

**WYOMING LEGISLATURE  
LEGISLATIVE SERVICE OFFICE**

**CONTRACT FOR A BENCHMARKS AND PERFORMANCE COMPENSATION REVIEW WITH  
RVK, INC.**

1. **Parties.** The Parties to this Contract are the Wyoming Legislature acting by and through the Legislative Service Office, 200 West 24th Street, Cheyenne, WY 82002 (LSO) and RVK, Inc., 222 SW Columbia Street, Suite 600, Portland, OR 97201 (Contractor).

2. **Purpose of Contract.** The purpose of this Contract is to set forth terms and conditions by which the Contractor shall provide an independent and unbiased professional opinion regarding the investment benchmarks, performance measurement and performance compensation calculations for the Wyoming Retirement System, and produce an evaluative report on the results of the performance compensation calculation audit, results of the performance measurement review/audit, and the appropriateness, suitability, quality, consistency, and accuracy of the investment benchmarks, in accordance with the State of Wyoming's Request for Proposal Number 0293-J, the Contractor's Technical Proposal, and the Contractor's Cost Proposal. In addition, the purpose of this Contract is to authorize the Contractor to provide consulting services to LSO on as-requested basis to be incorporated in a duly executed Work Order.

3. **Term of Contract.** This Contract is effective when all the parties have executed it (Effective Date) and shall remain in full force and effect through November 30, 2024.

4. **Payment.**

A. The LSO agrees to pay the Contractor not more than seventy-five thousand dollars (\$75,000.00) for services described in Sections 5.A through 5.F below.

B. Payment for completion of the work described in Sections 5.A through 5.F shall be made not later than thirty (30) days after the presentation of the Contractor's final report to the JAC and the Select Committee at the meetings scheduled October 30, 2024, and October 31, 2024.

C. The LSO agrees to pay the Contractor five hundred and twenty dollars (\$520.00) per hour for consulting services, if necessary, described in Section 5.G below. Payment by the LSO shall be made not later than thirty (30) days after receipt of an invoice by the Contractor for work performed pursuant to a duly executed Work Order.

D. No payment shall be made for work performed before the Effective Date of this Contract. Should the Contractor fail to perform in a manner consistent with the terms and conditions set forth in this Contract, payment under this Contract may be withheld until such time as the Contractor performs its duties and responsibilities to the satisfaction of the LSO. Contractor shall submit invoices in sufficient detail to ensure that payments may be made in conformance with this Contract.

E. Except as otherwise provided in this Contract, the Contractor shall pay all costs and expenses, including travel, incurred by Contractor or on its behalf in connection with Contractor's performance and compliance with all Contractor's obligations under this Contract.

**5. Responsibilities of the Contractor.** In accordance with the State of Wyoming's Request for Proposal Number 0293-J, the Contractor's Technical Proposal, and the Contractor's Cost Proposal, the Contractor agrees to:

**A.** Execute engagement letters with the Wyoming Retirement System, consultants, custodial banks, and others, as necessary, to obtain data and information necessary to complete work under this Contract.

**B.** Provide a draft report to the LSO not later than September 19, 2024.

**C.** Submit a final report to the LSO not later than October 1, 2024, to be distributed by the LSO to the JAC and the Select Committee. The final report shall include:

**(i).** The Contractor's professional opinion on the suitability of selected benchmarks, the benchmark approval processes, actual investment earnings compared to performance compensation awards, an assessment of potential to manipulate outcomes, and whether the selected benchmarks provide a meaningful comparison to the investments to which they are applied.

**(ii).** The Contractor's professional opinion on the methodology and reported investment performance for FY 2020, FY 2021, FY 2022, and audit and professional opinion for FY 2023 investment performance.

**(iii).** The Contractor's assessment of and report on any use of investments outside the benchmarks.

**(iv).** An audit of and the Contractor's professional opinion on the performance compensation calculation required by the Wyoming statutes, annual performance compensation reports and performance compensation awards for FY 2020, FY 2021, FY 2022 and FY 2023, including a professional opinion on the calculated amounts, vesting and whether alternative approaches would improve the effectiveness of the performance compensation plan.

**(v).** Recommendations as necessary.

**E.** Present the final report to JAC and Select Committee either in-person or by Zoom at legislative meetings scheduled for October 30, 2024, and October 31, 2024.

**F.** Report monthly in writing to the LSO on the progress of the project work plan, successes and barriers and engage in ad hoc communication with the LSO as needed to facilitate the success of this project. Contractor shall report to the LSO when significant project milestones are completed including:

**(i).** Engagement with the Wyoming Retirement System;

**(ii).** Data exchange;

**(iii).** Benchmark selection and application review;

**(iv).** Review, audit, and verification of performance calculations, specifically an audit for reported performance for FY 2023 and verification of reported performance for prior years;

**(v).** Review, audit, and verification of performance compensation awards;

**(vi).** Final report;

**(vii).** Proper archival treatment or destruction of data and other information; and

(viii). Other significant project milestones as identified by the LSO.

