



## Contract by Authorized Board

**Commodity or Service:**

**Contract No.:**

Data Warehouse (DW) Solution & Visual Business  
 Intelligence (VBI) Solution

ETG0004 & ETG0006 – Amendment #7 dated July 22, 2021

**Authorized Board:** Group Insurance Board (GIB)

**Contract Period:** January 1, 2023, through December 31, 2029, with the option for a three (3) year renewal for the period January 1, 2030, through December 31, 2032.

1. This Contract Amendment #7 is entered into by the State of Wisconsin Department of Employee Trust Funds (Department or ETF), on behalf of the State of Wisconsin Group Insurance Board (Board) and the Contractor, whose address and principal officer appear below. The Department is the sole point of contact for this Contract.
2. Whereby the Department agrees to direct the purchase and the Contractor agrees to supply the Contract requirements cited in accordance with the State of Wisconsin standard terms and conditions and in accordance with the Contractor's proposal dated September 13, 2016, hereby made a part of this Contract by reference.
3. Contract Amendment #1 dated March 22, 2018, adds new Contract requirements regarding reporting and performance guarantees and replacing Interactive Reporting/management reporting with Dynamic Health Insights which will be accessed via the IBM CXL portal.
4. Contract Amendment #2 dated August 17, 2018
  - (a) Revises Contract Appendix 10C Mandatory Requirements Performance Standards, Section H 1) Customer Service Center to replace the requirement of recording and maintaining 100% of all calls to tracking all customer service calls from the Department.
  - (b) Revises Contract Appendix 10C Mandatory Requirements Performance Standards, Section J, which was added under Amendment 1, which established the operational dates for Phases 2 and 3 as July 31, 2018, and now revises those operation dates for Phases 2 and 3 to August 31, 2018.
  - (c) Adds to Contract Appendix 10C Mandatory Requirements Performance Standards Section K, which requires Contractor to provide notice to the Department before services are performed when services result in additional invoicing outside the scope of RFP ETG0004/0006 or approved Change Request or such services shall be deemed to be included in the scope of the contract, with no additional payment for such service due to the Contractor.
  - (d) Effective August 1, 2018, International Business Machines Corporation (IBM) hereby expressly assumes, confirms, and agrees to perform and observe all the obligations, agreements, terms and conditions, duties, and liabilities under this Contract. IBM will perform such obligations through IBM Watson Health, a division of IBM.
  - (e) Extends the Contract for two (2) years, from January 1, 2019, through December 31, 2020.
5. Contract Amendment #3 dated April 6, 2020
  - (a) Deletes RFP ETG0004/0006 Appendix 10C Mandatory Requirements Performance Standards and adds new RFP ETG0004/0006 Appendix 10C Mandatory Requirements Performance Standards effective starting April 1, 2020.
  - (b) Extends the Contract for two (2) years, from January 1, 2021, through December 31, 2022.
  - (c) Revises RFP ETG0004/0006 Appendix 10A Technical Requirements to allow Contractor to use another file format for data submissions when agreed upon by ETF and Contractor, rather than the format specified in Appendix 10A Mandatory Technical Requirements, 5.4.42 through 5.4.46.
  - (d) Revises RFP ETG0004/0006 Section 1.10 Contract Term to read: The Contract term for providing a DW-VBI solution will commence on the Contract start date and shall extend through December 31, 2018. The Board

retains the option, by mutual agreement of the Board and the successful Proposer, to renew the Contract subject to the satisfactory negotiation of terms, including pricing.

6. Contract Amendment #4 dated September 21, 2020

- (a) Deploys all credits currently owed to the Department under Contract Exhibit A, Paragraph 17 (\$23,500) to pay for 385 hours of additional analytic consulting support previously provided.
- (b) Increases the number of hours listed in Contract Exhibit A, Item 30, for the Analytic Consulting Team Expected FTE Dedicated to Annual Project Operations, from approximately 1,400 hours per year to approximately 1,740 hours per year. This increase is a result of the Department's request for, and Contractor's agreement to provide an additional 7.2 hours per week, on average, of on-site Contractor analyst time. The increase in weekly hours will commence the week starting Monday, August 31, 2020, resulting in Contractor providing, at a minimum, 1,513 hours of Analytic Consulting Team support for 2020.
- (c) The above increase in hours will result in monthly operational costs increasing by \$6,500, which will be invoiced to the Department as a separate line-item on each monthly Contractor invoice. This rate takes into account the deployment of the Department's \$250/month credit resulting from Anthem's withdrawal as a Data Submitting Entity (DSE). The distribution of future credits aside from the above (Anthem) shall be mutually agreed upon in writing by the Department and Contractor.

