

Standard Terms and Conditions for State of Wisconsin Printing

1. **GENERAL:** These standard conditions, the accompanying detailed specifications, all purchase orders, all statutory requirements, and all conditions contained in the bid documents become, by reference, a part of any award or contract. If a specific clause or specification of the above is contrary to these conditions, that clause or specification prevails. Further, the written contract and/or order with referenced parts and attachments shall constitute the entire agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the contracting authority. All references to the "State" mean the State of Wisconsin.

Public printing is defined by state law as all graphic reproduction by whatever process and the necessary material and binding, that is paid for with state funds or funds handled through state accounting and disbursing channels.

2. **OBLIGATIONS OF STATE:** The obligations of the State of Wisconsin include placing orders, providing copy, reading proof, and paying for work officially ordered, received, and accepted. When specified, the state agency may furnish paper.
3. **OBLIGATIONS / RESTRICTIONS OF CONTRACTOR:** The contractor is responsible for producing the type of work described in the bid and contract and for providing all materials, service, shipping, insurance, and other costs incidental to and necessary for manufacturing and delivering the printed product. After acceptance of order, the contractor is responsible for completion, including work it is unable to accomplish in its own plant, with no additional cost to the State.

The State may require contractors to furnish a reasonable amount of technical assistance to state agencies. The State may require contractors to furnish reports of contract activity.

Ownership of Materials: All materials and electronic files produced or procured by the contractor for the State become State property. Contractor will immediately transfer possession of all items when so requested by the State. In the absence of another written agreement, all costs associated with the return of materials shall be borne by the contractor. All materials returned must be properly wrapped and identified by order number.

Security: Contractors must take all reasonable precautions necessary to protect against the unlawful use and distribution of printed materials and the control of production materials (e.g. plates, film, type, paper, copy and electronic documents). The only distribution authorized appears on the official purchase order. Samples of work requiring special security measures, which are furnished as audit or correspondence samples, must be hole punched or similarly voided to assure non-use. Shipment security is the responsibility of the contractor.

Liability The contractor must assume all costs and responsibility for the use of any patented equipment, processes or procedures used or incorporated in the manufacturing, distribution or sale of materials, or services bid. The contractor shall indemnify, hold harmless and defend the State of Wisconsin and its

agencies, officers, officials, employees and agents from all liability arising out of the contractor's performance under the contract.

Labor Laws: The contractor, by submitting a bid, guarantees that the articles described and sold to the State will be manufactured or produced in accordance with applicable state and federal labor laws.

Subletting: The contractor may not transfer, assign, or sublet any state work without the prior consent of the State, nor may any of the work be performed outside of the contractor's plant without advance approval. Such approval must be requested and approved in writing. The contractor is responsible for subcontracted work. No price increase will be granted for subletting. Unauthorized subletting may result in cancellation of the contract.

Vendor Name or Logotype: Printing contractors will not affix their company label, name, logotype, union bug or other identifying information to any printing for the State.

Promotional Advertising / News releases: Reference to or use of the State of Wisconsin, any of its departments, agencies or other sub-units, or any state official or employee for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the State of Wisconsin. Release of broadcast e-mails pertaining to this procurement shall not be made without prior written authorization of the contracting agency.

4. **QUALITY:** All printing is expected to meet the following minimum standards: Work must be in register consistent with the type of work being done. Inking must be consistent and uniform throughout in density and color. Colors must be as specified. Folding and punching must be in register. Pages must align with artwork, when applicable. Other finishing must be according to specifications (e.g., packaging, labeling).

Work that does not meet the specified contract standards for quality may be rejected and, if time allows, reprinting may be required at the contractor's expense. No payment will be made for rejected printed matter or services. When time does not allow for a reprint, the State has the right to use the job without compensation to the contractor.

5. **BIDDING:** The State of Wisconsin reserves the right to accept or reject any or all bids, to waive any technicalities in any bid submitted, and/or to rebid if necessary, as deemed in the best interest of the State of Wisconsin. Conditional or alternate bids may be rejected.

