, and otherwise hold the WSIB harmless from and against, any such loss including, but not limited to, any costs and reasonable attorney’s fees incurred by the WSIB in connection with such loss.
	2. To the fullest extent permitted by law, the Contractor expressly agrees to, and shall, indemnify, defend and hold harmless the state of Washington, the WSIB, and all officials and employees of the state, and members and employees of the WSIB from and against all claims, and any damage or loss related to such claims including but not limited to claims for injuries or death, and reasonable attorney’s fees, in each case, arising out of or resulting from, or incident to, the Contractor’s, any Subcontractor’s or any employee’s or agent’s (of either) negligence, misconduct, wrongful act or omission, breach of the standard of care, the failure by the Contractor or any Subcontractor or employee or agent of either for any reason to comply with the terms of this Contract or applicable law. The Contractor’s obligation to indemnify, defend, and hold harmless includes, but is not limited to, any claim by the Contractor’s agents, employees, or representatives, or any Subcontractor or its employees, agents or representatives. Brokers, dealers, and counterparties are not “Agents” or “Subcontractors” for purposes of this Contract.
	3. The Contractor’s obligation to indemnify, defend, and/or hold harmless the state of Washington, the WSIB, or other persons or entities, under subsections 12.1 or 12.2 above, shall not be eliminated or reduced by any actual or alleged concurrent negligence of the state of Washington, or its employees or agents, or of the WSIB, or the WSIB’s members, employees, or other officials.
	4. The Contractor waives its immunity under Title 51 RCW (Industrial Insurance) to the extent it is required to indemnify, defend and hold harmless the WSIB or any other state agency, person, or entity under this Contract.
2. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or a bona fide, established, marketing effort maintained with the Contractor for the purpose of securing business which is disclosed, in writing, to the WSIB. The WSIB has the right, in the event of breach of this clause by the Contractor, to annul this Contract without liability or, in its discretion, to deduct from the Contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

1. TREATMENT OF ASSETS
	1. Title to all property furnished by the WSIB remains with the WSIB. Title to all property purchased by the Contractor, the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this Contract, shall pass to and vest in the WSIB upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this Contract, shall pass to and vest in the WSIB upon (i) issuance for use of such property in the performance of this Contract, (ii) commencement of use of such property in the performance of this Contract, or (iii) reimbursement of the cost thereof by the WSIB in whole or in part, whichever first occurs. For the avoidance of doubt, nothing in this Contract results in the ownership by WSIB of any intellectual property of the Contractor or its affiliates.
	2. Any property of the WSIB furnished to the Contractor shall, unless otherwise provided in this Contract, or approved by the WSIB, be used only for the performance of this Contract.
	3. The Contractor is responsible for any loss or damage to property of the WSIB which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer the property in accordance with sound management practices. If any WSIB property is lost, destroyed or damaged, and the Contractor becomes aware of such loss or damage, the Contractor will immediately notify the WSIB and take all reasonable steps to protect the property from further damage.
	4. The Contractor shall surrender to the WSIB all property of the WSIB prior to settlement upon completion, termination or cancellation of this Contract.
	5. All reference to the Contractor under this clause includes any of the Contractor’s employees, agents or Subcontractors.
2. ASSIGNABILITY
	1. **Non-Assignability of Claims.** No claim arising under this Contract can be transferred or assigned by the Contractor without prior written consent of the WSIB.
	2. **Non-Assignability of Contract and Non-Delegation.** This Contract and the services or work to be performed hereunder is not assignable by the Contractor, including but not limited to by any merger, without prior written consent of the WSIB. The Contractor shall not delegate its duties under this Contract without the prior written consent of the WSIB.
3. RECORDS, DOCUMENTS, AND REPORTS
	1. The Contractor shall maintain true, accurate and complete financial records relating to this Contract and the services rendered including all books, records, documents, magnetic media and all other types of non-volatile storage, receipts, invoices and other evidence relating to the services provided under this Contract, including but not limited to, accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of the services described herein. The Contractor shall retain such records for a period of six (6) years following the Termination Date. At no additional cost, these records including materials generated under the Contract are subject at all reasonable times to inspection, review, or audit by the WSIB, the Office of the State Auditor, and federal and state officials so authorized by law, rule, regulation, or agreement.
	2. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved.
	3. The Contractor shall provide reasonable right of access to its facilities to the WSIB, or any of its officers, or, with advance approval from the WSIB, to any other authorized agent or official of the state of Washington or the federal government at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract or to conduct audits.
4. ACCESS TO DATA

In compliance with RCW 39.26.180, the Contractor shall provide access to data generated under this Contract to the WSIB and the State Auditor at no additional cost. This includes access to all non-proprietary information that supports the findings, conclusions, and recommendations of the Contractor’s reports, including computer models and methodology for those models.

