State of Delaware
Office of Auditor of Accounts

Request for Proposal

For

Office of the State Treasurer
Quarterly Bank Reconciliations
Agreed-Upon Procedures Engagement

Professional Services

April 8, 2014

RFP 14-CPA-04

by

State of Delaware
Office of Auditor of Accounts
Townsend Building, Suite 1
401 Federal Street
Dover, Delaware 19901

Deadline to Respond: 3:00 p.m. (EST), April 29, 2014

Table of Contents

1. Introduction 3
2. Proposal Process 3
3. Term of Engagement 4
4. Nature of Services Required 4
5. Description of the Entity 5
6. Time Requirements 6
7. Cost Section 9
8. Mandatory Requirements Section 9
9. Proprietary Section 12
10. Evaluation Process 13
11. Contract Conditions 16
12. Additional Services 22
13. Manner of Payment Notice 22
Appendix A – Sample Schedule of Professional Fees and Expenses 24
Appendix B – Non-Collusion Statement 25
Appendix C – Non-Disclosure & Data Security Agreement for Contracted CPA Firms 26
Appendix D – Non-Disclosure & Data Security Agreement for Individual Audit Staff 30
Appendix E – Frequently Asked Questions 34
Appendix F – Agreed-Upon Procedures 36

1. Introduction

1.1 In accordance with 29 Del. C. Chapter 69, Subchapter VI, *Professional Services*, the Office of Auditor of Accounts (AOA) is distributing this Request for Proposal (RFP) to, and requesting proposals from, qualified certified public accounting firms to perform an engagement in accordance with Section 4, for each of the fiscal years ended June 30, 2015 and 2016.

1.2 There is no expressed or implied obligation for AOA to reimburse firms for any costs or expenses incurred in preparing proposals in response to this request. AOA will **not** pay any costs or expenses incurred by any firm associated with any aspect of responding to this RFP, including proposal preparation, printing, delivery, or the negotiation process. Additionally, no indirect reimbursements (e.g., in the form of credits or reductions to any agreed upon compensation) will be made to any responding firm by AOA for any such costs or expenses.

1.3 Public notice has been provided in accordance with 29 Del. C. § 6981.

2. Proposal Process

2.1 All inquiries concerning this RFP must be submitted in writing and must be received by 4:00 p.m. EST on April 15, 2014 via e-mail directly to:

Kathleen Davies
Chief Administrative Auditor
302-857-3919
Kathleen.Davies@state.de.us

2.2 **Direct contact with the State of Delaware or AOA employees** other than the above-referenced contacts **regarding this RFP is expressly prohibited without prior consent** from Kathleen Davies. Firms contacting the State of Delaware or AOA employees risk elimination of their proposal from further consideration.

2.3 To be considered, ***Mandatory Requirements Section*** and ***Proprietary Section*** of the proposal versus the ***Cost Section*** of the proposal **must** be submitted in **two separate emails** with **"Mandatory and Proprietary Sections"** and **"Cost Section"** clearly marked in each of the **two email subject lines** to AOAContracting@state.de.us on or before 3:00 p.m. on April 29, 2014. Further, each section **must** be a separate pdf searchable file.

2.4 AOA reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. AOA reserves the right without prejudice to reject any or all proposals.

2.5 By submitting a proposal, each proposer must be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

2.6 This RFP is considered part of the contract and will be enforced as such. Further, the Firm is expected to ensure that all staff on the engagement understands the contract requirements as needed to ensure compliance. Failure of the firm to notify its staff as needed is considered contract non-compliance.

2.7 Once the selection of a firm is completed, all proposers will be notified and the executed contract will be completed reasonably thereafter.

3. Term of Engagement

3.1 The contract period is for two years, with the option to renew the contract at AOA's request for two additional years subject to the satisfactory negotiation of terms (including a cost acceptable to both AOA and the selected firm) and the annual availability of an appropriation by the Legislature.

4. Nature of Services Required

4.1 Engagement Description and Cycle

a. The proposer shall conduct a quarterly agreed-upon procedures engagement of the State Treasurer's bank reconciliation process for fiscal years 2015 and 2016. The agreed-upon procedures are listed in Appendix E of this document.

4.2 Engagement Standards

a. To meet the requirements of this RFP, the engagement must be performed in accordance with standards established by the American Institute of Certified Public Accountants and U.S. Government Accountability Office, *Government Auditing Standards*.

