

# STATE OF MONTANA REQUEST FOR PROPOSAL

ITEM 118-104-R0303 ATTACHMENT

## THIS IS NOT AN ORDER

Department of Administration  
State Procurement Bureau  
Room 165, Mitchell Building  
PO Box 200135  
125 North Roberts Street  
Helena MT 59620-0135  
Phone: (406)444-2575 Fax: (406)444-2529  
TTY Users-Dial 711  
<http://www.discoveringmontana.com/doa/gsd>

Company Name/Address: (correct any errors)

RFP No.: **RFP03-708P**

RFP Title: **THIRD PARTY ADMINISTRATOR  
SERVICES**

Pages: 1-47

SEALED PROPOSALS will be accepted until **2 p.m.** on:

**WEDNESDAY, APRIL 9, 2003**

Issued by:

PENNY MOON, Contracts Officer

**MARK FACE OF THE PROPOSAL ENVELOPE UNDER  
YOUR RETURN ADDRESS WITH THE FOLLOWING:**

**RFP03-708P  
4/9/03**

**RETURN YOUR PROPOSAL TO:  
Department of Administration  
State Procurement Bureau  
Room 165, Mitchell Building  
125 North Roberts Street  
PO Box 200135  
Helena MT 59620-0135**

**SPECIAL INSTRUCTIONS:**

**PLEASE COMPLETE**

Federal I.D.  
No.:

Payment Terms: Net 30 Days

Company Name/Address: (if different)

Offeror Name: (please print)

E-mail Address:

Phone: ( )

Fax: ( )

Signature of  
Offeror:

**IMPORTANT  
SEE STANDARD TERMS AND CONDITIONS**

## Standard Terms and Conditions

**By submitting a response to this invitation for bid, request for proposal, limited solicitation, or acceptance of a contract, the vendor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation or contract.**

**ACCEPTANCE/REJECTION OF BIDS, PROPOSALS, OR LIMITED SOLICITATION RESPONSES:** The State reserves the right to accept or reject any or all bids, proposals, or limited solicitation responses, wholly or in part, and to make awards in any manner deemed in the best interest of the State. Bids, proposals, and limited solicitation responses will be firm for 30 days, unless stated otherwise in the text of the invitation for bid, request for proposal, or limited solicitation.

**ACCESS AND RETENTION OF RECORDS:** The contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance (Mont. Code Ann. § 18-1-118). The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

**ASSIGNMENT, TRANSFER AND SUBCONTRACTING:** The contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Mont. Code Ann. § 18-4-141.)

**AUTHORITY:** The following bid, request for proposal, limited solicitation, or contract is issued in accordance with Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

**COMPLIANCE WITH LAWS:** The contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

**CONFORMANCE WITH CONTRACT:** No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without prior written consent of the State Procurement Bureau. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

**DEBARMENT:** The contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the State.

**DISABILITY ACCOMMODATIONS:** The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals, who need aids, alternative document formats, or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

**FACSIMILE RESPONSES:** Facsimile responses will be accepted for invitations for bids, small purchases or limited solicitations ONLY if they are completely received by the State Procurement Bureau prior to the time set for receipt. Bids, or portions thereof, received after the due time will not be considered. Facsimile responses to requests for

## THIRD PARTY ADMINISTRATOR SERVICES

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proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

**FAILURE TO HONOR BID/PROPOSAL:** If a bidder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or, fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with the State of Montana.

**HOLD HARMLESS/INDEMNIFICATION:** The contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

**LATE BIDS AND PROPOSALS:** Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to assure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

**PAYMENT TERM:** All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted in the solicitation document, the State is allowed 30 days to pay such invoices.

**RECIPROCAL PREFERENCE:** The State of Montana applies a reciprocal preference against a vendor submitting a bid from a state or country that grants a residency preference to its resident businesses. A reciprocal preference is only applied to an invitation for bid for supplies or an invitation for bid for nonconstruction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved. For a list of states that grant resident preference, see <http://www.discoveringmontana.com/doa/gsd/css/Resources/ReciprocalPreference.asp>.

**REFERENCE TO CONTRACT:** The contract or purchase order number MUST appear on all invoices, packing lists, packages and correspondence pertaining to the contract.

**REGISTRATION WITH THE SECRETARY OF STATE:** Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://www.sos.state.mt.us>.

**SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually dependent.

**SHIPPING:** Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

**SOLICITATION DOCUMENT EXAMINATION:** Vendors shall promptly notify the State of any ambiguity, inconsistency, or error, which they may discover upon examination of a solicitation document.

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**THIRD PARTY ADMINISTRATOR SERVICES**

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**TAX EXEMPTION:** The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

**TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED:** Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Mont. Code Ann. § 18-5-603.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning non-visual access standards.

**TERMINATION OF CONTRACT:** Unless otherwise stated, the State may, by written notice to the contractor, terminate the contract in whole or in part at any time the contractor fails to perform the contract.

**UNAVAILABILITY OF FUNDING:** The contracting agency, at its sole discretion, may terminate or reduce the scope of the contract if available funding is reduced for any reason. (Mont. Code Ann. § 18-4-313 (3).)

**U.S. FUNDS:** All prices and payments must be in U.S. dollars.

**VENUE:** This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Mont. Code Ann. § 18-1-401.) ***Match contract, per Kent Rebek 3/3.***

**WARRANTIES:** The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance and/or use desired. Exceptions will be rejected.

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Revised 11/02

**REQUEST FOR PROPOSAL**  
**FOR**  
**THIRD PARTY ADMINISTRATOR SERVICES**  
**FOR THE STATE OF MONTANA**

**RFP03-708P**

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**SCHEDULE OF EVENTS**

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<u>Event</u>	<u>Date</u>
RFP Released.....	March 3, 2003
Deadline for Receipt of Written Inquiries.....	March 14, 2003
Written Responses Distributed.....	March 21, 2003
Proposal Due Date.....	April 9, 2003
Notification of Offeror Interviews / Product Demonstrations.....	April 16, 2003
Offeror Interviews / Product Demonstrations .....	April 24-25, 2003
Intended Date for Contract Award.....	May 1, 2003

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**NOTICE**

From the issuance date of this RFP until an offeror(s) is selected and the selection is announced, offerors are not allowed to communicate with any state staff or officials regarding this procurement, except at the direction of Penny Moon, the designated representative of the State Procurement Bureau. Any unauthorized contact may disqualify the offeror from further consideration.

Contracts Officer: Penny Moon  
Telephone Number: (406) 444-3313  
Fax Number: (406) 444-2729  
E-mail Address: pmoon@state.mt.us

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**DEFINITIONS**

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The following terminology shall be used throughout this Request for Proposal:

**ARM:** Administrative Rules of Montana

**Agency:** means an agency, bureau, commission, committee, council, department, governmental corporation, institution, legislative body, or other entity, instrumentality, or official of the executive, legislative or judicial branch of the state, including the board of regents and the Montana university system. [Ref: ARM § 2.5.201(1)]

**Award:** The presentation of a signed and executed purchase order and/or contract to the offeror.

**Campus Designee:** The individual at each unit who will be the primary contact with the contractor.

**Contract:** means all types of state agreements, regardless of what they may be called, for the procurement or disposal of supplies or services. [Ref. Mont. Code Ann. §18-4-123 (3)] For purposes of this RFP, contract refers to the final document signed by all parties that the State will issue to the Contractor who receives the final award resulting from the RFP process.

**Contractor:** means a person having a contract with a governmental body. [Ref. Mont. Code Ann. §18-4-123 (5)]

**MCA:** Montana Code Annotated

**MUS:** Montana University System

**ODA:** Occupational Disease Act of Montana

**Offeror:** means a person submitting a proposal when a procurement is made by a request for proposal process. [Ref: ARM § 2.5.201(19)]

**Part, section, subsection:** used herein to refer to various parts of this document designated by alphabetic, and integer indicators.

**Procurement Officer:** means any person authorized to enter into and administer contracts and make written determinations with respect to contracts. The term includes an authorized representative acting within the limits of the representative's authority. [Ref. Mont. Code Ann. §18-4-123 (16)]

**Request for Proposal (RFP):** means all documents, whether attached or incorporated by reference, used for soliciting proposals. [Ref. Mont. Code Ann. §18-4-301 (8)]

**Response or proposal:** Used herein to refer to the written proposal to provide services and products in accordance with this RFP



**Responsible bidder or Offeror:** Means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will ensure good faith performance. [Ref: ARM § 2.5.201(30)]

**Responsive bidder or offeror:** means a person who has submitted a bid that conforms in all material respects to the invitation for bids or request for proposals. [Ref: ARM § 2.5.201(31)]

**UCR:** Usual, Customary and Reasonable Rates *per Kent 3/3*

**Vendor:** means a person who offers or may offer supplies or services to a public agency. [Ref. Mont. Code Ann. §18-4-123 (21)]

**WCA:** Workers' Compensation Act

## SECTION 1

### GENERAL INFORMATION

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#### 1.0 Introduction

The STATE OF MONTANA, Montana University System, (hereinafter referred to as “the State”) is pleased to invite you to submit a proposal for Third Party Administrator Services for a Self-Funded Workers’ Compensation Program, specified herein. The Montana University System (MUS) intends to become a qualified self-insured for workers’ compensation in the State of Montana and desires to contract with a firm to handle most all of the day-to-day operations of this program. Offerors responding to this request must be responsible, regularly and practically engaged in providing the services requested, and possess ample resources for doing this work. Proposals submitted in response to the specifications contained herein shall comply with the following instructions and procedures.