Official Sealed Bids must be date and time stamped by the soliciting purchasing office on or before the date and time that the bid is due. Bids date and time stamped in another office will be rejected. Receipt of a bid by the mail system does not constitute receipt of a bid by the purchasing office.

As of the announced date and hour of the bid opening, all bids become firm and cannot be altered. Until the award is made, bidders who identify errors in

their bids may withdraw their bids. Bid prices are firm for acceptance for 30 days from bid opening, and in the case of award, for the full contract period.

All Official Sealed Bid openings are public. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract.

Collusion: By submitting a quotation on a bid inquiry, the bidder implies unconditional acceptance of the statement: "We as bidders depose that we as individuals, the business firm which we represent, or any agent or representative of said firm, have not in any manner, directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition in connection with this bidding; that the bid submitted has been independently arrived at without collusion with any bidder or any other competitor; that no attempt has been made to induce any other person or firm to submit or not to submit a bid, or to adjust their bid; and that these are accurate statements subject to penalty for perjury."

Supplemental Data: Supplemental data necessary to analyze bids may be requested by the State and must be furnished prior to the awarding of any contract.

Business Ownership: Bidders may be required to furnish information on the ownership of their companies as well as related parent, co-ownership, and affiliate companies at the time of bid submission. Any major changes in ownership or affiliation during the contract period will be considered a transfer of the contract, and will require approval of the State.

6. **AWARD:** Awards will be made to the lowest responsive, responsible bidder. Responsibility is determined at the time bids are evaluated, using criteria which may include: previous performance; equipment available and operable in the bidder's plant to satisfactorily handle the type and volume of work being bid; production, technical, and supervisory personnel; experience in type of work bid; location of the plant; delivery of proofs; extra time required for delivery, and ease of communication with printer.

State representatives are to have reasonable communication with and access to the plant(s) of contractors and bidders during regular hours of operation when needed.

Reciprocity: Awards for printing will not be made to vendors located in states or foreign entities that implement in-state preferences for the purchase of printing. Proof of reciprocity rests with the bidder.

Performance Bond: A successful bidder may be required to post a performance bond. Any performance bond must be underwritten by a firm authorized to conduct business in the State of Wisconsin. Failure to perform satisfactorily may result in cancellation, rejection, reprinting of any order, cancellation of the contract, forfeiture of the performance bond, and/or removal from bidder lists.

7. **ORDERING:** Each printing job is ordered separately, using an official State of Wisconsin Purchase Order. Orders are issued directly from the agencies to the contractor. Changes to an order are provided in writing. If required by the contractor or agency accounting policy, the Purchase Order will be used if the change involves cost.

The contractor is expected to review each order for accuracy and completeness and to advise the ordering agency of any discrepancies. Orders must be acknowledged promptly, referencing the order number and delivery date. The acknowledgement becomes a firm delivery commitment.

The contractor must notify the ordering agency when a change in delivery date is anticipated. This notice should be made by telephone and confirmed in writing.

The State reserves the right to cancel any purchase order after it has been written and at any time during the production process. If the order is cancelled before any work has been done, no payment will be made. If the work has already begun when the order is cancelled, the contractor may bill for the labor, materials, and service that have been performed up to the time the cancellation notification was received.

8. **PACKAGING:** All printed matter must be firmly packed in cartons to protect against jamming and shifting, spoilage, loss, or damage during delivery. Each order must be packed separately. When specified, cartons must be delivered on skids or pallets. Packaging materials, including cartons, skids, and pallets, must be furnished by the contractor.

Corrugated board cartons (200 lb. test or stronger) must be uniform in size and suitable for shelf storage and employee handling. Oversized, overweight, or weak cartons are unacceptable. Loaded cartons must not weigh more than 40 pounds each.

Each carton in a shipment must be clearly labeled with: Purchase order number; ordering agency; delivery address (as shown on purchase order); item contained; numbering sequence contained, if applicable; and total order and quantity per carton.