7. Contract Amendment #5 dated March 23, 2021

- (a) Deletes ETG0004/0006 Exhibit A Section 13) THIRD PARTY LICENSOR SOFTWARE and adds new Exhibit A Section 13).
- (b) Increases the number of Department licenses for Advantage Suite to a total of ten (10).
- (c) Department shall not provide Content that is export controlled or requires an export license by Contractor or its Affiliates.

8. Contract Amendment #6 dated April 12, 2021

- (a) Adds the following to the Contract: a subscription to Contractor's Benefits Mentor software and implementation services as described in attached Amendment #6 – Benefits Mentor. This amendment is only applicable to the subscription to Contractor's Benefits Mentor software and implementation services as described in attached Amendment #6 – Benefits Mentor.
- (b) All provisions of Contract ETG0004-0006 apply to services provided under this Amendment, except Appendix 10 – Mandatory Requirements, Tab A (Technical Requirements) Sections 5.1 – 5.4 and 5.8 -5.11 and Tab B (Reporting Requirements) and Tab C (Performance Standards) and as revised in Amendment 3(a).

9. This Contract Amendment #7 dated July 22, 2021

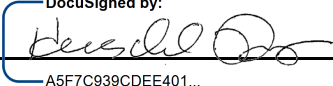
- (a) Extends the Contract for seven (7) years from January 1, 2023, through December 31, 2029 and allows the option for a three (3) year renewal for the period January 1, 2030 through December 31, 2032.
- (b) Adds Amendment 7A which deletes existing terms and conditions to the Contract and adds new terms and conditions to the Contract effective January 1, 2023.
- (c) Adds Amendment 7B which provides the financial terms for the Contract Period beginning January 1, 2023, through December 31, 2032.

10. For purposes of administering the Contract, the Order of Precedence is:

- (a) This Contract Amendment #7 dated July 22, 2021;
- (b) The Contract Amendment #6 dated April 12, 2021;

- (c) The Contract Amendment #5 dated March 23, 2021;
- (d) The Contract Amendment #4 dated September 21, 2020;
- (e) The Contract Amendment #3 dated April 6, 2020;
- (f) The Contract Amendment #2 dated August 17, 2018;
- (g) The Contract Amendment #1 dated March 22, 2018;
- (h) The Contract between the Department and Truven Health Analytics LLC dated March 2, 2017;
- (i) Exhibit A, Changes Agreed to by the Parties during contract negotiations and from the Request for Proposal (RFP) ETG0004 & ETG0006;
- (j) RFP ETG004/ETG006 dated August 5, 2016;
- (k) Contractor's proposal dated September 13, 2016, and;
- (l) Contractor's Best and Final Offer (BAFO), dated November 15, 2016. [This is the revised price proposal based on RFP spreadsheet corrections made by ETF.]

**Contract Number & Service:** ETG0004 & ETG0006 Data Warehouse & Visual Business Intelligence Solution

<b>State of Wisconsin Department of Employee Trust Funds</b>	
<b>By Authorized Board (Name)</b> State of Wisconsin Group Insurance Board	
<b>Signature</b>	DocuSigned by: 
<b>Name/Title</b>	A5F7C939CDEE401... Herschel Day, Chair State of Wisconsin Group Insurance Board
<b>Phone</b>	608.266.9854 (A. John Voelker, Secretary)
<b>Date (MM/DD/CCYY)</b>	7/27/2021

<b>Contractor</b>	
<b>Legal Company Name</b> International Business Machines Corporation	
<b>Trade Name</b>	
<b>Taxpayer Identification Number</b> 13-0871985	
<b>Company Address (City, State, Zip)</b> 100 Phoenix Drive Ann Arbor, MI 48108	
<b>By (print Name)</b> Craig Haseltine	
<b>Signature</b>	DocuSigned by: 
<b>Title</b>	D1E1673F1B47431... Vice President – Global Government Health and Human Services
<b>Phone</b>	1-571-436-5132 Email: haseltin@us.ibm.com
<b>Date (MM/DD/CCYY)</b>	7/26/2021

## AMENDMENT 7A

Delete from RFP ETG0004/0006 Exhibit 2 – Standard Terms and Conditions (DOA-3054) Section 32.0 Hold Harmless.