#### 1.1 Request for Proposal Standard Information

This Request for Proposal is issued in accordance with section 18-4-304, MCA and ARM 2.5.602 . The RFP process is a procurement option allowing the award to be based on stated evaluation criteria. The RFP states the relative importance of all evaluation criteria. No other evaluation criteria, other than as outlined in the Request for Proposal, will be used.

##### 1.1.1 Receipt of Proposals and Public Inspection

Upon receipt of proposals, all marked trade secrets and company financial information will be removed from the proposals and provided only to the evaluation committee members or persons participating in the contracting process (see Section 1.1.7 “Claims to Keep Information Confidential” statement below). All remaining proposal materials will be available for public inspection and copying shortly after the deadline for submission of proposals. In addition, all meetings of the evaluation committee are open to the public for observation.

##### 1.1.2 Initial Classification

All proposals will be initially classified as being “responsive” or “non-responsive”, according to ARM 2.5.602. If a proposal is found to be non-responsive, it will not be considered further. A final determination of “responsive” or “non-responsive” may be made by the Procurement Officer at any time before award of a signed and executed contract.

*Per Mary Routhier 3/3.*

##### 1.1.3 Evaluation

All responsive proposals will be evaluated based on stated evaluation criteria. In scoring against stated criteria, the State may consider such factors as accepted industry standards and a comparative evaluation of all other qualified responses in terms of differing price, quality, and contractual factors. These scores will be used to determine the most advantageous proposal to the State. Submitted proposals must be complete at the time of

submission and may not include references to information located elsewhere, such as Internet websites or libraries, unless specifically requested in the state's RFP document. The Procurement Officer deems the evaluation process complete upon award of a signed and executed contract.

***Per Mary 3/3***

#### **1.1.4. Discussion/Negotiation**

Although proposals may be accepted and a contract awarded without discussion, the State may initiate discussions with one or more offerors should clarification or negotiation be necessary. Offerors should be prepared to send qualified personnel to Missoula, Montana, to discuss technical and contractual aspects of the proposal. In the event the State is unable to conclude negotiations with an offeror, the State reserves the right to enter into negotiations with other offerors as deemed in the best interest of the State.

***Per Mary 3/3***

#### **1.1.5. Best and Final Offer**

The "Best and Final Offer" is an option available to the State under the RFP process which permits the State to request a "best and final offer" from one or more offerors. Offerors may be contacted asking that they submit their best and final offer, which must include the discussed and/or negotiated changes. The State reserves the right to request a "best and final offer" based solely on price/cost.

#### **1.1.6 Award**

Award will be made to the proposal offered by a responsive and responsible offeror which is determined to best meet the evaluation criteria and is therefore the one most advantageous to the State. The Procurement Officer will determine "responsibility" in accordance with ARM 2.5.407, "Standards of Responsibility". The Procurement Officer will issue a "Request for Documents Notice" to the offeror meeting these criteria, and will obtain the required insurance documents, contract security, and any other documents, as needed. This notice does not constitute a contract and the offeror is not authorized to proceed until a contract signed by all parties has been received. Upon receipt of the requested documents by the State, the Procurement Officer will issue a formal contract, as appropriate. The Procurement Officer will issue a "No Award" letter to all other offerors.

***Per Mary 3/3***

#### **1.1.7 Claims to Keep Information Confidential**

- (1) All information received in response to this RFP will be available for public inspection except for:
  - (a) trade secrets meeting the requirements of the Uniform Trade Secrets Act, Title 30, chapter 14, part 4, MCA;
  - (b) matters involving individual safety as determined by the department;
  - (c) financial information requested by the department to establish offeror responsibility unless prior written consent has been given by the offeror, as set out in section 18-4-308, MCA; and

- (d) other constitutional protections.
- (2) In order for an offeror to request that material be kept confidential as permitted in (1) (a) through (d), the following conditions must be met:
- (a) Confidential information must be clearly marked and separated from the rest of the proposal.
  - (b) The proposal may not contain confidential material in the cost or price.
  - (c) An affidavit from an offeror's legal counsel attesting to and explaining the validity of the trade secret claim as set out in Title 30, chapter 14, part 4, MCA, must be attached to each proposal containing trade secrets. Counsel must use the State of Montana "Affidavit for Trade Secret Confidentiality" in requesting the trade secret claim. This affidavit form is available at the State Procurement Bureau's website: <http://www.discoveringmontana.com/doa/gsd/css/Resources/Forms.asp> or by calling (406) 444-2575.
  - (d) Offerors must be prepared to pay all legal costs and fees associated with defending a claim for confidentiality in the event of a "right to know" (open records) request from another party.
- (3) Documents not meeting all of the requirements of (1) and (2) will be available for public inspection, including copyrighted material.

## 1.2 Late Proposals

**Regardless of cause, late proposals will not be accepted and will automatically be disqualified from further consideration. It shall be the offeror's sole risk to assure delivery at the receptionist's desk at the designated office by the designated time. Late proposals will not be opened and may be returned to the offeror at the expense of the offeror or destroyed if requested.**

## 1.3 Preparing a Response

This RFP contains the instructions governing the proposals to be submitted and a description of the mandatory requirements. To be eligible for consideration, an offeror must meet the intent of all mandatory requirements. Compliance with the intent of all requirements will be determined by the Department of Administration. Responses that do not meet the full intent of all requirements listed in this RFP may be subject to point reductions during the evaluation process or may be deemed non-responsive.

**1.3.1** Offerors shall promptly notify the State of any ambiguity, inconsistency or error, which they may discover upon examination of this RFP.

**1.3.2** Offerors requiring clarification or interpretation of any section or sections contained in this RFP shall make a written request to the State Procurement Bureau by the deadline described in the Schedule of Events. All written correspondence must be addressed to:

Questions for RFP03-708P

THIRD PARTY ADMINISTRATOR SERVICES

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Penny Moon, Contracts Officer  
State Procurement Bureau  
Room 165, Mitchell Building  
125 North Roberts  
PO Box 200135  
Helena MT 59620-0135  
Fax: (406) 444-2529  
E-mail: pmoon@state.mt.us

- 1.3.2.1** Each offeror submitting written questions must clearly address each question by reference to a specific section, page and item of this RFP. **An official written answer will be provided to all questions received by 2 p.m. (local time) on Friday, March 14, 2003.** Written questions received after the deadline may not be considered.

Written requests for exceptions to the standard terms and conditions, standard contract terms, or any added provisions must be submitted by the date for receipt of written inquiries or with the offeror's proposal response. Any requests for exceptions to the standard terms and conditions or standard contract must be accompanied by an explanation of why the exception is being taken and what specific effect it will have on the offeror's ability to respond to the RFP or perform the contract. The State reserves the right to address non-material requests for exceptions with the top scoring offeror during contract negotiation.

- 1.3.2.2** Responses to written questions will be posted on the State Procurement Bureau's website at <http://www.discoveringmontana.com/doa/gsd> on or before March 21, 2003.
- 1.3.3** Any interpretation, correction, or change to this RFP will be made by written Addendum. Interpretations, corrections or changes to this RFP made in any other manner will not be binding and offerors shall not rely upon such interpretations, corrections, or changes.
- 1.3.4** The State Procurement Bureau, Department of Administration, State of Montana will issue any necessary Addenda.
- 1.3.5** A point-by-point response to all numbered sections, subsections, and appendices must be submitted by each offeror in order to be considered for selection.
- 1.3.5.1** Offerors must organize proposals into sections following the format of this RFP, with tabs separating each section.

If no exception, explanation, or clarification is required in the offeror's response to a specific subsection, the offeror shall indicate so in the point-by-point response, or a blanket statement for the entire section, with the following:

**"(Offeror's Name)"**, understands and will comply.

Points may be subtracted for non-compliance with these specified proposal format

requests. The State may also choose to not evaluate, may deem non-responsive, and/or may disqualify from further consideration any proposals that do not follow this RFP format, are difficult to understand, are difficult to read, or are missing any requested information.

An Offeror responding to a question with a response similar to, "Refer to our literature..." or "Please see www.....com" may be deemed non-responsive or receive point deductions. All materials related to a response must be submitted to the State in the RFP response and not just referenced. Any references in an answer to another location in the RFP materials shall have specific page numbers and sections stated in the reference. Each question is scored independently of one another and the scoring is based solely on the information provided in the response to the specific question. **(The Evaluation Team is not required to search through literature to find a response.)**

- 1.3.6** Offerors must respond to this RFP by utilizing the RFP Price Sheet found in Section 4, Cost Proposal. This price sheet will be used as the primary representation of each offeror's cost/price, and will be used extensively during proposal evaluations. Additional information should be included as necessary to explain in detail the offeror's cost/price.

#### **1.4 Submitting a Proposal**

Offerors must submit one original and seven copies to the State Procurement Bureau. **Proposals must be received at the receptionist's desk of the State Procurement Bureau prior to 2 p.m. local time, Wednesday, April 9, 2003. Proposals received after this time will not be accepted for consideration. Facsimile or electronic submissions are not acceptable. (See Section 1.2.)**

- 1.4.1** Each offeror who submits a proposal represents that:

**1.4.1.1** The proposal is based upon an understanding of the specifications and requirements described in this RFP.

**1.4.1.2** Costs for developing and delivering responses to this RFP and any subsequent presentations of the proposal as requested by the State are entirely the responsibility of the offeror. The State is not liable for any expense incurred by the offerors in the preparation and presentation of their proposals.

**1.4.1.3** All materials submitted in response to this RFP become the property of the State and are to be appended to any formal documentation, which would further define or expand any contractual relationship between the State and offeror resulting from this RFP process.

- 1.4.2** The proposals must be signed in ink by an individual authorized to legally bind the business submitting the proposal.