G. Assist the LSO in preparation of any necessary Work Orders and provide consulting services to the LSO on an as-requested basis incorporated in a duly executed Work Order.

6. **Responsibilities of the LSO.** The LSO agrees to:

A. Pay the Contractor for work performed in accordance with Section 4 above.

B. Distribute the final report to the JAC and the Select Committee.

C. Notify the Contractor if the JAC and Select Committee meetings are rescheduled.

D. Prepare Work Orders to incorporate any work by the Contractor on an as-requested basis, which shall include a description of the work to be performed, measurable deliverables, the approximate hours necessary to complete each deliverable, the estimated budget, and the timeline associated with completion of each Work Order.

7. **Special Provisions.**

A. **Authority to Sign.** The Director of the LSO is empowered to be the signatory on all contracts, agreements, or modifications pertaining to this project on behalf of the LSO and the Wyoming Legislature. The Contractor is empowered to be the signatory on all contracts, agreements, or modifications pertaining to this project on behalf of the Contractor. Such agreements, etc., not bearing these signatures or that of a designee are invalid insofar as contractual relations between the LSO, the Wyoming Legislature, and the Contractor are concerned.

B. **Kickbacks.** Contractor certifies and warrants that no gratuities, kickbacks, or contingency fees were paid in connection with this Contract, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Contract. If the Contractor breaches or violates this warranty, the LSO may, at its discretion, terminate this Contract without liability to the LSO, or deduct from the agreed upon price or consideration, or otherwise recover, the full amount of any gratuities, kickbacks, or contingency fees paid in connection with this Contract, or an amount equal to any fees, commissions, gifts, or other considerations that were made contingent upon the award of this Contract.

C. **Monitoring Activities.** The LSO shall have the right to monitor all activities related to this Contract that are performed by Contractor or its subcontractors. This shall include, but not be limited to, the right to make site inspections at any time and with reasonable notice; to bring experts and consultants on site to examine or evaluate completed work or work in progress; to examine the books, ledgers, documents, papers, and records pertinent to this Contract; and to observe personnel in every phase of performance of Contract related work.

D. **No Finder's Fees.** No finder's fee, employment LSO fee, or other such fee related to the procurement of this Contract, shall be paid by either party.

E. **Non-solicitation.** The LSO and Contractor mutually agree, because of the high cost of training an employee, neither party shall solicit the employment of any employee of the other party and shall not employ any employee or any person who was an employee of the other party at any time during the relationship between the parties or for a period of one (1) year following the termination of any relationship between the parties. In the event of a breach of this section, the breaching party agrees to pay the other party an amount equal to the hired employee's annual wages as an agreed upon cost to replace the employee.

**F. Restrictions on Communication.** In performing its responsibilities under this Contract, the Contractor agrees to obtain approval of the LSO in advance with respect to all communications with Wyoming legislators and all other Wyoming state and local government officials under this Contract. The Contractor shall not communicate with the media or any other member of the public under this Contract without the prior approval of the LSO, except to acknowledge that a contract with the LSO for the performance of services does exist and to describe the structure of the Contract.

**8. General Provisions.**

**A. Amendments.** Any changes, modifications, revisions, or amendments to this Contract which are mutually agreed upon by the parties to this Contract shall be incorporated by written instrument, executed, and signed by all parties to this Contract.

**B. Applicable Law, Rules of Construction, and Venue.** The construction, interpretation, and enforcement of this Contract shall be governed by the laws of the State of Wyoming, without regard to conflicts of law principles. The terms "hereof," "hereunder," "herein," and words of similar import, are intended to refer to this Contract as a whole and not to any particular provision or part. The Courts of the State of Wyoming shall have jurisdiction over this Contract and the parties. The venue shall be the First Judicial District, Laramie County, Wyoming.

**C. Assignment Prohibited and Contract Shall Not be Used as Collateral.** Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set out in this Contract without the prior written consent of the other party. The Contractor shall not use this Contract, or any portion thereof, for collateral for any financial obligation without the prior written permission of the LSO.

**D. Audit and Access to Records.** The LSO and its representatives shall have access to any books, documents, papers, electronic data, and records of the Contractor which are pertinent to this Contract. Access may include remote access through electronic means if requested by LSO.

**E. Availability of Funds.** Each payment obligation of the LSO is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation, and which may be limited for any reason including, but not limited to, legislative or administrative action. If funds are not allocated and available for continued performance of the Contract, the Contract may be terminated by the LSO at the end of the period for which the funds are available. The LSO shall notify the Contractor at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the LSO in the event this provision is exercised, and the LSO shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.