1. CONFIDENTIALITY

The Contractor shall maintain as confidential all information concerning the business of the WSIB, its financial affairs, relations with its employees, retirement system participants, and any other information which may be specifically classified as confidential by the WSIB in writing to the Contractor. The use or disclosure by any party of any such information for any purpose not directly connected with the administration of the WSIB’s or the Contractor’s responsibilities with respect to services provided under this Contract, is prohibited except by prior written consent of the WSIB.

In the event that the Contractor is requested or required (by deposition, interrogatory, subpoena, investigative demand, or similar laws or process) to disclose any of the WSIB’s data, the Contractor agrees to notify the WSIB within five (5) Business Days so that the WSIB may seek, if it chooses, a protective order or other appropriate remedy. Nothing in this section shall be construed or deemed to interfere with any protected right to file a charge or complaint with any applicable United States federal, state, or local governmental administrative agency charged with enforcement of any law, or with any protected right to participate in an investigation or proceeding conducted by such administrative agency, or to recover any award offered by such administrative agency associated with such charge or complaint.

The Contractor shall comply with all security breach notification requirements, including, but not limited to Chapter 19.255 RCW and RCW 42.56.590, and will promptly notify the WSIB upon the discovery of any breach or possible breach of unsecured or secured Personal Information (as defined by this Contract or by Chapter 19.255 RCW) or any confidential information concerning the business of the WSIB. Under Washington state law, in addition to notification to the affected person, the Contractor is required to notify the Washington State Office of Attorney General in certain situations.

Notwithstanding the foregoing, the WSIB may disclose confidential information to its representatives (e.g., the Board and its committees) and service providers (e.g., financial statement auditor), and either Party may make disclosure of confidential information where: (i) the other Party consents to such disclosure, (ii) it is required to do so by law or by a duly authorized governmental or regulatory body or a court of competent jurisdiction, or (iii) such information is already in the public domain. The Contractor acknowledges and agrees that the materials provided in an open public meeting may become publicly available, for example by being posted to the WSIB’s website.

1. PRIVACY
	1. Personal Information collected, used or acquired in connection with this Contract, if any, will be used solely for the purposes of this Contract. The Contractor and its Subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons Personal Information without the express written consent of the WSIB or as permitted by law. The Contractor agrees to implement physical, electronic, procedural and managerial safeguards to prevent unauthorized access to or use of such Personal Information.
	2. If applicable, the WSIB reserves the right to monitor, audit, or investigate the use of Personal Information collected, used or acquired by the Contractor through this Contract. The monitoring, auditing or investigating may include but is not limited to “salting” by the WSIB. “Salting” is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database. Contractor shall certify the return or destruction of all Personal Information upon expiration of this Contract.
	3. Any breach of this provision may result in termination of the Contract and the demand for return of all Personal Information. The Contractor agrees to indemnify and hold harmless the WSIB for any damages related to the Contractor’s unauthorized disclosure or use of Personal Information.
2. RELEASE OF PUBLIC RECORDS

The WSIB is a public agency and is subject to the provisions of the Public Records Act. This document and all attachments constitute a public state agency contract; the entirety of this Contract, attachments, supporting documents, and communications may be subject to public disclosure under the Public Records Act regardless of any claim of confidentiality absent an exemption with respect to such document or communication. The WSIB shall notify the Contractor if a request is likely to result in a release of documents designated as confidential by the Contractor. The WSIB shall allow the Contractor the opportunity to raise and support potential exemptions under the law from public disclosure, and, if necessary, to contest the potential release of the affected records or information. The Contractor shall not make any claim against the WSIB if the WSIB makes available to the public any document or information the WSIB receives from the Contractor which is required to be made public by the WSIB pursuant to the public disclosure laws or a court order.