- 1.4.3** A proposal may not be modified, withdrawn or canceled by the offeror for a 120-day period following the deadline for proposal submission, or receipt of best and final offer, if required,

as defined in the Schedule of Events, and offeror so agrees in submitting the proposal.

## **1.5 Rights Reserved**

While the State has every intention to award a contract as a result of this RFP, issuance of the RFP in no way constitutes a commitment by the State of Montana to award a contract. Upon a determination such actions would be in its best interests, the State in its sole discretion reserves the right to:

- (a) waive any formality;
- (b) cancel or terminate this RFP;
- (c) reject any or all proposals received in response to this document;
- (d) waive any undesirable, inconsequential, or inconsistent provisions of this document, which would not have significant impact on any proposal;
- (e) not award, or if awarded, terminate any contract if the State determines adequate state funds are not available.

## **1.6 Fidelity Bond**

The contractor shall purchase and maintain a fidelity bond in the amount of \$300,000 per occurrence and \$600,000 aggregate that provides coverage for fraud, theft, embezzlement, failure to faithfully perform duties, and other dishonest acts of any employee or agent whose duties are to receive, handle, or have custody of money, checks, securities, electronic funds, or account for supplies or other property. The bond shall apply to any individual that certifies, signs or countersigns checks, drafts, warrants, vouchers, orders, electronic documents, or other documents and who provides for the disbursement or delivery (including electronic transmission) of money, funds, securities, supplies, or other property.

## **1.7 Offeror Interview / Product Demonstration**

After receipt of all proposals and prior to the determination of the award, respondents may be required to make an oral presentation and product demonstration in Missoula, Montana, to clarify their response or to further define their offer. Oral presentations and product demonstrations, if requested, shall be at the offeror's expense.

## **1.8 Subcontracting**

The top scoring offeror will be the prime contractor if a contract is awarded and shall be responsible, in total, for all work of any subcontractors. All subcontractors must be listed in the proposal. The State reserves the right to approve all subcontractors.

**1.8.1** The Contractor shall be responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. Further, nothing contained within this document or any contract documents created as a result of any contract awards derived from this RFP shall create any contractual relationships between any subcontractor and the State.

## 1.9 General Insurance Requirements

**General Requirements:** The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

**Primary Insurance:** The Contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

**Specific Requirements for Commercial General Liability:** The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

**Additional Insured Status:** The State, its officers, officials, employees, and volunteers are to be covered as additional insureds; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations; premises owned, leased, occupied, or used.

**Specific Requirements for Automobile Liability:** The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

**Additional Insured Status:** The State, its officers, officials, employees, and volunteers are to be covered as additional insureds for automobiles leased, hired, or borrowed by the Contractor.

**Specific Requirements for Professional Liability:** The Contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors. Note: if "occurrence" coverage is unavailable or cost prohibitive, the Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

**Deductibles and Self-Insured Retentions:** Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its



officers, employees, and volunteers; or (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

**Certificates of Insurance/Endorsements:** Insurance must be placed with an insurer with a Best's rating of no less than A-. The certificate must also include the State's purchase order number or contract number. This insurance must be maintained for the duration of the contract. The State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135, must receive all required certificates and endorsements within 10 days from the date of the Request for Documents notice before a contract or purchase order will be issued. Work may not commence until a contract or purchase order is in place. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

### **1.10 Compliance with Workers' Compensation Act**

The Contractor is required to supply the State Procurement Bureau with proof of compliance with the Montana Workers' Compensation Act while performing work for the State of Montana. (Mont. Code Ann. §§ 39-71-120, 39-71-401, and 39-71-405.) Neither the Contractor nor its employees are employees of the State. The proof of insurance/exemption must be valid for the entire contract period and must be received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135, within 10 working days of the Request for Documents Notice.

CONTRACTS WILL NOT BE ISSUED TO VENDORS WHO FAIL TO PROVIDE THE REQUIRED DOCUMENTATION WITHIN THE ALLOTTED TIME FRAME.

Coverage may be provided through a private carrier or through the State Compensation Insurance Fund (406) 444-6500. An independent contractor's exemption can be requested through the Department of Labor and Industry, Employment Relations Division (406) 444-1446. Corporate officers must provide documentation of their exempt status.

### **1.11 Compliance with Laws**

The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

### **1.12 Offeror Competition**

The State encourages free and open competition among offerors. Whenever possible, specifications, proposal requests, and conditions are designed to accomplish this objective, consistent with the necessity to satisfy the State's need to procure technically sound, cost-effective services.

**1.12.1** The offeror's signature on a proposal in response to this RFP guarantees that the prices quoted have been established without collusion and without effort to preclude the State of Montana from obtaining the best possible supply or service.

### **1.13 Contract Provisions and Terms**

**1.13.1** This RFP and any addenda, the offeror's response including any amendments, any best and final offers, any clarification question responses, and any negotiations shall be included in any resulting contract. Appendix A contains the contract terms and conditions which will form the basis of any contract between the State and the top scoring offeror. The contract language contained in Appendix A does not define the total extent of the contract language that may be negotiated. In the event of a dispute as to the duties and responsibilities of the parties under this contract, the contract, along with any attachments prepared by the State, will govern.

**1.13.2** Offerors should notify the State of any terms within the standard contract that either preclude them from responding to the RFP or add unnecessary cost. This notification must be made by the deadline for receipt of written inquiries or identified in the offeror's proposal in accordance with subsection 1.3.2.

**1.13.3** The contract term is for a period of three years beginning May 1, 2003 and ending April 30, 2006. Renewals of the contract, by mutual agreement of both parties, may be made at one-year intervals, or any interval that is advantageous to the State, not to exceed a total of four additional years, at the option of the State.

**1.13.4** The offeror agrees that, through the term of the contract and any agreed-upon extension, the State will be entitled to any price reductions at least equal to any lower prices made available to any other customer of comparable volume.

**1.13.5** Price increases may be permitted at the time of contract renewal through a process of negotiation with the Contractor and the State. Any price increases must be based on demonstrated industry-wide or regional increases in the Contractor's costs. Publications such as the Federal Bureau of Labor Statistics and the Consumer Price Index (CPI) for all Urban Consumers may be used to determine the increased value.

#### **1.13.6 Audits**

The State shall have the right to audit all books and records (in whatever form they may be kept, whether written, electronic or other) relating or pertaining to this contract or agreement (including any and all documents and other materials, which support or underlie those books and records), kept by or under the control of the Contractor, including, but not limited to those kept by the Contractor, its employees, agents, assigns, successors and Subcontractors. The Contractor shall maintain such books and records, together with such supporting or underlying documents and materials, for the duration of this contract or agreement and for at least three years following the completion of this contract or agreement, including any and all renewals thereof. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request, to the State, through its employees, agents, representatives, contractors or other designees, during normal business hours at the Contractor's office or place of business. In

the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for the State. This paragraph shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which the State may have by State law or Federal statute, ordinance, regulation, or agreement, whether those rights, powers, or obligations are express or implied.

### **1.13.7 Permits And Licensing**

The Contractor shall be responsible for obtaining and purchasing all permits, consents, and authorizations as may be required to perform its obligation. All applicable licensing requirements are to be in compliance with any and all rules of the MUS.

### **1.13.8 Contractor Performance Assessments**

The State may do assessments of the Contractor's performance. This contract may be cancelled for one or more poor performance assessments. Contractors will have the opportunity to respond to poor performance assessments. The State will make any final decision to cancel this contract based on the assessment and any related information, the Contractor's response and the severity of any negative performance assessment. The Contractor will be notified with a justification of contract cancellation.

### **1.13.9 Contract Termination**

- (a) The State may immediately terminate the whole or any part of this contract for failure to perform the contract in accordance with the terms of the contract and other governing authorities.
  - 1) If there is no exigency or risk of harm to persons from continued performance, the State, in its discretion, may impose penalties and/or provide notice to the Contractor of the failure to perform and allow the Contractor 30 days during which to cure the failure.
  - 2) Failure to perform includes, but is not limited to, failure to:
    - i. Perform the services within the time limits specified in this contract;
    - ii. Perform any of the requirements of this contract;
    - iii. Perform its contractual duties or responsibilities in accordance with the terms of the contract or any other authority, including statute, rules, or policy that govern the standards for performance; or
    - iv. Comply with any law, regulation or licensure and certification requirement.
- (b) The State may terminate this contract without cause. The State must give notice of termination to the Contractor at least 30 days prior to the effective date of termination.
- (c) Notice of termination must be given in writing.
- (d) Upon contract termination or non-renewal of this contract, the Contractor must allow

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the State, its agents and representatives full access to the Contractor's facilities and records to arrange the orderly transfer of the contracted activities.

## SECTION 2

### SCOPE OF PROJECT

#### 2.0 Background

The Montana University System consists of two universities (Montana State University and the University of Montana). Montana State University (MSU) has four campuses including Montana State University – Bozeman; affiliated campuses include MSU – Billings, MSU – Northern (in Havre), and MSU – Great Falls. The University of Montana (UM) has four campuses, including the University of Montana at Missoula; affiliated campuses include Western Montana College of UM (in Dillon), Montana Tech of UM (in Butte), and the Helena College of Technology of UM (in Helena).

***Would it be beneficial to the offerors to tell them approximately how many employees are covered? 3/3 - Kent thinks number should be included.***

#### 2.0.1 MUS Loss Data

Policy Year (as of 12/31/02)	Payroll	Paid Losses	Incurred Losses	Total Claims	Total Medical Only	Closed w/o Payment
1999	229,638,000	875,000	949,000	392	238	119
2000	246,058,000	900,000	953,000	424	246	133
2001	251,827,000	1,149,000	1,369,000	533	313	166
2002	270,049,000	703,000	1,115,000	454	256	122

#### 2.1 General Requirements

**2.1.1** The Contractor shall provide the MUS information on changes in applicable statutes, rules and regulations affecting its responsibility under a self-insured Workers' Compensation program as soon as reasonably possible after becoming aware of such changes.