Add the following to RFP ETG0004/0006 Exhibit 2 – Standard Terms and Conditions (DOA-3054) Section 32.0 Hold Harmless.

#### **Exhibit 2- Standard Terms and Conditions**

**32.0 HOLD HARMLESS:** The Contractor will indemnify, and save harmless, and defend the Department and all of its officers, agents and employees from all third party suits, actions, or claims of any character, by paying the amounts that a court finally awards against the Department or that is included in a settlement agreement approved by the Contractor brought for or on account of any injuries or damages received by any persons or property resulting from the negligence or failure to perform of the Contractor, or of any of its subcontractors, in breach of this Contract or from the disclosure, misuse or misappropriation of the State's confidential information in breach of its obligations under this Contract. This Section 32.0 is subject to the liability cap and consequential damages disclaimer that appear in Section 23.6 of the Department Terms and Conditions.

Delete from RFP ETG0004/0006 Exhibit 4 – Department Terms and Conditions 08-04-2016 Sections 23.0 Indemnification parts 23.1 Scope of Indemnification for Intellectual Property Rights Infringement, 23.2 Scope of Other Indemnification, 23.3 Indemnification Notice, 23.5 Contractor's Duty to Indemnify.

Add the following to RFP ETG0004/0006 Exhibit 4 – Department Terms and Conditions 08-04-2016 new Sections 23.0 Indemnification parts 23.1 Scope of Indemnification for Intellectual Property Rights Infringement, 23.2 Scope of Other Indemnification, 23.3 Indemnification Notice, 23.5 Contractor's Duty to Indemnify, and 23.6 Limitation of Liability.

#### **Exhibit 4- Department Terms and Conditions**

##### **23.0 INDEMNIFICATION:**

**23.1 SCOPE OF INDEMNIFICATION FOR INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT:** In the event of a claim against the Parties for Intellectual Property Rights Infringement (which is defined as a third party claim against the Parties that a service the Contractor provides to the Department pursuant to this Contract infringes on such third party's patent, copyright, trademark, trade secret, mask work right or equivalent right worldwide) associated with a claim for benefits, Contractor agrees to defend, indemnify and hold harmless Board and Department ("Indemnified Parties") from and against any and all third party claims, actions, loss, damage, expenses, costs, including reasonable expenses incurred by Department's staff attorneys and/or attorneys from the Wisconsin Attorney General's Office, in connection with cooperating with Contractor in its defense of the Indemnified Parties under this provision or in enforcing this Section (not including attorney salaries), and reasonable attorneys' fees by paying the amounts that a

court finally awards against the Indemnified Parties, that is included in a settlement agreement approved by the Contractor, or that the Contractor pre-approves.

**23.2 SCOPE OF OTHER INDEMNIFICATION:** In addition to the foregoing Section, Contractor shall defend, indemnify and hold harmless the Indemnified Parties from and against any and all third party claims, actions, loss, damage, expenses, costs, including reasonable out of pocket expenses incurred by Department's staff attorneys and/or attorneys from the Wisconsin Attorney General's Office in connection with cooperating with Contractor in its defense of the Indemnified Parties under this provision, or in enforcing this Section (not including attorney salaries), and reasonable attorneys' fees by paying the amounts that a court finally awards against the Indemnified Parties, that is included in a settlement agreement approved by the Contractor, or that the Contractor pre-approves, arising from or in connection with the following: (a) Contractor's breach of this Contract or the failure to perform any duties or obligations under any agreement referencing this Contract between Contractor and any third party; (b) bodily injury to persons (including death or illness) or damage to real or tangible personal property caused by the act or omission of Contractor or Contractor Personnel; (c) any claims or losses for Services rendered in breach of this Contract by any subcontractor, person, or firm performing or supplying Services, materials, or supplies in connection with the Contractor's performance of this Contract; (d) any claims or losses from any person or third party entity injured or damaged by the Contractor, its officers, employees, or subcontractors due to the publication, translation, reproduction, delivery, performance, use or disposition of any Department Data used under this Contract in a manner not authorized by this Contract, or by Federal or State statutes or regulations; and (e) any failure of the Contractor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws. The language in (a), (c), (d) and (e) is subject to the liability cap and consequential damages disclaimer that appears in Section 23.6.