Additionally, as noted in Section 18, the Contractor acknowledges and agrees that the materials provided in an open public meeting may become publicly available, for example by being posted to the WSIB’s website.

1. ANTI-MONEY LAUNDERING

To help the U.S. government fight the funding of terrorism and money laundering activities, federal law requires that all financial institutions obtain, verify, and record information that identifies each company that opens an account. In this regard, the Parties acknowledge that the Contractor will ask the WSIB for a completed form W-9, which will include the name, address, Tax ID/Employer ID number of each plan and/or client (or any other registration number issued in the jurisdiction of location or incorporation) and other information that will allow the Contractor to identify the WSIB. The Contractor may request copies of legal documents establishing the identity of the WSIB as well as for information and documentation regarding the source of funds to be invested.

1. ANTI-TERRORISM REPRESENTATIONS
	1. The Contractor hereby warrants and represents that to the best of its knowledge it is in full compliance with all federal laws and regulations related to investments in countries outside of the United States of America, including but not limited to full compliance with laws and regulations which seek to prohibit or limit business activities which pose the potential for supporting or advancing terrorist related activities, particularly business activities in sanctioned or sensitive foreign countries (as identified by the U.S. federal government, especially by the Department of Treasury or the Securities and Exchange Commission) directly or through either a domestic or foreign subsidiary.
	2. The Contractor further warrants and represents that to the best of its knowledge it has in place sufficient safeguards against potential violation of and the reputational and financial risks and impacts related to the violation of such laws and regulations.
	3. The USA PATRIOT Act and regulations administered by the U.S. Department of Treasury’s Office of Foreign Assets Control (“OFAC”) require certain financial institutions to adopt an anti-money laundering program to prevent and detect money laundering and terrorist financing. The Contractor hereby agrees that it will comply with the USA PATRIOT ACT and OFAC and, upon WSIB request, will certify in writing that it is compliant with all applicable requirements of the USA PATRIOT Act and OFAC.
2. RIGHTS IN DATA
	1. Unless otherwise provided, Materials (as defined below) which are prepared exclusively for the WSIB under this Contract are owned by the WSIB. Ownership includes the right to copyright, patent, trademark or register and the ability to transfer these rights. The WSIB shall be considered the author of such Materials. The Contractor hereby irrevocably assigns all right, title, and interest in such Materials, including all intellectual property rights, to the WSIB effective from the moment of creation of such Materials.
	2. The Contractor shall cooperate with the WSIB using commercially reasonable efforts to establish, protect, and/or confirm the WSIB’s exclusive rights in such Materials and/or enable it to transfer legal title together with any patents, copyrights or trademarks that may be issued. The “Confidentiality” section of this Contract survives termination of this Contract with respect to all such Materials and the Contractor shall maintain as confidential all such Materials (and any copies thereof) containing or derived from confidential information, and all documents (hard copy or electronic) or other Materials, obtained from, relating to, or developed in the course of providing services for the WSIB which are then in the possession of the Contractor.
	3. The Contractor retains all ownership rights to any Materials not prepared exclusively for the WSIB including information prepared jointly for the WSIB and any other of the Contractor’s clients or shared with such clients(s). The WSIB shall protect any Materials of the Contractor according to the existing policies and procedures which the WSIB uses for its own similar proprietary information and intellectual property.
	4. For Materials that are delivered under the Contract, but that are not prepared exclusively for the WSIB under the Contract, the Contractor hereby grants to the WSIB a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display, for purposes of conducting the business of the WSIB, provided, that such license is limited to the extent which the Contractor has a right to grant such a license. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the WSIB.
	5. The Contractor shall exert all reasonable effort to advise the WSIB, at the time of delivery of Materials furnished under this Contract, (i) of all known invasions of privacy contained therein, and (ii) whether any portion of such document was not produced in the performance of this Contract. The WSIB shall receive prompt written notice of each notice or claim of copyright infringement received by the Contractor with respect to any data delivered under this Contract to the extent that such notice or claim arises out of such delivery. The WSIB has the right to modify or remove any restrictive markings placed upon the data by the Contractor.
	6. “Materials” means all items in any format including, but not limited to, any technical, financial or business information or data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Materials do not include the Contractor’s proprietary processes, research, analyses, trademarks, service marks, logos, the Contractor’s internally developed software and systems applications, and software or hardware subject to a license granted to the Contractor by a third party when and to the extent the license prohibits the Contractor from complying with this section.
3. SUBCONTRACTS