**2.1.2** Contractor shall designate an Account Executive located in Montana, on a full-time basis, for the duration of the contract. The Account Executive shall be responsible for administration of this contract, shall be the point-of-contact for MUS personnel, and shall be the Contractor's agent for any notices required under this contract. In the event of a change in the Account Executive, Contractor shall notify the MUS in writing.

**2.1.3** Contractor shall provide a minimum of one adjuster, located in Montana, on a full-time basis, for the duration of the contract.

**2.1.4** If, due to the Contractor's handling, a fine or penalty is imposed by the Montana

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Department of Labor and Industry or other regulatory agency, the Contractor will assume financial responsibility.

- 2.1.5** Contractor shall, at a minimum, attend quarterly meetings with the **Claims Sub-Committee** of the MUS (or designee) to discuss claims status and other issues deemed necessary by the MUS.
- 2.1.6** Contractor shall file necessary documents with the Montana Department of Labor and Industry, the Montana Insurance Commission, the Montana Workers' Compensation Regulation Bureau, and any other regulatory agency, in accordance with appropriate laws and regulations.
- 2.1.7** All original and copied files, computer tapes, electronic media, and other materials gathered by or entrusted to Contractor in the course of investigating or administering any claims shall be and remain the sole property of MUS. Any material contained in these files (all originals and copies) shall be treated and handled as confidential. Contractor shall submit such records to the MUS within 10 days following such request.
- 2.1.8** The MUS reserves the right to procure these services from another firm if the Contractor does not respond to the needs of MUS in accordance with any schedules dictated by MUS.
- 2.1.9** Contractor shall submit to the MUS all invoices promptly upon completion of the requirements for installation, delivery, and acceptance of the products and services required under this contract. Invoices shall not include any costs other than those identified in the executed MUS contract or any subsequent change orders issued.

All shipping costs are the Contractor's responsibility, except to the extent such charges are identified in the executed MUS purchase order or change orders.

Contractor's invoices shall provide at a minimum:

- (a) Type and description of the Product or Service installed, delivered and accepted;
  - (b) This RFP number and the MUS contract number;
  - (c) Fees for services, including monthly administration fee, if applicable.
- 2.1.10** Contractor shall monitor this contract to determine possible fraud or erroneous payments. Upon discovery, contractor shall notify the MUS within two business days.
- 2.1.11** Contractor shall serve as the liaison between the MUS program and the Montana Workers' Compensation Regulation Bureau.
- 2.1.12** Contractor shall serve as liaison between the MUS and Montana self-insurance regulatory department, prepare and attend MUS meetings, and assist in establishing contracts with various service providers. Contractor will attend Meetings on a quarterly basis and all other meetings as required during performance of this contract.
- 2.1.13** The Contractor shall be responsible for coordination and placement of ancillary coverage's as required for the program.

## 2.2 Underwriting

- 2.2.1 Contractor shall receive and maintain a record of (premiums collected and deposit of funds) monthly payrolls and deposit of premiums by class code from each MUS Unit.
- 2.2.2 Contractor shall provide the MUS evidence of insurance as requested
- 2.2.3 Contractor shall analyze additional exposures and make recommendations to MUS for assessment adjustments for other additional coverage.
- 2.2.4 Contractor shall be required to occasionally provide endorsements to the contract as directed by the MUS .

## 2.3 Claims

- 2.3.1 The Contractor shall provide complete claims handling administration services on behalf of the MUS for its self-insured Workers' Compensation program. Services shall include but not be limited to:
  - (a) Auditing reports of employee injuries;
  - (b) Filing necessary documents with the Montana Department of Labor and Industry, in compliance with The State of Montana laws and regulations;
  - (c) Auditing and paying all eligible bills for medical care;
  - (d) Paying indemnity benefits to eligible employees in accordance with the Workers' Compensation Act;
  - (e) Providing medical case management services;
  - (f) Establishing and recording appropriate medical and indemnity reserves;
  - (g) Providing MUS with on-line computer access to the claims records;
  - (h) Providing all professional personnel required to operate a quality managed care workers' compensation program; (i) Legal service associated with claims management and individual claims managers; and
  - (j) Pursue any right of recovery from a negligent third party (subrogation) for payments made. **Per Kent 3/3**
- 2.3.2 Claims will be handled on the premises of the Contractor. The Contractor will receive claims from the MUS, for handling in accordance with accepted industry and MUS standards. Contractor shall communicate with individual Campuses for handling of claims.
- 2.3.3 Levels of authority for claims settlement and claims handling procedures will be negotiated with the Contractor. Preferably, a claim payment should be paid through an account that is adjusted weekly.
- 2.3.4 All Claims initiated during the contract shall be handled to conclusion.
- 2.3.5 The MUS reserves the right to take over claims held by the Contractor at any time during the performance of this contract or at the termination of the contract. Appropriate refunds or credits shall be identified for return of claims to the MUS upon such event.

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- 2.3.6** Contractor shall create a file on each claim upon receiving notification of incident. Files shall be maintained at the Contractor's site and copies will be provided to designees on a scheduled basis or as otherwise requested.
- 2.3.7** Contractor shall provide copies of all correspondence necessary for the development and handling of all matters related to claims.
- 2.3.8** Contractor shall attempt to recover payments to ineligible employees or overpayments to employees. Contractor shall correct and adjust underpayments to employees. The Contractor shall investigate all questionable claims or payments referred to it by the MUS and report to the MUS the results. If the Contractor is unsuccessful in its attempts to recover any improper payment, it shall notify MUS, in order that MUS may determine if additional actions are necessary. Should the MUS request court proceedings to recover any incorrect payment, Contractor shall initiate legal action on MUS' behalf.
- 2.3.9** Contractor shall acknowledge all claims, perform prompt investigation of these claims, and make personal visits and/or calls to claimant and/or accident site within 24 hours of the accident.
- 2.4.10** Contractor shall file all claims or reports required by MUS' excess insurer(s). Contractor is to detail the document filing procedures it plans to follow under this contract. Include a list of the documents to be filed.
- 2.3.11** Contractor shall audit and pay, in a timely manner, all eligible bills for medical care.
- 2.3.12** All medical care invoices and indemnity benefit payments shall be made in accordance with applicable WCA and ODA rules and regulations.
- 2.3.13** Contractor shall provide local medical management onsite services and do at least one of the following: (1) make personal visits and/or calls to claimant, (2) visit the accident site within 24 hours of accident, (3) visit or call medical provider. Contractor shall establish and maintain a panel of physicians/providers list, including negotiating related fees. Campus Designees may assist in the selection of the panel of physicians/providers list. Contractor shall communicate with and educate the appropriate selected panel of physicians/providers about the MUS' workers' compensation program.
- 2.3.14** Contractor shall assist in the creation of an Injury Status report to include diagnosis of injury, medical treatment provided, and the return to temporary, alternative, or full duty. This report will be used by the treating physician and will aid MUS in determining the recordability of injuries and illnesses for Department of Labor requirements. The Injury Status Reports shall be faxed to the Campus Designee within 24 hours of the receipt of the document from the treating physician. The Contractor shall make every effort to expedite the injury status report from physician.
- 2.3.15** Contractor shall initiate case management from time of first notification of a lost time injury, or as otherwise necessary or requested by Campus Designee.



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- 2.3.16** Contractor shall provide medical case management until employee is medically released to full duty and returns to work or is determined to be permanently disabled from work. Contractor shall assist in the development of temporary alternative duty and the placement of the employee.
- 2.3.17** Contractor shall maintain communication (phone, e-mail, fax) with Campus Designee regarding condition of employee and provide individual claim status reports as well as prepare written summaries of claims on a monthly basis, or as requested.
- 2.3.18** Contractor shall establish and record appropriate medical, indemnity, and expense reserves and review, at least quarterly, for adequacy. ***Per Kent 3/3***
- 2.3.19** Contractor shall determine compensability of each claim in accordance with the Workers' Compensation Act, investigate specific cases that may involve fraudulent claims reporting, and report such cases to the MUS and other required regulatory agencies [Ref. Section 5-13-301(C), MCA] as required, as soon as it becomes known.
- 2.3.20** Contractor shall coordinate/arrange and retain legal representation, when necessary, and testify on behalf of the MUS at hearings. Contractor shall make all efforts to settle claims submitted as amicably as possible, and prepare compromises, agreements, and/or releases for the MUS.
- 2.3.21** When the handling of an individual claim requires a specialized independent adjuster or other expert in such areas as medicine, engineering, etc., and such specialized knowledge is not ordinarily available, necessary independent experts in such areas will be retained by the Contractor at MUS expense, provided that Contractor obtains MUS' prior approval.
- 2.3.22** Sample forms and claims folders that are used on a regular basis by the Contractor shall comply with industry standards and Federally mandated rules.
- 2.3.23** Description or examples of claims reporting system (e.g., loss runs) shall be available to the MUS as part of the proposed program.
- 2.3.24** Contractor shall identify the details of its capabilities for payment of claims directly by the Contractor on behalf of the MUS, this should include how MUS money is to be controlled, safeguarded, and disbursed.
- 2.3.25** Administrative fees shall be paid on a monthly basis and medical, indemnity, and expense fees weekly.
- 2.3.26** The Contractor shall comply with the Work Implementation Plan for claims handling in performance of this contract.
- 2.3.27** Contractor shall maintain a current list of preferred medical providers in the State of Montana. Contractor shall notify MUS of any changes in preferred medical providers in the State of Montana. Contractor shall identify how use of these preferred medical providers will produce medical cost savings and shall provide substantiation of savings claimed.

