

MASTER AGREEMENT ISSUES LIST			
ITEM	SPECIFY THE MASTER AGREEMENT SECTION #	ISSUE	BIDDER'S PROPOSED SOLUTION/RATIONALE
1.	1	The Exhibit A referenced does not appear to be relevant to the subject matter of this section.	Please remove the reference to Exhibit A or explain why relevant to this section.
2.	4	No qualifier on whether Contractor can make the reps in this section, and a 3 day notice period is too short.	Insert knowledge qualifier as to whether Contractor can make the reps and replace 3-day period with "as soon as commercially reasonable."
3.	4.1	This section contains a requirement that WEX be registered to do business in the state of Washington, whereas WEX Bank (which is the contracting entity) is a federally regulated bank and its business constitutes interstate commerce, which makes state-by-state registration to do business unnecessary.	Remove this section, provided that if this is required, WEX will undertake to register.
8	4.12	WEX is not presently registered as a state payee.	WEX would undertake to become registered prior to the contracting date.
	6	WEX's card product being an unsecured loan product, its payment terms and the manner in which statements are delivered to customers do not entirely comport with what is set forth in this section.	WEX notes that its understanding is that the WEX terms and conditions will be incorporated as part of the contract.
	11.2	The audit right set forth in this section is unilateral (i.e., WEX does not have an audit right), it lengthy in duration (6 years from expiration or	Amend Section 11.2 such that it is mutual, is limited to 2 years after the date of expiration or termination of the contract, and contains a

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		<p>termination is outside of “market” standard for such terms), and there lacks an advance notice provision.</p>	<p>reasonable advance notice requirement.</p>
	<p>11.3</p>	<p>This section includes a 25% percent fee/penalty for erroneous overpayments and underpayments, and does not specify that repayment of any such amounts would be subject to whatever amounts are currently owed on the accounts.</p>	<p>Amend this section to change the 125% rate to 100% in both instances, and include a caveat that such repayments would be subject to offset in the case of existing balances.</p>
	<p>12.1 (and schedule) and 12.3</p>	<p>Crime Insurance/Employee Dishonesty includes language regarding “purchaser owned property” that WEX does not understand.</p> <p><b>Additional Insured.</b> WEX’s crime insurance will not include additional insured language. WEX has blanket loss payee coverage for payments made under the policy if directed by WEX.</p> <p><b>Waiver of Subrogation.</b> WEX’s crime insurer will not waive subrogation rights, it can be waived for Network security/E&amp;O.</p>	<p>Remove “and/or purchaser owned property” language or explain what it means.</p> <p>Additional Insured language to include carve out for crime insurance.</p> <p>Insert a carveout in the Waiver of Subrogation section for crime insurance.</p>
	<p>14.2</p>	<p>The indemnity section contains no materiality threshold, includes indemnity for settlements of claims, contains no reasonableness qualifier on attorneys’ fees, and is not mutual (i.e., it is just unilateral).</p> <p>The section contains no cap on liability.</p>	<p>Amend Section 14.2 such that it is mutual (i.e., each party indemnifies the other), applies only for materials claims and damages, does not include settlements of claims, and contains a reasonableness standard for attorneys’ fees.</p> <p>WEX also notes that its terms and conditions, which we understand would be incorporated into the</p>

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			contract, contain limitations of liability.
	14.3	The section contains no cap on liability.	WEX notes that this section would be subject to the limitations of liability set forth in the WEX terms and conditions.
	14.4	The section contains no cap on liability.	WEX notes that this section would be subject to the limitations of liability set forth in the WEX terms and conditions.
	16.1	The right to suspend is immediate and doesn't contain a cure period. And the continuation of WEX's obligations following termination of the contract is improper.	Insert a cure period of 30 days in the event of a default, after which (if not cured), Enterprise Services may suspend. The sentence regarding survival of obligations post-termination should be removed.
	16.2	There is no materiality threshold for defaults under subsections (a) or (b).	Insert a materiality threshold for defaults defined in subsections (a) and (b).
	16.3	The provisions regarding WEX's obligations in the event of procurement of a replacement contractor are severe and imposing.	Amend this section to remove the obligation for WEX to cover costs of replacement procurement.
	17.13	Survival of reps and warranties past expiration or termination of a services contract is not logical or proper.	Remove this section.
	17.14	Given that WEX Bank is the service provider and WEX Bank is a Utah-	Amend this section to bifurcate applicable governing law such that Utah law governs the banking, lending and related aspects of the

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		regulated bank, its activities must be governed by the laws of Utah.	relationship, and Washington law governs the rest.