**23.3 INDEMNIFICATION NOTICE:** Department shall give Contractor prompt written notice of any claim, suit, demand, or action (provided that a failure to give such prompt notice will not relieve Contractor of its indemnification obligations hereunder except to the extent Contractor can demonstrate actual, material prejudice to its ability to mount a defense as a result of such failure). Department will cooperate, assist, and consult with Contractor in the defense or investigation of any claim made or suit filed against Department resulting from Contractor's performance under the Contract.

**23.4 NO INDEMNIFICATION OBLIGATIONS:** Contractor shall as soon as practicable, notify Department of any claim made or suit filed against Contractor resulting from Contractor's obligations under this Contract if such claim may involve the Department. Department has no obligation to provide legal counsel or defense to Contractor if a suit, claim, or action is brought against Contractor or its subcontractors as a result of Contractor's performance of its obligations under this Contract. In addition, Department has no obligation for the payment of any judgments or the settlement of any claims against Contractor arising from or related to this Contract. Department has not waived any right or entitlement to claim sovereign immunity under this Contract.

**23.5 CONTRACTOR'S DUTY TO INDEMNIFY:** Contractor shall comply with its obligations to indemnify the Indemnified Parties with regard to third party claims, damages, losses and/or expenses as provided herein. Contractor shall be entitled to control the defense of any such claim and to defend or settle any

such claim, in its sole discretion, with counsel of its own choosing; however, Contractor shall discuss with Department regarding its defense of any claim and not settle or compromise any claim or action in a manner that imposes restrictions or obligations on Department not otherwise set forth in this Contract or requires any financial payment by Department without first obtaining Department's prior written consent. Contractor shall have the right to assert any and all defenses on behalf of the Indemnified parties, including sovereign immunity. In the Contractor carrying out any provision of this contract, or in exercising any power or authority granted to the Contractor thereby, there shall be no liability upon the Department, it being understood that in such matters the Department acts as an agent of the State. The Contractor shall at all times comply with and observe all federal and state laws and regulations which are in effect during the period of this Contract and which in any manner affect the work or its conduct.

**23.6 Limitation of Liability:** Contractor and Department agree to the following limitation of liability caps for non-data security claims and data security claims. Contractor and Department further agree that, in addition to any exclusions noted below, the caps set forth in (a) and (b) do not apply to direct damages for Contractor's infringement or misappropriation of Department's intellectual property in breach of the Contract or Contractor's intentional misconduct (defined as an act undertaken with the intent to cause harm to the Department). The Department may not recover against Contractor under both the Data Security Cap and the Non-Data Security Cap for the same set of circumstances that gave rise to the Department's claim(s) against the Contractor.

Contractor shall maintain Professional Errors and Omissions Insurance (which includes coverage for cyber liability) covering claims resulting from Contractor's wrongful errors or omissions committed in the performance of, or failure to perform, all services under this Contract, including without limitation, claims, demand and any other payments related to network security, breaches of confidentiality and invasion of or breaches of privacy with a minimum of \$5,000,000 per claim and \$20,000,000 in the aggregate. In addition, Contractor shall maintain other applicable insurance, including errors and omissions coverage as required by Section 20.0 of Department Terms and Conditions, and as set forth in Contractor's October 21, 2020 Certificate of Liability Insurance (and updated annually). Any reference in this section to damages caused by the Contractor also includes damages by Contractor's employees as well as its subcontractors, agents and representatives, and any of their employees. Contractor has informed ETF that Contractor's Professional Errors and Omissions policy does not allow third parties to be listed as additional insureds. All insurance carrier(s) must carry an A.M. Best rating of at least A-, Class VII. The provisions of this insurance paragraph shall not limit or expand Contractor's liability under the Data Security Cap and the Non-Data Security Caps set forth below.