4.3 Deliverables

a. The firm agrees it will **not** prepare the reconciliations or schedules included in the agreed-upon procedures reports. The firm should notify AOA immediately of any request to perform such services.

b. In each quarterly report, all exceptions must be reported.

c. Following the completion of the quarterly engagements, the firm must provide a written report in accordance with standards discussed above. AOA will

distribute copies of the reports to the appropriate officials. The firm is **not** to distribute or issue any work products, reports, or findings without prior written consent from AOA.

d. Irregularities and illegal acts: All situations or transactions that come to the firm's attention that could be indicative of fraud, abuse, illegal acts, material errors, defalcations, or other irregularities must be promptly reported to AOA. AOA will determine the appropriate course of action.

4.4 Retention and Access to Engagement Documentation

a. All engagement documentation and reports must be retained, at the firm's expense, for a minimum of three years, unless the firm is notified in writing by AOA of the need to extend the retention period. The firm is required to make engagement documentation available, upon request, to the AOA or its designees.

b. In addition, the firm must respond to the reasonable inquiries of successor firms upon AOA's written approval, via email, and allow the firms to review engagement documentation relating to matters of continuing engagement significance. This process must be completed in a timely manner to avoid delays.

5. Description of the Entity

5.1 Engagement Contact and Location

a. The engagement entity's principal engagement contact will be Ms. Lisa Embert, Office of Disbursements and Reconciliations, or a designated representative, who will coordinate the assistance to the firm. Ms. Embert can be reached at 302-672-6714 or lisa.embert@state.de.us. The location of the engagements will be at the Office of the State Treasurer, located at 820 Silver Lake Boulevard, Suite 100, DE 19904.

5.2 Background Information

a. The Office of the State Treasurer consists of four office divisions: Executive Office of the State Treasurer, Office of Finance and Services, Office of Disbursements & Reconciliations, and the Office of Economic Policy. The Executive Office of the State Treasurer is responsible for providing leadership and resources for the initiatives of the Treasury. The Office of Finance and Treasury Services manages a variety of statewide functions for the agencies and institutions of the State of Delaware, which include banking and cash management services, debt management, investment management, and the

savings and retirement programs. The Office of Disbursements and Reconciliations is responsible the State's payment disbursements and the reconciliation of the State's general collection and disbursements accounts. The Office of the State Treasurer is governed by 29 Del. C. 27. Its website is located at http://treasury.delaware.gov/. For reference, a prior report was issued for combined quarters in the format requested. The report has been posted on AOA's website at State of Delaware Office of the State Treasurer Bank Reconciliations.

6. Time Requirements

6.1 Proposal Calendar

a. Request For Proposal issued — April 8, 2014
b. Deadline for proposal questions — April 15, 2014
c. Due date for proposals — April 29, 2014

6.2 Preliminary Engagement Planning

a. The engagement records are expected to be available for review by six weeks following the quarterly close-out.

Quarter Ended	**FY15**
September 30, 2014	November 12, 2014
December 31, 2014	February 11, 2015
March 31, 2015	May 12, 2015
June 30, 2015	July 15, 2015[1]
Quarter Ended	**FY16**
September 30, 2015	November 12, 2015
December 31, 2015	February 11, 2016
March 31, 2016	May 12, 2016
June 30, 2016	July 15, 2016[1]

6.3 Entrance Conference

a. An entrance conference must be held with the engagement entity's key personnel each fiscal year. At the entrance conference, the firm must provide

[1] The firm may need to request an extension of the due date based on the availability of FSF reports and Office of the State Treasurer staff and resources. Deadlines for June 30th reports are earlier due to information needed from this report for agencys' annual financial reports. For example, 14 Del. Code §513 requires charter schools to submit annual financial statement audits to the Delaware Department of Education by October 1st each year.

the engagement entity with a time schedule for the engagement and a listing of all information needed.

b. The firm must make the AOA Liaison aware of the date and location of the entrance conference in case the AOA Liaison wishes to attend.

6.4 Progress Reporting and Exit Conference

a. The firm must keep the engagement entity and AOA updated on the progress of the engagement. After the engagement has been completed, an exit conference must be held with the engagement entity's key personnel and the AOA Liaison, unless the AOA Liaison declines.

6.5 Reports

a. Draft Reports – Prior to obtaining management's response, but after going through a supervisory and technical review, the draft report will be submitted via email to the AOA Liaison on or before the following dates. The AOA Liaison requires a minimum of 10 business days for review and to return any comments to the firm. In addition to requirements under the professional standards, reports **must** be formatted in accordance with AOA's Style Guide.