Neither the Contractor nor any Subcontractor shall enter into subcontracts for any of the work or services contemplated under this Contract unless specifically approved in writing by the WSIB prior to the commencement of subcontracted work. Should subcontracting be deemed necessary for successful performance of this Contract, the WSIB will require compliance with state of Washington competitive procurement requirements for selection of the Subcontractor(s). In no event shall the existence of such a subcontract operate to release or reduce the liability of the Contractor to the WSIB for any breach in the performance of the Contractor’s duties. This section does not include contracts of employment between Contractor and Contractor’s personnel assigned to work under the Contract.

1. REGISTRATION WITH DEPARTMENT OF REVENUE

If applicable, the Contractor shall complete registration with the Washington Department of Revenue Business Licensing Service, P.O. Box 9034, Olympia, Washington 98507-9034, or https://dor.wa.gov/doing-business/register-my-business, as updated from time to time, and be responsible for payment of all taxes due on payments made under this Contract.

1. LICENSING AND ACCREDITATION STANDARDS

The Contractor shall comply with all applicable local, state, and federal licensing, accrediting and registration requirements/standards necessary in the performance of the Contract. The laws of the state of Washington are available at the Washington State Legislature website at http://apps.leg.wa.gov/rcw, as updated from time to time.

1. WORKERS’ COMPENSATION INSURANCE COVERAGE
	1. The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance to the extent applicable to it. The WSIB shall not be responsible for payment of industrial insurance premiums for the Contractor, or any Subcontractor or employee of Contractor, which might arise under the workers’ compensation insurance laws during performance of duties and services under this Contract. Prior to performing work under this Contract, the Contractor shall provide or purchase industrial insurance coverage for the Contractor’s employees, as may be required of an “employer” as defined in Title 51 RCW, and shall maintain full compliance with Title 51 RCW to the extent such Title is applicable to the Contractor during the course of this Contract. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the WSIB may collect from the Contractor the full amount payable to the industrial insurance accident fund. The WSIB may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by the WSIB under this Contract and transmit the deducted amount to the Washington State Department of Labor and Industries (L&I), Division of Insurance Services. This provision does not waive any of L&I’s rights to collect from the Contractor.
	2. The Contractor shall provide or purchase applicable workers’ compensation insurance coverage prior to performing work under this Contract. Should the Contractor fail to secure workers’ compensation insurance coverage or fail to pay premiums on behalf of its employees, the WSIB may deduct the amount of premiums owing from the amounts payable to the Contractor under this Contract and transmit the same to the appropriate workers’ compensation insurance fund.
2. LIMITATION OF AUTHORITY

Only the Chief Executive Officer of the WSIB (or designee) by writing (delegation to be made prior to action) have the expressed, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Contract is not effective or binding unless made in writing and signed by the Chief Executive Officer of the WSIB (or designee).

1. AMENDMENTS

This Contract may be amended by mutual agreement of the Parties. Such amendments are not binding unless they are in writing and signed by personnel authorized to bind each of the Parties.

1. WAIVER OF DEFAULT

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by the Chief Executive Officer (or designee.)

1. CHANGES TO CONTRACT

The WSIB’s Chief Executive Officer (or designee) may, at any time, by written notification to Contractor, request changes within the general scope of the services to be performed under the Contract. If the Contractor agrees to such changes, the Parties will evidence that agreement by executing a written amendment to the Contract.