Direct damages referenced in (b) below include but are not limited to: (1) third party claims raised by affected Data Supplying Entities (DSE) and Data Providing Entities (DPE); (2) government fines and penalties; and (3) other benefits provided by the Department to affected DSEs and DPEs to the extent such benefits are reasonable and customary for a public entity in responding to a data security breach.

- (a) Non-Data Security Claims Cap:** Contractor's liability for all claims in the aggregate related to the Contract will not exceed the amount of any actual direct damages incurred by the Department up to ten million dollars (\$10,000,000) regardless of the basis of the claim. Contractor will not be liable for special, incidental, exemplary, indirect or economic consequential damages, or lost profits, business, value, revenue, goodwill, or anticipated savings. The following amounts, if Contractor is legally liable for them, are not subject to the above cap: (i) payments referred to in Section 23.6 (b) (concerning disclosure, misuse or misappropriation of Department Data); (ii)

damages for bodily injury to persons (including death or illness); (iii) damages to real property and tangible personal property; and (iv) damages that cannot be excluded or limited under applicable law.

**(b) Data Security Claims Cap:** Contractor's liability concerning claims in the aggregate related to the disclosure, misuse, loss, or misappropriation of Department Data due to IBM's breach (or IBM's subcontractor's breach) of IBM's obligations under this Contract will not exceed the amount of any actual direct damages incurred by the Department up to twenty-five million dollars (\$25,000,000) (the "Data Security Cap"). In addition to the foregoing liability, Contractor shall reimburse the Department for all reasonable "Notification Related Costs" incurred by the Department arising out of or in connection with any breach by Contractor of its data security obligations set forth in this Contract that results in a disclosure, misuse, or misappropriation by a third party of PHI, or that is ordered by a court or agreed to in a settlement, in which the Department is legally required to notify individuals of the disclosure, misuse, or misappropriation, which shall also be subject to the Data Security Cap. "Notification Related Costs" are limited to: (1) reasonable internal and external costs associated with preparation and mailing or other transmission of legally required notifications; and (2) costs for commercially reasonable credit reporting services that are associated with legally required notifications; and (3) credit monitoring and identify theft protection costs for affected individuals.

## AMENDMENT 7B

### Background

This Amendment reflects the Wisconsin Department of Employee Trust Funds (ETF) and IBM Watson Health (IBM) jointly expressed interest in a long-term extension of the existing Visual Business Intelligence/Electronic Data Warehouse solution provided by IBM, Health Insights.

This extension will continue the base services under the existing contract (ETG0004/ETG0006), including the expansion of on-site analytic support under Contract Amendment 4 for the term of this amendment.

### **Assumptions**

The scope of work for this extension remains the same as under the existing contract with one change. To reduce the first-year price increase, IBM proposes the removal of the Senior Systems Analyst from the project, as the Onsite Analyst currently fulfills the role and responsibility of the Senior Systems Analyst. This change reduces committed labor by 140 hours per year.

### **Labor Resource Expectations**

Based on discussions with the ETF project team leads, IBM does not expect any reduction in resource demands over the course of this Amendment; pricing and labor projections presented in this Amendment reflect ongoing labor at the levels seen historically for this contract, except the removal of the Senior Systems Analyst as noted above. Data management resource effort is estimated at 1,320 hours per year, consistent with the higher utilization and expectations seen to date. This represents 220 additional hours of data management time relative to the commitment under the existing contract.

Labor for out-of-scope work performed under Project Change Requests (PCRs) is not included.

### **Changes, Additions or Clarification of Existing Services**

#### **Additional Licenses for Advantage Suite Ad Hoc Report Writer**

IBM provides ten (10) licenses for the Advantage Suite Ad Hoc Report Writer (AHRW). To provide flexibility in the number of AHRW users, IBM provides the ability to purchase additional AHRW licenses above the ten provided for ETF users. Additional AHRW licenses will be valid for one (1) year from purchase/activation of the license, whichever is later, and may be renewed for additional years. Should ETF choose not to renew a license, the user's access to the AHRW will be revoked upon expiration. Each additional license will include access to the IBM Product Support Portal and will also include training for the users. Detailed information on the user trainings is specified in the User Training section below.