## 2.4 Loss Control

Contractor shall assist the MUS by providing an annual assessments report of the Loss Control Program to the **Loss Control Sub-Committee** of the MUS .

## 2.5 Reinsurance/Excess Insurance

**2.5.1** Contractor shall annually provide the MUS with Excess/Reinsurance options and proposals from qualified markets by May 1. Contractor shall disclose any excess/reinsurance commission to be received. Otherwise, the MUS expects excess/reinsurance to be price net of commission.

NOTE: Given the time constraints of this RFP, the MUS reserves the right to market or directly procure reinsurance/excess insurance for the first year of the contract.

**2.5.2** Contractor shall make reinsurance payments to the vendor.

**2.5.3** Contractor shall provide reporting of all claims required under the excess/reinsurance contracts.

**2.5.4** Contractor shall initiate collections from excess/reinsurance loss provider(s) for claim payments.

**2.5.5** The Contractor shall coordinate and cooperate with all audits initiated by the reinsurance/excess insurance providers.

## 2.6 Financial

**2.6.1** Contractor shall make payments to all service providers of the plan, as authorized by the MUS .

**2.6.2** Contractor shall submit quarterly financial statements using Generally Accepted Accounting Principles (GAAP) to the **Finance Sub-Committee** of the MUS .

**2.6.3** Contractor shall coordinate the annual financial audit and actuarial certification as required by the Workers' Compensation Regulation Bureau or other regulatory agencies.

**2.6.4** The accounting and actuarial expenses associated with this process are to be identified and paid separate from the Contractor's fees.

***Repeats 2.6.3, per kent 3/3***

## 2.7 Management Information Systems (MIS)

**2.7.1** Loss runs must be provided for as long as the Contractor handles the claims.

**2.7.2** Contractor shall furnish each MUS unit and the MUS in its entirety a monthly loss run within 14 days of month end, to include individual claims, a summary of claims experience, including amounts reserved and paid, and all other information as agreed to by the parties,

including reports for previous fiscal years once they have been established. ***Per Kent 3/3***

**2.7.3** Contractor shall advise MUS of all computer-generated reports and/or reports that are unique or include special queries. Contractor shall provide copies of such reports and include explanations of reports and any optional fields, as well as the proposed submittal frequency

## **2.8 Implementation Plan**

Within three business days from a request from the MUS, Contractor shall provide progress reports detailing the status of the project, the milestones that have been met, whether remaining milestones are on schedule and any anticipated delays.

**SECTION 3****OFFEROR QUALIFICATIONS**

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- 3.0** The State may make such investigations as deemed necessary to determine the ability of the offeror to supply the products and perform the services specified.
- 3.1** The State reserves the right to reject any proposal if the evidence submitted by, or investigation of, the offeror fails to satisfy the State that offeror is properly qualified to carry out the obligations of the contract.
- 3.2** In determining the capabilities of an offeror to perform the services specified herein, the following informational requirements must be met by the offeror and will be weighed by the State. **(Note: Each item must be thoroughly addressed. Taking exception to any requirements listed in this Section may disqualify the proposal.)**
- 3.3** Offeror shall provide a Cover Letter on the letterhead of the company or organization submitting the response and a narrative demonstrating an established, successful record of accomplishment of past performance in providing goods and services closely related to the requirements specified in this RFP. Offeror shall specify how long the company submitting the proposal has been in business and shall provide a background of their business.

**3.4 Expertise and Experience**

Identify and describe the management team that will be dedicated to the MUS Self-Funded Workers' Compensation Program. Offeror shall provide the name, title, address, phone number, fax number, e-mail address of the Account Executive to be assigned to the resultant contract. The offeror shall provide the qualifications of this Account Executive. Submit a management support personnel staffing chart that details positions, titles, phone numbers, and provides brief job profiles and descriptions. Describe corporate strategies and past experiences that best qualify offeror for this project. Describe the specific services that key personnel will be providing. Indicate whether employees would be assigned full-time or not to the project.

- 3.4.1** How many self-insured public entity accounts does the offeror handle? Provide the total number of accounts handled by the offeror, both private and public.

Indicate the number of self-insured Workers' Compensation accounts handled by the Offeror by employee population as follows:

- (a) Less than 100 employees
- (b) 101 employees to 500 employees
- (c) 501 employees to 1000 employees
- (e) 1001 employees to 5000 employees
- (f) More than 5000 employees

- 3.4.2** Qualifications of Subcontractor(s): Include all information relating to program management, qualifications and references for any subcontractor the offeror proposes to use for this contract. The MUS reserves the right, but is not obligated to, contact and review the

operations of any subcontractor identified by the offeror.

- 3.4.3** Proposal must describe in detail the offeror's decision-making process and the offeror's employees and/or other representatives likely to be involved in performing a contract resulting from the award of this RFP. The MUS considers the ability to deal easily, promptly and efficiently with the offeror essential to a contract and may give preference in its award to a proposal that maximizes the offeror's decision-making authority in Montana on all aspects of the contract.

### **3.5 References**

Identify at least five references for which the offeror, preferably within the last 5 years, has successfully administered a Workers' Compensation program similar to what is being proposed. Include contact person, phone number, and dates the services were provided. References from higher education or public institutions are desired. The MUS reserves the right, but is not obligated to, contact and review references provided. Negative references may be grounds for eliminating a proposal from further consideration.

### **3.6 Financial Information**

- 3.6.1** Offerors shall demonstrate their financial ability to supply, install, and support the services specified.

**3.6.1.1** Provide financial statements, preferably audited, for the two consecutive years immediately preceding the issuance of this RFP.

**3.6.1.2** Provide copies of all quarterly financial statements that have been prepared since the end of the period reported by your most recent annual report.

### **3.7 Methods and Approach**

Offerors must provide a **point-by-point** response to Section 2, Scope of Work, demonstrating the offeror's ability to perform the required services. In addition, offerors must submit a Services Proposal addressing **point-by-point** the following requirements:

- 3.7.1** An Executive Summary The must be provided at the beginning of the proposal that outlines the offeror's understanding of the service requirements stated herein and provides an overview of its approach to undertaking said program.

**3.7.2** Offeror shall specify how it will document the effectiveness of its managed care program. Offeror shall provide sample documentation and indicate the measurable performance standards used to evaluate the overall program administration.

**3.7.3** Offeror shall provide the specific services required to execute the resultant contract based on this RFP. ***What are we asking for here? Are we asking for them to tell us what services we need?***

**3.7.4** Offeror shall identify what, if any, investigative services to be provided in performance of

this contract.

- 3.7.5** Offeror shall provide a sample of forms and claims folders that would be used on a regular basis in performance of this contract.
- 3.7.6** Offeror shall provide a copy of the standard policies and procedures used for processing claims.
- 3.7.7** Offeror shall indicate the average claims load per adjuster, including maximum claims per adjuster, if applicable. Offeror shall identify the number of people that would be assigned to the MUS account. Offeror shall specify if the assignment(s) will be on a full or part-time basis.
- 3.7.8** Offeror shall provide a description and examples of the claims reporting system (e.g., loss runs) that will be used in performance of this contract.
- 3.7.9** Offeror shall include a proposed implementation plan to be used by offeror for handling claims. The plan shall include the start-up and administration of the program by July 1, 2003. The implementation plan shall also include the following information:
- (a) A description of the deliverables to be provided under this contract;
  - (b) Target dates and critical paths for the deliverables; and
  - (c) Identification of roles and responsibilities of key individuals providing service, including the name of the individual(s) responsible, organization, and telephone number.
- 3.7.10** Offeror shall provide details of capabilities for payment of claims directly by the offeror on behalf of the MUS. Information shall include how MUS money is to be controlled, safeguarded, and disbursed.
- 3.7.11** Offeror shall indicate typical claim response times, the location of claims handling, and availability of claim files.
- 3.7.12** Offeror shall provide a summary of service standards of performance for timeliness of claimant contact, reports to regulatory agencies, payment of claims, and management review of files, etc.
- 3.7.13** Offeror shall identify the internal claims audit procedures to be used by the offeror's own staff or outside claims auditors.
- 3.7.14** Offeror shall identify specific medical management services available for controlling medical costs such as usual, customary and reasonable (UCR) comparisons.
- 3.7.15** Offeror shall indicate if it has negotiated preferred panel of physicians/providers fee contracts with preferred medical providers in the State of Montana. Describe how these contracts will produce medical costs savings. Provide substantiation of savings claimed. Provide a list of current preferred medical providers.