9. **DELIVERY:** ***Delivery Requirements:*** Printing must be delivered as specified. All deliveries are F.O.B. inside destination door to any Wisconsin state agency location. Contractors are not required to deliver elsewhere within a building. Unless otherwise noted on the order, delivery hours are 8:00 a.m. to 3:00 p.m., Monday through Friday, except state holidays.

Unless otherwise specified, contractors are required to ship to only one destination on each order. When an order specifies delivery to more than one point, the contractor may charge for the additional deliveries. Freight bills must accompany the invoice to verify the extra charges.

Overruns and underruns: Overruns or underruns are not to exceed 3% on quantities ordered up to 10,000 and 1% on quantities ordered over 10,000, unless otherwise stated in the bid/contract documents. The contractor will be paid for the actual quantity delivered within this tolerance.

Unavoidable Emergencies: The contractor will be excused for delays due to uncontrollable causes, such as natural disasters, national emergencies, strikes, or fires. Production problems are not considered unavoidable emergencies. The contractor must notify the ordering agency in writing, of such developments immediately, stating the reason, justification, and estimated extent of the delay. Under these conditions the State may, in its sole discretion, purchase from other sources until the situation is remedied and the State is notified in writing.

Guaranteed Delivery: Failure of the contractor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the contractor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include the administrative costs.

- 10. INVOICING AND PAYMENTS:** A separate invoice for each order must be sent directly to the ordering agency promptly after the job is delivered. Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order, including reference to purchase order number and submittal to the correct address for processing. Invoices will not be dated as received or processed for payment until all accompanying items required are received by the State.

The State of Wisconsin normally will pay properly submitted vendor invoices within thirty (30) days of receipt providing goods have been delivered and accepted as specified.

Auditing: Invoices are approved for payment only if they comply with bid, specifications, order, and sample. Adjustments to invoice amounts are made as follows:

Unauthorized charges for tax or pre-paid freight included in bid pricing may be corrected and paid with no prior notification to vendor; a copy of the corrected invoice will be sent to the contractor with payment. The contractor will credit these charges from the state account promptly. All other credit requests will be accomplished according to agency accounting practices, accompanied by a good faith dispute. A good faith dispute creates an exception to prompt payment.

Overtime: No compensation for overtime will be allowed for the contractor's failure to meet normal production requirements. Overtime may be allowed to meet unusual requirements when authorized by the State.

Taxes: The State of Wisconsin and its agencies are exempt from federal tax and Wisconsin state and local taxes except for Wisconsin excise or occupation tax on specific controlled commodities which do not include printing. The State of Wisconsin may be subject to another state's taxes depending upon the laws of the State from which the purchase is made. The State's federal registration number is 39-73-1021-K. State sales tax exemption numbers may be requested of individual agencies.

- 11. REMEDIES AND DAMAGES:** When a contractor fails to comply with contract requirements, when a delivered item is improperly produced or otherwise not to specifications, or when time is of the essence and there is insufficient time to reprint, the contractor may be assessed damages for any order or part of an order that is overdue or defective. A late delivery charge in an amount not more than five percent (5%) per day of the net due price for each working day the contractor is late may be charged to the contractor. The late delivery fee may be deducted from any payments due the contractor.

Contractors whose default has caused additional expense to the agency may be assessed liquidated damages to compensate the agency for actual damages incurred.

In addition to the provisions stated above, in the event contractor shall default in any of the covenants, agreements, commitments, terms or conditions herein contained, the State shall have all other rights and remedies which it may have at law or in equity against contractor.

No failure to exercise and no delay in exercising any right, power or remedy hereunder on the part of the State or contractor shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by the State or contractor therein. A waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.

No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

- 12. NONDISCRIMINATION / AFFIRMATIVE ACTION:** In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation as defined in s. 111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities.