Quarter Ended	**FY15**
September 30, 2014	December 5, 2014
December 31, 2014	March 4, 2015
March 31, 2015	June 2, 2015
June 30, 2015	August 5, 2015[1]
Quarter Ended	**FY16**
September 30, 2015	December 4, 2015
December 31, 2015	March 3, 2016
March 31, 2016	June 2, 2016
June 30, 2016	August 3, 2016[1]

The firm must provide an electronic version of the draft report to the engagement entity's principal contact or designee for management review and approval. The engagement entity's principal contact or designee must review the draft report as expeditiously as possible. During management review, the firm must be available to discuss the engagement report and resolve any issues. After all issues are resolved, an electronic version of the draft report must be forwarded to the AOA Liaison for final review by the following dates.

Quarter Ended	**FY15**
September 30, 2014	December 19, 2014
December 31, 2014	March 18, 2015
March 31, 2015	June 16, 2015
June 30, 2015	August 12, 2015[1]
Quarter Ended	**FY16**
September 30, 2015	December 18, 2015
December 31, 2015	March 17, 2016
March 31, 2016	June 16, 2016
June 30, 2016	August 10, 2016[1]

b. Final Reports – Once the AOA Liaison approves the report for issuance, the final report must be emailed in an unsecured PDF format to the AOA Liaison by the following dates.

Quarter Ended	**FY15**
September 30, 2014	December 29, 2014
December 31, 2014	March 25, 2015
March 31, 2015	June 23, 2015
June 30, 2015	August 17, 2015[1]
Quarter Ended	**FY16**
September 30, 2015	December 28, 2015
December 31, 2015	March 24, 2016
March 31, 2016	June 23, 2016
June 30, 2016	August 15, 2016[1]

Report preparation and editing is the responsibility of the firm.

7. Cost Section

7.1 The cost section will include a transmittal letter with the name of the firm, a written certification that (1) the firm agrees to bill AOA only for actual work performed and out-of-pocket expense incurred during its performance of the engagement, (2) billings will be submitted in the format outlined in Section 11.4 b. of this RFP, and (3) the person signing the proposal is entitled to represent the firm, empowered to submit the bid, and authorized to sign a contract with AOA.

7.2 The cost section must contain all detailed cost information relative to performing the engagement as described in this RFP **for each fiscal year presented in the schedule as outlined in Appendix A**. Appendix A is an example of a detailed cost schedule, and it should be amended as needed according to the deliverables of the RFP and specific steps within each deliverable. Out-of-pocket expenses for firm personnel (e.g., travel, lodging, and subsistence) will be reimbursed at the prevailing rates used by the State of Delaware for its employees. A statement that the firm will accept reimbursement for travel, lodging, and subsistence at the prevailing rate used by the State of Delaware for its employees **must** be included in the cost section.

7.3 If a firm determines additional items necessary for the completion of this engagement, including more detail to demonstrate their engagement process, the firm may include these in their proposals as separate line items. Any additional items will be considered individually and removed from the total cost when comparing the cost sections of proposals.

8. Mandatory Requirements Section

8.1 **No proposal will move forward for full technical review and scoring unless the mandatory items are fully addressed as requested in this section**.

8.2 There must be **no dollars or total costs** included in the Mandatory Requirements Section of the proposal. Inclusion of such information will result in disqualification of the proposal.

8.3 The Mandatory Requirements Section **must** address all the points outlined in the RFP in the following format:

a. <u>Independence</u>
The firm **must** provide an affirmative statement that it is independent of the engagement entity and AOA as defined by engagement standards in the U.S. Government Accountability Office's *Government Auditing Standards*.

The firm **must** also list and describe the firm's professional relationships involving the engagement entity for the past five years, together with a statement explaining why each relationship does not constitute a conflict of interest relative to performing the proposed engagement. If the firm has had no relationships within the last five years, the proposal **must** include a declarative statement.

In addition, the firm **must** give AOA immediate written notice and obtain approval from AOA of any professional relationships with the State of Delaware and its related entities before they are entered into during the contract period.

b. License to Practice in Delaware & Delaware Business License
The applicant **must** provide: (1) a copy of valid Delaware CPA licenses, a copy of valid CPA licenses from a jurisdiction with CPA licensure requirements that are substantially equivalent to those of the Uniform Accountability Act, or authorization to practice in the State of Delaware from the National Association of State Boards of Accountancy (NASBA) for the engagement partner, manager, and supervisor in-charge, (2) a copy of a valid Delaware firm permit to practice, and (3) a copy of a current Delaware State business license for the firm.

c. Firm Qualifications and Experience
The proposer **must** state the size of the firm, the size of the firm's governmental staff, the location of the office from which the work on this engagement is to be performed, the number and nature of the professional staff to be employed in this engagement on a full-time basis, and the number and nature of the staff to be employed on a part-time basis.