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**THIRD PARTY ADMINISTRATOR SERVICES**

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- 3.7.16** Offeror shall describe, in narrative form, the proposed claims handling philosophy.
- 3.7.17** Offeror shall describe the procedures to be followed for approving and paying medical claims.
- 3.7.18** Offeror shall indicate if it utilizes UCR payment screens for determining payments to health care providers. If such screens are used, Offeror shall indicate the average savings the MUS should expect to realize as compared to payment in full of the doctor's standard charges. Show the calculations of the estimate.
- 3.7.19** Offeror shall specify if they have established provider panels for medical treatment of employees eligible for Workers' Compensation benefits. If not, Offeror should state if a program of this nature would be recommended for the MUS and if so, provide the expected benefits. Offeror shall explain how these panels have been or will be established, and indicate the estimated average savings the MUS might expect to realize as compared to payment in full of the health care provider's standard charges. Offeror shall illustrate how the estimate is calculated.
- 3.7.20** Offeror shall identify the specific number of claims personnel that will be dedicated to the MUS contract. If personnel will not be dedicated, Offeror shall describe how claims will be assigned to adjusters.
- 3.7.21** Offeror shall identify if personnel employed to process Workers' Compensation claims will be performing these services on a full-time basis. If less than full-time, offeror shall indicate the percentage of time spent handling Workers' Compensation and time spent handling other matters, indicating the nature of such other matters (e.g. 50% workers' compensation - 50% group health claims).
- 3.7.22** Offeror shall provide an address for the claims office that will be servicing the MUS account. Offeror will identify if long distance telephone contact with this office is required and if a toll-free number will be made available to MUS.
- 3.7.23** In the event a claim is disputed and results in a Montana Workers' Compensation Commission hearing, offerors shall identify their role in supporting such a hearing. Offeror shall identify if an attorney will be provided to represent the self-insured employer at no additional cost to the MUS.
- 3.7.24** Offeror shall provide copies of all specialized forms the MUS is required to utilize when reporting Workers' Compensation claims to the offeror.
- 3.7.25** Offeror shall identify the normal time for submitting these reports to the Montana (or other state) Workers' Compensation Commission.
- 3.7.26** Offeror shall identify the offeror's average turn-around time in paying medical claims.
- 3.7.27** Offeror shall describe their specific proposals/strategies for early return to work. Offeror shall define how are individual cases are managed.

- 3.7.28** Offeror shall state if they can determine Department of Labor record-ability for all MUS employee injuries.
- 3.7.29** Offeror shall provide a plan for the Loss Control Program. Offeror shall identify the basic Loss Control programs used by the offeror. Offeror shall provide an example of an assessment accomplished for the prior year. Offeror's example should be based on a twelve-month timeframe.
- 3.7.30** Offeror shall provide a list of current providers for Excess/Reinsurance.
- 3.7.31** Offeror shall describe the Management Information System currently used by offeror.
- 3.7.32** Offeror shall describe the methods, means and communication for loss run reports.
- 3.7.33** Offeror shall provide a sample of all computer-generated reports to be provided to the MUS. Offeror shall provide examples of any unique or special queries that would benefit the MSU. Offeror shall include any explanations of reports and any optional fields as well as the proposed submittal frequency. Offeror shall identify all reports that are available via direct on-line access.
- 3.7.34** Offeror shall identify the services to be provided for writing job descriptions and conditions for injured employees returning to work with prescribed limitations.

### **3.8 Miscellaneous**

#### **3.8.1 Implementation Plan**

The Implementation Plan will be subject to negotiations and final review and approval of the MUS prior to award of the contract.

- 3.8.2** Offeror must detail the acknowledgment and contact procedures to be followed during Contractor's performance of this contract. Include a description of steps in Contractor's acknowledgement and claimant contact system and the time frames for completion of each step.



**SECTION 4**

**COST PROPOSAL**

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**4.0** Offerors must include all costs for Third Party Administrator services as described within the proposal response. Explain in detail what is considered to be an allocated loss adjustment expense paid for within the claim file as opposed to unallocated loss adjustment expense (considered part of the administrative cost).

Offerors may identify alternative methods of charging for these services, however the following minimum information must be provided and will be used for proposal comparison and evaluation.

**4.0.1** Flat rate cost per Loss of Time Claims: *per Kent 3/3* Cost  
\$ \_\_\_\_\_

**4.0.2** Flat rate cost per Medical Only Claims: *per Kent 3/3* Cost  
\$ \_\_\_\_\_

**4.0.3** Flat Rate cost for Claims Closed without Payment: Cost \$ \_\_\_\_\_

**4.0.4** Flat Rate cost for all other services encompassed in the RFP, including, but not limited to the following:

- Itemize additional charges for writing job descriptions and conditions for injured employees returning to work with prescribed limitations.
- Identify all additional costs incurred if an MUS unit requests additional services under the Loss Control Program. Identify an hourly rate, for such services.
- Detail all one time and recurring costs associated with this project
- Specify any alternative methods of charging for services.
- Identify any additional charges for special queries and on-line access.

Cost \$ \_\_\_\_\_  
(Itemize if necessary)

**4.0.5** Monthly Administrative cost: Cost \$ \_\_\_\_\_

**SECTION 5****EVALUATION CRITERIA**

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**5.0 Evaluation Procedure****5.0.1**

The Evaluation Committee will review each proposal and provide the Procurement Officer with a recommendation regarding “responsiveness” or “non-responsiveness”. Proposals initially deemed “non-responsive” will be eliminated from further consideration. The Procurement Officer will make the final determination of “responsive” or “nonresponsive” for each proposal in accordance with ARM 2.5.602. This determination may be made at any time during the evaluation process. For purposes of this RFP, the evaluation process is deemed complete upon the award of a signed and executed contract by the Purchasing Department. Proposals deemed “non-responsive” will be eliminated from further consideration.

***Per Mary 3/3***

**5.0.2** Each offeror must address every component listed below, in the order shown. A proposal may be rejected if it is incomplete, conditional, or if it contains significant errors or fails to conform to the essential requirements of the RFP. The Procurement Officer will determine whether a proposal is incomplete, conditional, or whether the proposal contains significant errors or otherwise fails to conform to the essential requirements of the RFP.

***Per Mary 3/3***

**5.0.3** The evaluation committee will evaluate the remaining proposals and make a recommendation whether to award the contract to the highest scoring offeror who is responsive and responsible, or to seek discussion/negotiation or a best and final offer. The evaluation committee will provide a written recommendation to the Procurement Officer. This written recommendation should contain scores, justification and rationale for their recommendation, along with any other variables that may have been considered. The Procurement Officer will review the recommendation and will determine whether to award the contract or to seek discussion/negotiation or a best and final offer.

***Per Mary 3/3***

**5.0.4** Information or materials presented by offerors outside the formal response or subsequent discussion/negotiation or “best and final offer,” if requested, will not be considered and will have no bearing on any award.

***Per Mary 3/3***

**5.1 Evaluation Criteria**

**5.1.1** To be considered substantive, the proposal must respond to all requirements of the RFP. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal. In order to be considered for selection, Offerors must submit a complete response to this RFP. Offerors should respond to the specifications or propose alternative methods and steps to achieve the intended product. A time frame for implementation of the services and any conditional

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**THIRD PARTY ADMINISTRATOR SERVICES**

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aspects should be explained.

Offeror shall provide a description outlining the services to be performed. Such description should, at a minimum provide:

- (a) Offeror's understanding of the service to be provided.
- (b) Proposed methods and equipment to be used.
- (c) Assistance and materials to be furnished by MUS.
- (d) Project plan and any other pertinent information.

REMINDER: Offerors will be evaluated based on the above areas and should address each of the above areas fully and should not necessarily limit responses only to those items listed with point associations.

**5.1.2** The evaluation committee will review and evaluate the offers according to the following criteria:

- 5.1.2.1** Sections 1, General Information, and 2, Scope of Work: **20%**
- 5.1.2.2** Section 3, Offeror Qualifications: **40%**
- 5.1.2.3** Section 4, Cost Proposal: **40%**

**APPENDIX A**

**STANDARD CONTRACT**

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1. Parties
2. Effective Date, Duration and Renewal
3. Price Adjustments
4. Services and/or Supplies
5. Consideration/Payment
6. Access and Retention of Records
7. Assignment, Transfer and Subcontracting
8. Favorable Prices
9. Hold Harmless/Indemnification
10. Fidelity Bond
11. Insurance
12. Compliance with Workers' Compensation Act
13. Compliance with Laws
14. Contractor Performance Assessments
15. Contract Termination
16. Liaison and Service of Notices
17. Meetings
18. Choice of Law and Venue
19. Scope, Amendment and Interpretation
20. Execution

**THIRD PARTY ADMINISTRATOR SERVICES**

**(insert date), 2003**

**1. PARTIES**

THIS CONTRACT, is entered into by and between the State of Montana, Montana University System, (hereinafter referred to as "the MUS"), whose address and phone number are **(insert address)**, **(insert phone number)** and **(insert name of contractor)**, (hereinafter referred to as the "Contractor"), whose nine digit Federal ID Number, address and phone number are **(insert federal id number)**, **(insert address)** and **(insert phone number)**.

**THE PARTIES AGREE AS FOLLOWS:****2. EFFECTIVE DATE, DURATION, AND RENEWAL**

(a) This contract **(insert contract number)** shall take effect upon execution by MUS and Contractor, and the effective date of this contract shall be the latter of the dates of signature by MUS and Contractor. The contract shall terminate on April 30, 2006, unless terminated earlier in accordance with the terms of this contract. (Mont. Code Ann. § 18-4-313.)

(b) This contract may, upon mutual agreement between the parties and according to the terms of the existing contract, be extended in one-year intervals, or any interval that is advantageous to the MUS, for a period not to exceed four additional years. This extension is dependent upon legislative appropriations and in no case may this contract run longer than a seven-year period.

**3. PRICE ADJUSTMENTS**

Contractor and the MUS agree price adjustments may be made at the time of contract renewal under the following conditions: Price increases may be permitted at the time of contract renewal through a process of negotiation with the Contractor and the MUS. Any price increases must be based on demonstrated industry-wide or regional increases in the Contractor's costs. Publications such as the Federal Bureau of Labor Statistics and the Consumer Price Index (CPI) for all Urban Consumers may be used to determine the increased value.

**4. SERVICES AND/OR SUPPLIES**

Contractor agrees to provide to the MUS with the following Third Party Administrator services:

**A. General Requirements**

- 1) The Contractor shall provide the MUS information on changes in applicable statutes, rules and regulations affecting its responsibility under a self-insured Workers' Compensation program as soon as reasonably possible after becoming aware of such changes.