**F. Award of Related Contracts.** The LSO may award supplemental or successor contracts for work related to this Contract or may award contracts to other contractors for work related to this Contract. The Contractor shall cooperate fully with other contractors and the LSO in all such cases.

**G. Certificate of Good Standing.** The Contractor shall provide to the LSO a Certificate of Good Standing from the Wyoming Secretary of State, or other proof that Contractor is authorized to conduct business in the State of Wyoming, if required, before performing work under this Contract. Contractor shall ensure that all

annual filings and corporate taxes due and owing to the Secretary of State's office are up-to-date before signing this Contract.

**H. Compliance with Laws.** Contractor shall keep informed of and comply with all applicable federal, state, and local laws and regulations in the performance of this Contract.

**I. Confidentiality of Information.** All documents, data compilations, reports, computer programs, photographs, and any other work provided to or produced by Contractor in the performance of this Contract will be kept confidential by Contractor until publicly released by the LSO or until written permission is granted by the LSO for its release. If and when Contractor receives a request for information subject to this Contract, Contractor shall notify the LSO within ten (10) days of such request and not release such information to a third party unless directed to do so by the LSO.

**J. Conflicts of Interest.** The Contractor certifies that no one being paid pursuant to the Contract is engaged in any activity that would constitute a conflict of interest with respect to the Contract.

**K. Counterparts.** This Contract may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Contract. Delivery by the Contractor of an originally signed counterpart of this Contract by facsimile or PDF shall be followed up immediately by delivery of the originally signed counterpart to the LSO.

**L. Entirety of Contract.** This Contract, consisting of eight (8) pages, the State of Wyoming's Request for Proposal Number 0293-J, inclusive of the Attachments and the information contained in the hyperlinks, consisting of two hundred ninety-five (295) pages, the Contractor's Technical Proposal, consisting of fifty (50) pages, and the Contractor's Cost Proposal, consisting of two (2) pages, represents the entire and integrated agreement between the parties and supersede(s) all prior negotiations, representations, and agreements, whether written or oral.

**M. Ethics.** Contractor shall keep informed of and comply with the Wyoming Ethics and Disclosure Act (Wyo. Stat. § 9-13-101, et seq.) and any and all ethical standards governing Contractor's profession.

**N. Extensions.** Nothing in this Contract shall be interpreted or deemed to create an expectation that this Contract will be extended beyond the term described herein. Any extension of this Contract shall be initiated by the LSO and shall be accomplished through a written agreement between the parties entered into before the expiration of the original Contract or any valid amendment thereto and shall be effective only after it is reduced to writing and executed by all parties to the Contract.

**O. Force Majeure.** Neither party shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision will become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event and takes all reasonable steps to minimize delays. This provision will not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

**P. Indemnification.** The Contractor shall release, indemnify, and hold harmless the State, the Wyoming Legislature, the LSO, and their officers, agents, and employees from any and all claims, suits, liabilities,

court awards, damages, costs, attorneys' fees, and expenses arising out of Contractor's failure to perform any of Contractor's duties and obligations hereunder or in connection with the negligent performance of Contractor's duties or obligations, including, but not limited to, any claims, suits, liabilities, court awards, damages, costs, attorneys' fees, and expenses arising out of Contractor's negligence or other tortious conduct.

**Q. Independent Contractor.** The Contractor shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the State of Wyoming, the Wyoming Legislature, or the LSO for any purpose. Consistent with the express terms of this Contract, Contractor shall be free from control or direction over the details of the performance of services under this Contract. Contractor shall assume sole responsibility for any debts or liabilities that may be incurred by Contractor in fulfilling the terms of this Contract and shall be solely responsible for the payment of all federal, state and local taxes which may accrue because of this Contract. Nothing in this Contract will be interpreted as authorizing Contractor or its agents and/or employees to act as an agent or representative for or on behalf of the State of Wyoming or the LSO, or to incur any obligation of any kind on the behalf of the State of Wyoming, on behalf of the Wyoming Legislature, or on behalf of the LSO. Contractor agrees that no health/hospitalization benefits, workers' compensation and/or similar benefits available to State of Wyoming employees will inure to the benefit of Contractor or Contractor's agents and/or employees as a result of this Contract.

**R. Insurance.** The Contractor shall maintain commercial general liability insurance and, if statutorily required, Wyoming workers' compensation, employer's liability insurance, and unemployment insurance.

**S. Nondiscrimination.** The Contractor shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyo. Stat. § 27-9-105, et seq.), the Americans with Disabilities Act (ADA), 42 U.S.C. §12101, et seq., and the Age Discrimination Act of 1975 and/or any properly promulgated rules and regulations thereto and shall not discriminate against any individual on the grounds of age, sex, color, race, religion, national origin, or disability in connection with the performance under this Contract.