If the proposer is a joint venture or consortium, the qualifications of each firm comprising the joint venture or consortium **must** be separately identified and the firm that is to serve as the principal auditor must be noted, if applicable.

d. Peer Review
The proposer **must** submit a copy of the most current peer review and a statement whether the quality control review included a government engagement. A proposer must be in compliance with generally accepted government auditing standards (GAGAS) peer review requirements.

e. Suspension and Debarment
The firm **must** certify that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any government agency or Board. In addition, the firm must certify that it has not been the subject of any disciplinary action[2] or inquiry in any jurisdiction or terminated

[2] Disciplinary action includes conviction or a civil judgment rendered for (a) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, (b) violation of Federal or State antitrust statutes, or (c)

from a public (Federal, State or local) contract for cause or default during the past three years.

Any firm ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.

f. Insurance
The firm, as an independent contractor to the State, **must** provide a copy of insurance for claims under the Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this Contract. The firm's copy of insurance **must** demonstrate that it currently carries insurance of minimum limits as follows:

Commercial General Liability	$1 million per claim/ $3 million aggregate
Professional Liability	$1 million per claim/ $3 million aggregate

g. Partner, Supervisor, and Staff Qualifications and Experience
The firm **must** identify the engagement team: engagement partners, managers, supervisors, staff auditors, and specialists. For each person, the firm must indicate whether the person is registered or licensed to practice as a Certified Public Accountant in the State of Delaware; provide information on the person's government auditing experience, including information on relevant continuing professional education for the past three years and membership in professional organizations relevant to the performance of this engagement; and discuss whether or not that person, within the past three years, has been the subject of any disciplinary action or inquiry in any jurisdiction.

The firm must identify the extent to which staff to be assigned to the engagement reflect the State of Delaware's commitment to Affirmative Action.

Engagement partners, managers, supervisors, and staff auditors may be changed if those personnel leave the firm, are promoted, are assigned to another office, or for other reasons with the express prior written permission of AOA. However, in either case, AOA retains the right to approve or reject replacements and the replacements must have substantially the same or better qualifications or experience.

---

commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

Consultants and firm specialists mentioned in response to this RFP can only be changed with the express prior written permission of AOA, which retains the right to approve or reject replacements.

h. Statement on Subcontracting & Third Party Service Providers
The firm must include a statement that the work will not be subcontracted and that none of the work products will be subjected to a third party service provider.

i. Non-Collusion Statement
The form, located at Appendix B, must be completed and signed by an authorized representative of the firm.

9. Proprietary Section

9.1 The Proprietary Section **must** address all the points outlined in the RFP in the following format:

a. Prior Engagements with AOA
All engagements performed for AOA within the last three years must be listed in the proposal. These engagements must be ranked on the basis of total staff hours and by type of engagement (i.e., audit, management advisory services, other). The scope of work, date, engagement partners, total hours, the location of the firm's office from which the engagement was performed, and the name and telephone number of the principal client contact must also be detailed.

b. Similar Engagements with Other Government Entities
For the firm's office that will be assigned responsibility for the engagement, the firm must list the most significant engagements (maximum of 5) performed in the last three years that are similar to the engagement described in this RFP. These engagements must be ranked on the basis of total staff hours and must indicate the scope of work, date, engagement partners, total hours, and the name and telephone number of the principal client contact.

c. Specific Engagement Approach
The firm should demonstrate why the firm is uniquely qualified to perform the engagement on behalf of AOA. Information presented in this section should include, but is not limited to, innovative engagement approach, approach to identifying and testing effective controls, unique methods for utilizing software and preparing engagement documentation, and example report templates. In an effort to prevent substandard engagements and to provide the highest quality service to Delaware taxpayers, we will award a higher score to firms who provide an innovative engagement approach. Any additional procedures that generate additional costs should be separately stated in the Cost Section.