THIRD PARTY ADMINISTRATOR SERVICES

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- 2) Contractor shall designate an Account Executive located in Montana, on a full-time basis, for the duration of the contract. The Account Executive shall be responsible for administration of this contract, shall be the point-of-contact for MUS personnel, and shall be the Contractor's agent for any notices required under this contract. In the event of a change in the Account Executive, Contractor shall notify the MUS in writing.
- 3) Contractor shall provide a minimum of one adjuster, located in Montana, on a full-time basis, for the duration of the contract.
- 4) If, due to the Contractor's handling, a fine or penalty is imposed by the Montana Department of Labor and Industry or other regulatory agency, the Contractor will assume financial responsibility.
- 5) Contractor shall, at a minimum, attend quarterly meetings with the **Claims Sub-Committee** of the MUS (or designee) to discuss claims status and other issues deemed necessary by the MUS.
- 6) Contractor shall file necessary documents with the Montana Department of Labor and Industry, the Montana Insurance Commission, the Montana Workers' Compensation Regulation Bureau, and any other regulatory agency, in accordance with appropriate laws and regulations.
- 7) All original and copied files, computer tapes, electronic media, and other materials gathered by or entrusted to Contractor in the course of investigating or administering any claims shall be and remain the sole property of MUS. Any material contained in these files (all originals and copies) shall be treated and handled as confidential. Contractor shall submit such records to the MUS within 10 days following such request.
- 8) The MUS reserves the right to procure these services from another firm if the Contractor does not respond to the needs of MUS in accordance with any schedules dictated by MUS.
- 9) Contractor shall submit to the MUS all invoices promptly upon completion of the requirements for installation, delivery, and acceptance of the products and services required under this contract. Invoices shall not include any costs other than those identified in the executed MUS contract or any subsequent change orders issued.

All shipping costs are the Contractor's responsibility, except to the extent such charges are identified in the executed MUS purchase order or change orders.

Contractor's invoices shall provide at a minimum:

- (a) Type and description of the Product or Service installed, delivered and accepted;
  - (b) This RFP number and the MUS contract number;
  - (c) Fees for services, including monthly administration fee, if applicable.
- 10) Contractor shall monitor this contract to determine possible fraud or erroneous payments. Upon discovery, contractor shall notify the MUS within two business days.
  - 11) Contractor shall serve as the liaison between the MUS program and the Montana Workers'

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THIRD PARTY ADMINISTRATOR SERVICES

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Compensation Regulation Bureau.

- 12) Contractor shall serve as liaison between the MUS and Montana self-insurance regulatory department, prepare and attend MUS meetings, and assist in establishing contracts with various service providers. Contractor will attend Meetings on a quarterly basis and all other meetings as required during performance of this contract.
- 13) The Contractor shall be responsible for coordination and placement of ancillary coverage's as required for the program.

B. Underwriting

- 1) Contractor shall receive and maintain a record of (premiums collected and deposit of funds) monthly payrolls and deposit of premiums by class code from each MUS Unit.
- 2) Contractor shall provide the MUS evidence of insurance as requested
- 3) Contractor shall analyze additional exposures and make recommendations to MUS for assessment adjustments for other additional coverage.
- 4) Contractor shall be required to occasionally provide endorsements to the contract as directed by the MUS .

C. Claims

- 1) The Contractor shall provide complete claims handling administration services on behalf of the MUS for its self-insured Workers' Compensation program. Services shall include but not be limited to:
  - (a) Auditing reports of employee injuries;
  - (b) Filing necessary documents with the Montana Department of Labor and Industry, in compliance with The State of Montana laws and regulations;
  - (c) Auditing and paying all eligible bills for medical care;
  - (d) Paying indemnity benefits to eligible employees in accordance with the Workers' Compensation Act;
  - (e) Providing medical case management services;
  - (f) Establishing and recording appropriate medical and indemnity reserves;
  - (g) Providing MUS with on-line computer access to the claims records;
  - (h) Providing all professional personnel required to operate a quality managed care workers' compensation program; and
  - (i) Legal service associated with claims management and individual claims managers
- 2) Claims will be handled on the premises of the Contractor. The Contractor will receive claims from the MUS, for handling in accordance with accepted industry and MUS standards. Contractor shall communicate with individual Campuses for handling of claims.
- 3) Levels of authority for claims settlement and claims handling procedures will be negotiated with the Contractor. Preferably, a claim payment should be paid through an account that is

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adjusted weekly.

- 4) All Claims initiated during the contract shall be handled to conclusion.
- 5) The MUS reserves the right to take over claims held by the Contractor at any time during the performance of this contract or at the termination of the contract. Appropriate refunds or credits shall be identified for return of claims to the MUS upon such event.
- 6) Contractor shall create a file on each claim upon receiving notification of incident. Files shall be maintained at the Contractor's site and copies will be provided to designees on a scheduled basis or as otherwise requested.
- 7) Contractor shall provide copies of all correspondence necessary for the development and handling of all matters related to claims.
- 8) Contractor shall attempt to recover payments to ineligible employees or overpayments to employees. Contractor shall correct and adjust underpayments to employees. The Contractor shall investigate all questionable claims or payments referred to it by the MUS and report to the MUS the results. If the Contractor is unsuccessful in its attempts to recover any improper payment, it shall notify MUS, in order that MUS may determine if additional actions are necessary. Should the MUS request court proceedings to recover any incorrect payment, Contractor shall initiate legal action on MUS' behalf.
- 9) Contractor shall acknowledge all claims, perform prompt investigation of these claims, and make personal visits and/or calls to claimant and/or accident site within 24 hours of the accident.
- 10) Contractor shall file all claims or reports required by MUS' excess insurer(s). Contractor is to detail the document filing procedures it plans to follow under this contract. Include a list of the documents to be filed.
- 11) Contractor shall audit and pay, in a timely manner, all eligible bills for medical care.
- 12) All medical care invoices and indemnity benefit payments shall be made in accordance with applicable WCA and ODA rules and regulations.
- 13) Contractor shall provide local medical management onsite services and do at least one of the following: (1) make personal visits and/or calls to claimant, (2) visit the accident site within 24 hours of accident, (3) visit or call medical provider. Contractor shall establish and maintain a panel of physicians/providers list, including negotiating related fees. Campus Designees may assist in the selection of the panel of physicians/providers list. Contractor shall communicate with and educate the appropriate selected panel of physicians/providers about the MUS' workers' compensation program.
- 14) Contractor shall assist in the creation of an Injury Status report to include diagnosis of injury, medical treatment provided, and the return to temporary, alternative, or full duty. This report will be used by the treating physician and will aid MUS in determining the recordability of injuries and illnesses for Department of Labor requirements. The Injury Status Reports shall be faxed to the Campus Designee within 24 hours of the receipt of the



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- document from the treating physician. The Contractor shall make every effort to expedite the injury status report from physician.
- 15) Contractor shall initiate case management from time of first notification of a lost time injury, or as otherwise necessary or requested by Campus Designee.
  - 16) Contractor shall provide medical case management until employee is medically released to full duty and returns to work or is determined to be permanently disabled from work. Contractor shall assist in the development of temporary alternative duty and the placement of the employee.
  - 17) Contractor shall maintain communication (phone, e-mail, fax) with Campus Designee regarding condition of employee and provide individual claim status reports as well as prepare written summaries of claims on a monthly basis, or as requested.
  - 18) Contractor shall establish and record appropriate medical, indemnity, and expense reserves.
  - 19) Contractor shall determine compensability of each claim in accordance with the Workers' Compensation Act, investigate specific cases that may involve fraudulent claims reporting, and report such cases to the MUS and other required regulatory agencies [Ref. Section 5-13-301(C), MCA] as required, as soon as it becomes known.
  - 20) Contractor shall coordinate/arrange and retain legal representation, when necessary, and testify on behalf of the MUS at hearings. Contractor shall make all efforts to settle claims submitted as amicably as possible, and prepare compromises, agreements, and/or releases for the MUS.
  - 21) When the handling of an individual claim requires a specialized independent adjuster or other expert in such areas as medicine, engineering, etc., and such specialized knowledge is not ordinarily available, necessary independent experts in such areas will be retained by the Contractor at MUS expense, provided that Contractor obtains MUS' prior approval.
  - 22) Sample forms and claims folders that are used on a regular basis by the Contractor shall comply with industry standards and Federally mandated rules.
  - 23) Description or examples of claims reporting system (e.g., loss runs) shall be available to the MUS as part of the proposed program.
  - 24) Contractor shall identify the details of its capabilities for payment of claims directly by the Contractor on behalf of the MUS, this should include how MUS money is to be controlled, safeguarded, and disbursed.
  - 25) Administrative fees shall be paid on a monthly basis and medical, indemnity, and expense fees weekly.
  - 26) The Contractor shall comply with the Work Implementation Plan for claims handling in performance of this contract.

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- 27) Contractor shall maintain a current list of preferred medical providers in the State of Montana. Contractor shall notify MUS of any changes in the preferred medical providers in the State of Montana. Contractor shall identify how use of these preferred medical providers produce medical cost savings and shall provide substantiation of savings claimed.

## D. Loss Control

Contractor shall assist the MUS by providing an annual assessments report of the Loss Control Program to the **Loss Control Sub-Committee** of the MUS .

## E. Reinsurance/Excess Insurance

- 1) Contractor shall annually provide the MUS with Excess/Reinsurance options and proposals from qualified markets by May 1. Contractor shall disclose any excess/reinsurance commission to be received. Otherwise, the MUS expects excess/reinsurance to be price net of commission.  
NOTE: Given the time constraints of this RFP, the MUS reserves the right to market or directly procure reinsurance/excess insurance for the first year of this contract.
- 2) Contractor shall make reinsurance payments to the vendor.
- 3) Contractor shall provide reporting of all claims required under the excess/reinsurance contracts.
- 4) Contractor shall initiate collections from excess/reinsurance loss provider(s) for claim payments.
- 5) The Contractor shall coordinate and cooperate with all audits initiated by the reinsurance/excess insurance providers.