1. DISPUTES
	1. Prior to the initiation of litigation or arbitration under this Contract, and when a *bona fide* dispute arises between the WSIB and the Contractor and it cannot be resolved by agreement, either Party may request a dispute hearing with the Chief Executive Officer (or designee) in an attempt to resolve the dispute. Either Party’s request for a dispute hearing shall be in writing and clearly state the following:
		1. The disputed issue(s);
		2. The relative positions of the Parties; and
		3. The Contractor’s name, address, and contract number.
	2. These requests shall be mailed or emailed to the Chief Executive Officer (or designee) and the other Party’s (respondent’s) Contract Manager within ten (10) Business Days of the earlier of (i) the Parties agree that they cannot resolve the dispute or (ii) the Parties have attempted to resolve the dispute for thirty (30) days without such an agreement.
	3. The respondent shall send a written answer to the requester’s statement to both the Chief Executive Officer (and designee) and the requester within ten (10) Business Days after receiving notice that a request for a hearing has been filed with the Chief Executive Officer (or designee) pursuant to Section 34.1 above.
	4. The Chief Executive Officer (or designee) shall review the written statements and reply in writing to both Parties within ten (10) Business Days. The Chief Executive Officer (or designee) may extend this period if necessary by notifying the Parties.
	5. The Parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.
	6. The Parties agree that regardless of the existence of a dispute, they shall continue without delay to carry out all their respective responsibilities under this Contract which are not affected by the dispute. Both Parties agree to exercise good faith in the dispute resolution and to settle disputes prior to using the dispute resolution procedure whenever possible.
	7. Nothing in this Contract limits the Parties’ choice of a mutually acceptable alternate dispute resolution method in addition to the dispute resolution procedure outlined above.
2. SERVICE OF PROCESS

The Contractor shall designate a registered agent for service of process in all matters concerning the Contract. If the registered agent cannot with reasonable diligence be served, the WSIB will follow RCW 23.95.450.

1. CONFORMANCE WITH STATUTES AND RULES OF LAW

If any provisions of this Contract are deemed in conflict with any applicable statute or law, such provision will be deemed modified to be in conformance with such statute or law.

1. CHANGE OF CONTROL OR PERSONNEL
	1. The Contractor shall promptly notify the WSIB in writing, in each case within five (5) Business Days, of the Contractor becoming aware of any of the following events:
		1. If any of the representations and warranties of the Contractor set forth in this Contract cease to be true at any time during the term of this Contract;
		2. Of any change in the Contractor’s material staff (for purposes of this section, the term “material staff” includes persons who are either materially involved with the provision of the services described in this Contract or those who are material to the executive management of the Contractor);
		3. Of any change in control of the Contractor or material change in the business structure of the Contractor;
		4. Of any change materially impacting the provision of services under this Contract, including but not limited to administrative or investment services; or
		5. Of any other material change in the Contractor’s business or corporate organization.
	2. All written notices pursuant to this section must contain sufficient information about the change for the WSIB to evaluate the possible effects on Contractor’s management of the Assigned Account(s). After receiving this notification, the WSIB may request additional information.
	3. Should the WSIB not be comfortable with any of the changes referenced in this section or is not notified within the specified timeframe of such changes, the WSIB reserves the right to make modifications to the Assigned Account(s) and the Contract, withdraw assets from the Assigned Account(s), or terminate the Contract.
2. PUBLICITY

The Contractor agrees to submit to the WSIB all advertising and publicity materials relating to this Contract in which the WSIB’s name is mentioned or language is used where the connection to the WSIB may, in the WSIB’s judgment, be inferred or implied. The Contractor agrees not to publish or use such advertising or publicity materials without the prior written consent of the WSIB. The WSIB does not endorse contractors.

1. WORD USAGE

Unless the context in this Contract clearly requires otherwise, (i) the plural and singular number shall each be deemed to include the other; (ii) the masculine, feminine, and neuter genders shall each be deemed to include the others; (iii) “shall,” “will,” or “agrees” are mandatory, and “may” is permissive; (iv) “or” is not exclusive; (v) “includes” and “including” are not limiting; and (vi) “hereof,” “herein,” and other variants of “here” refer to this Contract as a whole.

1. NOTICES

All notices and instructions with respect to matters contemplated by this Contract shall be deemed duly given when received in accordance with Section 6 of this Contract and, if applicable, in accordance with the timing requirements of this Contract.

1. SPECIMEN SIGNATURES

Each Party shall forward from time to time to each other Party a list of names and specimen signatures of persons authorized to act on behalf of such Party. An electronic signature may be used with the same force and effect as the use of a signature affixed by hand, as long as the electronic signature and the writing conforms to the requirements in the Revised Code of Washington (“RCW”) 1.80.

1. COUNTERPARTS

This Contract may be executed in multiple counterparts, each one of which shall be deemed to be an original and all of which shall constitute the same instrument. Delivery of an executed counterpart of a signature page of this Contract by email shall be effective as delivery of a manually executed counterpart of this Contract.

**ATTACHMENT B**

**FEE SCHEDULE**

[TBD]