#### **User Training**

There are three (3) options for training: virtual multi-client sessions, in-person multi-client sessions, and in-person sessions at a client or third-party site. Attendance at multi-client sessions will be available at no additional charge to ETF. Training conducted specifically for ETF will be provided upon request by ETF for a minimum of five (5) trainees. Pricing for such training is provided in the Pricing section below.

#### **Additional Data Feeds**

New data feeds may be added to the database as ETF's DSEs and/or needs change. The level of effort needed to implement a new data feed depends on several factors, such as the type of data, complexity of the file layout (shell, client-specific or custom), number of custom fields needed, etc.

Examples of high-complexity implementations requiring custom scope are feeds with multiple data types in a single file, feeds that require eligibility tracking, non-standard plan designs, or development of a new data type that hasn't been implemented previously. IBM will develop a scope estimate for labor required to



implement the new data feed, and then develop a corresponding price estimate for ETF using the Ad Hoc rates provided in the Pricing section.

Pricing for standard data feeds (medical, dental, pharmacy, vision and provider enrollment (using the existing layout)) will be performed at a not-to-exceed fee as shown in the Pricing section below. Pricing for other data types or changes in data layouts will be developed using the PCR process and the Ad Hoc rates provided in the Pricing section.

**Benefits Mentor**

Benefits Mentor is offered as an optional service year-to-year for the extended contract. A statement of work and pricing for Benefits Mentor for future years will be provided as specified in Amendment 6. For example, the pricing proposal for 2025 would be delivered to ETF by December 1, 2023.

**Pricing**

The table below shows pricing for base contract services and optional items. Hourly labor rates for PCRs follows in a separate table. [Base services will be billed monthly.](#)

	Initial 7-Year Extension							Optional 3-Year Renewal		
	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Base Services	\$578,340	\$595,690	\$613,561	\$631,968	\$650,927	\$670,455	\$690,568	\$711,285	\$732,624	\$754,603
Optional Services										
Additional Advantage Suite Licenses – Annual fee per license above 10 per year	\$3,500	\$3,500	\$3,500	\$3,500	\$3,750	\$3,750	\$3,750	\$4,000	\$4,000	\$4,000
ETF-Specific Training - 2 Day Session	\$5,140	\$5,294	\$5,453	\$5,617	\$5,785	\$5,959	\$6,137	\$6,322	\$6,511	\$6,707
ETF-Specific Training - 3 Day Session	\$7,310	\$7,529	\$7,755	\$7,988	\$8,227	\$8,474	\$8,729	\$8,990	\$9,260	\$9,538
Database Expansion – One-time fee per year added	\$20,880	\$21,506	\$22,152	\$22,816	\$23,501	\$24,206	\$24,932	\$25,680	\$26,450	\$27,244
Additional Custom Fields	Pricing for additional custom fields will be developed based on the scope estimate for labor to add and maintain the additional fields.									
Additional Standard Data Feeds	\$31,500	\$32,445	\$33,418	\$34,421	\$35,454	\$36,517	\$37,613	\$38,741	\$39,903	\$41,100

- One-time fee	
Benefits Mentor	Pricing for these years will be submitted as specified in Amendment 6

Pricing for PCRs will be developed using the hourly rate table shown below.

Labor Band	Job Title/Role Examples
5	Data Management Associate, Analytic Associate
6	Analytic Consultant, Data Management Consultant
7	Analytic Consultant/Senior Consultant, Data Management Consultant/Senior Consultant
8	Senior Data Management Consultant, Senior Analytic Consultant, Project Manager, Technical Lead
9	Consulting Manager, Account Manager, Senior Economist
10	Consulting Director, Consulting Scientist, Account Management Director, Data Management Director
Executive	Senior Director, Vice President, Medical Director/Physician

Hourly rates only for these Services

Hourly Price in USD	Band	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	
	5											
	6											
	7											
	8											
	9											
	10											
	Exec											