## F. Financial

- 1) Contractor shall make payments to all service providers of the plan, as authorized by the MUS .
- 2) Contractor shall submit quarterly financial statements using Generally Accepted Accounting Principles (GAAP) to the **Finance Sub-Committee** of the MUS .
- 3) Contractor shall coordinate the annual financial audit and actuarial certification as required by the Workers' Compensation Regulation Bureau or other regulatory agencies.
- 4) The accounting and actuarial expenses associated with this process are to be identified and paid separate from the Contractor's fees.
- 5) Contractor shall maintain files and reports, and make payments, in accordance with Workers' Compensation Regulation Bureau. Contractor shall coordinate annual audit and actuarial certification as required by MUS.

**G. Management Information Systems (MIS)**

- 1) Loss runs must be provided for as long as the Contractor handles the claims.
- 2) Contractor shall furnish each MUS unit and the MUS in its entirety a monthly loss run within 14 days to include individual claims, a summary of claims experience, including amounts reserved and paid, and all other information as agreed to by the parties, including reports for previous fiscal years once they have been established.
- 3) Contractor shall advise MUS of all computer-generated reports and/or reports that are unique or include special queries. Contractor shall provide copies of such reports and include explanations of reports and any optional fields, as well as the proposed submittal frequency

**H. Implementation Plan**

Within three business days from a request from the MUS, Contractor shall provide progress reports detailing the status of the project, the milestones that have been met, whether remaining milestones are on schedule and any anticipated delays.

**5. CONSIDERATION/PAYMENT**

(a) In consideration for the Third Party Administrator Services to be provided, the MUS shall pay according to the following schedule: **(insert pay schedule determined from RFP response and contract negotiations)**.

(b) The MUS may withhold payments to the Contractor if the Contractor has not performed in accordance with this contract. Such withholding cannot be greater than the additional costs to the MUS caused by the lack of performance.

**6. ACCESS AND RETENTION OF RECORDS**

(a) The Contractor agrees to provide the MUS, Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance. (Mont. Code Ann. § 18-1-118.)

(b) The Contractor agrees to create and retain records supporting the Third Party Administrator Services for a period of three years after either the completion date of this contract or the conclusion of any claim, litigation or exception relating to this contract taken by the MUS of Montana or a third party.

(c) The MUS shall have the right to audit all books and records (in whatever form they may be kept, whether written, electronic or other) relating or pertaining to this contract or agreement (including any and all documents and other materials, which support or underlie those books and records), kept by or under the control of the Contractor, including, but not limited to those kept by the Contractor, its employees, agents, assigns, successors and Subcontractors. The Contractor shall maintain such books and records, together with such supporting or underlying documents and materials, for the duration of this contract or agreement and for at least three years following the completion of this contract or agreement, including any and all renewals thereof. The books and records, together with the supporting or underlying

documents and materials shall be made available, upon request, to the MUS, through its employees, agents, representatives, contractors or other designees, during normal business hours at the Contractor's office or place of business. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for the MUS. This paragraph shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which the MUS may have by State law or Federal statute, ordinance, regulation, or agreement, whether those rights, powers, or obligations are express or implied.

#### **7. ASSIGNMENT, TRANSFER AND SUBCONTRACTING**

The Contractor shall not assign, transfer or subcontract any portion of this contract without the express written consent of the MUS. (Mont. Code Ann. § 18-4-141.)

#### **8. FAVORABLE PRICES**

Contractor agrees that, through the term of the contract and any agreed-upon extension, the MUS will be entitled to any lower prices made available to any other customer of comparable volume.

#### **9. HOLD HARMLESS/INDEMNIFICATION**

The Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the MUS, under this agreement.

#### **10. FIDELITY BOND**

Fidelity Bond # \_\_\_\_\_ in the amount of \$ 300,000 per occurrence and \$ 600,000 aggregate has been received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135, and will be returned to the Contractor after successful completion of the contract. This security must remain in effect for the entire contract period.

#### **11. INSURANCE**

**General Requirements:** The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

**Primary Insurance:** The Contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

**Specific Requirements for Commercial General Liability:** The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

**Additional Insured Status:** The State, its officers, officials, employees, and volunteers are to be covered as additional insureds; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations; premises owned, leased, occupied, or used.

**Specific Requirements for Automobile Liability:** The contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the contractor or its officers, agents, representatives, assigns or subcontractors.

**Additional Insured Status:** The State, its officers, officials, employees, and volunteers are to be covered as additional insureds for automobiles leased, hired, or borrowed by the contractor.

**Specific Requirements for Professional Liability:** The Contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors. Note: if "occurrence" coverage is unavailable or cost prohibitive, the Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

**Deductibles and Self-Insured Retentions:** Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insured shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, or volunteers; or (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

**Certificate of Insurance/Endorsements:** A certificate of insurance, indicating compliance with the required coverages, has been received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

**12. COMPLIANCE WITH THE WORKERS' COMPENSATION ACT**

Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with sections 39-71-120, 39-71-401, and 39-71-405, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor exemption, or documentation of corporate officer status. Neither the contractor nor its employees are employees of the MUS. This insurance/exemption must be valid for the entire contract period. A renewal document must be sent to the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135, upon expiration.

***I don't think this clause fits this contract. Do you expect to pay the contractor for developing new methods that would be patent able or copyrightable?***

**13. COMPLIANCE WITH LAWS**

(a) The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

(b) The Contractor shall be responsible for obtaining and purchasing all permits, consents, and authorizations as may be required to perform its obligation. All applicable licensing requirements are to be in compliance with any and all rules of the MUS.

**14. CONTRACTOR PERFORMANCE ASSESSMENTS**

The MUS may do assessments of the Contractor's performance. This contract may be cancelled for one or more poor performance assessments. Contractors will have the opportunity to respond to poor performance assessments. The MUS will make any final decision to cancel this contract based on the assessment and any related information, the Contractor's response and the severity of any negative performance assessment. The Contractor will be notified with a justification of contract cancellation.

**15. CONTRACT TERMINATION**

(a) The State may immediately terminate the whole or any part of this contract for failure to perform the contract in accordance with the terms of the contract and other governing authorities.

- 1) If there is no exigency or risk of harm to persons from continued performance, the State, in its discretion, may impose penalties and/or provide notice to the Contractor of the failure to

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perform and allow the Contractor 30 days during which to cure the failure.

2) Failure to perform includes, but is not limited to, failure to:

- i. Perform the services within the time limits specified in this contract;
- ii. Perform any of the requirements of this contract;
- iii. Perform its contractual duties or responsibilities in accordance with the terms of the contract or any other authority, including statute, rules, or policy that govern the standards for performance; or
- iv. Comply with any law, regulation or licensure and certification requirement.

(b) The State may terminate this contract without cause. The State must give notice of termination to the Contractor at least 30 days prior to the effective date of termination.

(c) Notice of termination must be given in writing.

(d) Upon contract termination or non-renewal of this contract, the Contractor must allow the State, its agents and representatives full access to the Contractor's facilities and records to arrange the orderly transfer of the contracted activities.

### 16. **LIAISON AND SERVICE OF NOTICES**

All project management and coordination on behalf of the MUS shall be through a single point of contact designated as the MUS's liaison. Contractor shall designate a liaison who will provide the single point of contact for management and coordination of Contractor's work. All work performed pursuant to this contract shall be coordinated between the MUS's liaison and the Contractor's liaison.

\_\_\_\_\_ will be the liaison for the MUS.

(Address)  
 (City, State, ZIP)  
 Telephone #:  
 Fax #:  
 E-Mail Address:

\_\_\_\_\_ will be the liaison for the Contractor.

(Address)  
 (City, State, ZIP)  
 Telephone #:  
 Fax #:  
 E-Mail Address:

The MUS's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints will first be directed to the liaison.

### 17. **MEETINGS**

The Contractor is required to meet with the MUS's personnel, or designated representatives, to

THIRD PARTY ADMINISTRATOR SERVICES

resolve technical or contractual problems that may occur during the term of the contract, at no additional cost to the MUS. Meetings will occur as problems arise and will be coordinated by the MUS. The Contractor will be given a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired. However, at the Contractor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings two consecutive missed or rescheduled meetings, or to make a good faith effort to resolve problems, may result in termination of the contract.

18. **CHOICE OF LAW AND VENUE** *Do you want venue to be in Helena or Missoula?*

This contract is governed by the laws of Montana. The parties agree that any litigation concerning this bid, proposal or subsequent contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana and each party shall pay its own costs and attorney fees. (See Mont. Code Ann. § 18-1-401.)

19. **SCOPE, AMENDMENT AND INTERPRETATION**

(a) This contract consists of **(insert number)** numbered pages, any Attachments as required, RFP # 03-708P as amended and the Contractor's response as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order.

(b) These documents contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties.

20. **EXECUTION**

The parties through their authorized agents have executed this contract on the dates set out below.

MONTANA UNIVERSITY SYSTEM

CONTRACTOR'S NAME  
ADDRESS  
CITY, STATE, ZIP  
FEDERAL ID #

BY: \_\_\_\_\_  
(Name/Title)

BY: \_\_\_\_\_  
(Name/Title)

BY: \_\_\_\_\_  
(Signature)

BY: \_\_\_\_\_  
(Signature)

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

Approved as to legal content:



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Legal Counsel (Date)  
Montana University System

Approved as to form:

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Contracts Officer (Date)  
State Procurement Bureau