12.1 Contracts estimated to be over twenty-five thousand dollars (\$25,000) require the submission of a written affirmative action plan by the contractor. An exemption occurs from this requirement if the contractor has a workforce of less than twenty-five (25) employees. Within fifteen (15) working days after the contract is awarded, the contractor must submit the plan to the contracting state agency for approval. Instructions on preparing the plan and technical assistance regarding this clause are available from the contracting state agency.

12.2 The contractor agrees to post in conspicuous places, available for employees and applicants for employment, a notice to be provided by the contracting state agency that sets forth the provisions of the State of Wisconsin's nondiscrimination law.

12.3 Failure to comply with the conditions of this clause may result in the contractor's becoming declared an "ineligible" contractor, termination of the contract, or withholding of payment.

13. APPLICABLE LAW: This contract shall be governed under the laws of the State of Wisconsin. The contractor shall at all times comply with and

observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct. The State of Wisconsin reserves the right to cancel any contract with a federally debarred contractor or a contractor which is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.

14. VENDOR TAX DELINQUENCY: Vendors who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.

15. PUBLIC RECORDS ACCESS: It is the intention of the State to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities.

16. PROPRIETARY INFORMATION: Any restrictions on the use of data contained within a request must be clearly stated in the bid itself. Proprietary information submitted in response to a request will be handled in accordance with applicable State of Wisconsin procurement regulations and the Wisconsin public records law. Proprietary restrictions normally are not accepted. However, when accepted, it is the vendor's responsibility to defend the determination in the event of an appeal or litigation.

16.1 Data contained in a bid, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data, documentation, and innovations become the property of the State of Wisconsin.

16.2 Any material submitted by the vendor in response to this request that the vendor considers confidential and proprietary information and which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or material which can be kept confidential under the Wisconsin public records law, must be identified on a Designation of Confidential and Proprietary Information form (DOA-3027). Bidders may request the form if it is not part of the Request for Bid package. Bid prices cannot be held confidential.

17. FOREIGN CORPORATION: A foreign corporation (any corporation other than a Wisconsin corporation) which becomes a party to this Agreement is required to conform to all the requirements of Chapter 180, Wis. Stats., relating to a foreign corporation and must possess a certificate of authority from the Wisconsin Department of Financial Institutions, unless the corporation is transacting business in interstate commerce or is otherwise exempt from the requirement of obtaining a certificate of authority. Any foreign corporation which desires to apply for a certificate of authority should contact the Department of Financial Institutions, Division of Corporation, P. O. Box 7846, Madison, WI 53707-7846; telephone (608) 266-3590.

18. CANCELLATION: The State of Wisconsin reserves the right to cancel any contract in whole or in part without penalty due to non-appropriation of funds or for failure of the contractor to comply with terms, conditions, and specifications of this contract.

19. PATENT INFRINGEMENT: The contractor selling to the State of Wisconsin the articles described herein guarantees the articles were manufactured or produced in accordance with applicable federal labor laws. Further, that the sale or use of the articles described herein will not infringe any United States patent. The contractor covenants that it will, at its own expense, defend every suit which shall be brought against the State of Wisconsin (provided that such contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits recoverable in any such suit.

20. INSURANCE RESPONSIBILITY: The contractor performing services for the State of Wisconsin shall:

20.1 Maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in the work.

20.2 Maintain commercial liability, bodily injury and property damage insurance against any claim(s) that might occur in carrying out this agreement/contract. Minimum coverage shall be one million dollars (\$1,000,000) liability for bodily injury and property damage including product liability and completed operations. Provide motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this contract. Minimum coverage shall be one million dollars (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.

21. DISCLOSURE: If a state public official (s. 19.42, Wis. Stats.), a member of a state public official's immediate family, or any organization in which a state public official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to this agreement, and if this agreement involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, this contract is voidable by the State unless appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before signing the contract. Disclosure must be made to the State of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123).

22. ANTITRUST ASSIGNMENT: The contractor and the State of Wisconsin recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Wisconsin (purchaser). Therefore, the contractor hereby assigns to the State of Wisconsin any and all claims for such overcharges as to goods, materials or services purchased in connection with this contract.