**T. Notices.** All notices arising out of, or from, the provisions of this Contract shall be in writing and given to the parties at the address provided under this Contract, either by regular mail, e-mail, or delivery in person. Notice provided by e-mail will be delivered as follows:

LSO: Polly Scott  
polly.scott@wyoleg.gov  
200 W. 24th Street,  
Cheyenne, WY 82002

Contractor: Marcia Beard  
Marcia.Bead@RVKInc.com  
222 SW Columbia Street  
Suite 600  
Portland, Oregon 97201

**U. Notice and Approval of Proposed Sale or Transfer.** The Contractor shall provide the LSO with the earliest possible advance notice of any proposed sale or transfer or any proposed merger or consolidation of the assets of the Contractor. Such notice will be provided in accordance with the notices provision of this Contract. If

the LSO determines that the proposed merger, consolidation, sale, or transfer of assets is not consistent with the continued satisfactory performance of the Contractor's obligations under this Contract, then the LSO may, at its option, terminate or renegotiate this Contract.

**V. Publicity.** Any publicity given to the projects, programs or services provided herein, including, but not limited to, notices, information, pamphlets, press releases, research, reports, signs, and similar public notices in whatever form, prepared by or for the Contractor, will identify the LSO as the sponsoring agency and will not be released without prior written approval from the LSO.

**W. Severability.** Should any portion of this Contract be judicially determined to be illegal or unenforceable, the remainder of the Contract will continue in full force and effect, and the parties may renegotiate the terms affected by the severance.

**X. Sovereign Immunity.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming, the Wyoming Legislature, and the LSO expressly reserve sovereign immunity by entering into this Contract and specifically retain all immunities and defenses available to them as sovereigns. The parties acknowledge that the State of Wyoming has sovereign immunity and only the Wyoming Legislature has the power to waive sovereign immunity. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Contract will not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity will be construed in favor of sovereign immunity.

**Y. Subcontractors.** On and after the Effective Date of this Contract, the Contractor shall not enter into any subcontracts for any of the work contemplated under this Contract without prior written notice to the LSO. The LSO shall have ten (10) days following written notification of the use of any subcontractor, outside associate, or consultant to perform any portion of this Contract to object to the subcontractor, outside associate, or consultant, or perform the services itself if the LSO determines it can provide the services. If reasonable grounds for the objection exist, the LSO and the Contractor shall then negotiate in good faith for the selection of an alternative party.

**Z. Taxes.** The Contractor shall pay all taxes and other such amounts required by federal, state, and local law, including but not limited to federal and social security taxes, workers' compensation, unemployment insurance, and sales taxes.

**AA. Termination.** This Contract may be terminated, without cause, by the LSO upon thirty (30) days written notice. This Contract may be terminated by the LSO immediately for cause if the Contractor fails to perform in accordance with the terms of this Contract. If the work is not progressing satisfactorily or within the terms of this Contract in the opinion of the LSO, after written notice to the Contractor, the LSO may terminate this Contract or any part of it. As of the termination date, the Contractor will be entitled to payment for all work accomplished and accepted by the LSO through the date of termination, including all costs incurred as a result of termination, including custom fabricated materials, restock fees, and freight expenses.

**BB. Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Contract shall not be construed so as to create such status. The rights, duties, and obligations contained in this Contract shall operate only between the parties to this Contract and shall inure solely to the benefit of the parties to this Contract. The provisions of this Contract are intended only to assist the parties in determining and performing their obligations under this Contract.

**CC. Time is of the Essence.** Time is of the essence in all provisions of the Contract.

**DD. Titles Not Controlling.** Titles of sections and subsections are for reference only and shall not be used to construe the language in this Contract.

**EE. Waiver.** The waiver of any breach of any term or condition in this Contract shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.

**9. Signatures.** The parties to this Contract, either personally or through their duly authorized representatives, have executed this Contract on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Contract.

The Effective Date of this Contract is the date of the signature last affixed to this page.

**AGENCY:**

Legislative Service Office

*Matt Obrecht*  
Matt Obrecht (Jul 23, 2024 08:51 MDT)

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Matt Obrecht, Director

07/23/2024

Date

**CONTRACTOR:**

RVK, Inc.

*Becky Gratsinger*  
Becky Gratsinger (Jul 22, 2024 13:53 PDT)

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Becky A. Gratsinger, Chief Executive Officer

07/22/2024

Date











# Contract between LSO and RVK

Final Audit Report

2024-07-23

Created:	2024-07-22
By:	Tania Hytrek (tania.hytrek@wyoleg.gov)
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## "Contract between LSO and RVK" History

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