The Proprietary Section must set forth a work plan including, but not limited to, the following, as applicable:

(1) Proposed segmentation, phases, and/or milestones of the engagement.
(2) Level of staff and number of hours assigned to each area proposed in (1) **without dollars**.
(3) Sample methodology to the extent which sampling is to be or planned to be used.
(4) Processes for evaluating and testing internal controls including plans for adequate coverage of information technology infrastructure and data integrity.
(5) Extent of software to be used in the engagement.
(6) Process for project management, including (a) how milestones and delays are monitored and communicated and how adjustments to deliverable dates based on client delays are communicated to AOA and the engagement entity and (b) how staff resources are committed to meet AOA deadlines.
(7) Processes to ensure the quality of the engagement.
(8) Firms that were members of the AICPA's Government Audit Quality Center (GAQC) during peer review must disclose such information. If a firm has joined since the last peer review, they must disclose the membership date.

d. Examples of GAGAS findings
The firm must include 2-3 examples of findings issued under a GAGAS engagement. AOA will evaluate the quality of the findings including whether the findings are clear, concise, and easily understood by the public and management. This will account for five points in the technical score.

e. Other work product examples
Firms are encouraged to include examples of prior engagement plans, audit programs, and draft reports for AOA review during the evaluation process.

10. Evaluation Process

10.1 During the evaluation process, AOA reserves the right to request additional information or clarification from proposers, or to allow corrections of errors or omissions. Additionally, AOA may request the firm or firms to make oral presentations as part of the evaluation process. Not all firms may be asked to make such oral presentations. All costs associated with participation in oral presentations conducted for the State of Delaware are the firm's responsibility.

10.2 The Evaluation Committee may negotiate with one or more of the qualified firms during the same period and may, at its sole discretion, terminate negotiations with any and all firms at any time.

a. Review of Proposals

Proposals that do not meet or comply with the instructions of this RFP may be considered non-conforming, deemed non-responsive, and be subject to disqualification at the sole discretion of the Evaluation Committee.

The Evaluation Committee will use a point formula during the review process to score the proprietary sections of proposals. All assignments of points must be at the sole discretion of the Evaluation Committee. Each member of the Evaluation Committee will first score each proprietary section of the proposals by each of the criteria described in Section 9. The Evaluation Committee will then convene to review and discuss these evaluations and to combine the individual scores to arrive at an average technical score for each firm. At any point a firm may be eliminated from further consideration for unacceptably low technical scores.

b. Evaluation Criteria

Only firms meeting the mandatory requirements and all the must requirements of the RFP will have their proposals evaluated and scored for both technical qualifications and cost.

1. Technical Qualifications: (Maximum Points: 90)

   Technical criteria will include, but are not limited to, staffing qualification, prior experience, AOA's prior experiences with the firm, use of specialist, engagement approach and innovation, and realistic time estimates.

2. Cost: (Maximum Points: 10)

   Cost **will not** be the primary factor in the selection of any firm.

c. Reservation of Rights

The Evaluation Committee reserves the right to:

- Select for contract or for negotiations a proposal other than that with the lowest costs.
- Reject any and all proposals or portions of the proposals received in response to this RFP, or to make no award or issue a new RFP.
- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modification to proposal from any or all contractors during the review and negotiation.

- Negotiate any aspect of the proposal with any firm and negotiate with more than one firm at the same time.

The Evaluation Committee reserves the right to reject any proposal as represented throughout this document and from a firm who:

- Has been convicted for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;
- Has been convicted under State or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offenses indicating lack of business integrity or business honesty that currently and seriously affects responsibility as a State contractor;
- Has been convicted or has had a civil judgment entered for a violation under State or federal antitrust statutes;
- Has violated contract provisions such as:
  - Knowing failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract;
  - Failure to perform or unsatisfactory performance in accordance with terms of one or more contracts;
  - Has violated ethical standards set out in law or regulation;
  - Any other cause listed in regulations of the State of Delaware determined to be serious and compelling as to affect responsibility as a State contractor, including debarment by another government entity for cause listed in the regulations.

d. Confidentiality of Documents

All documents submitted as part of the firm's proposal will be deemed confidential during the evaluation process. Proposals will not be available for review by anyone other than AOA and the Evaluation Committee or its designated agents. There must be no disclosure of any firm's information to a competing firm prior to award of the contract.

The State of Delaware is a public agency as defined by State law, and as such, it is subject to the Delaware Freedom of Information Act, 29 Del. C., c. 100. Under the law, all the State of Delaware's records are public records, unless otherwise declared by law to be confidential, and are subject to inspection and reproduction by any person. Vendors are advised that once a proposal is received by the State of Delaware and a decision on contract award is made, its contents will become public record and nothing contained in the proposal will be deemed to be confidential except proprietary information.

11. Contract Conditions

11.1 The firm awarded the contract will be required to enter into a written agreement with AOA. AOA reserves the right to incorporate standard State of Delaware contractual provisions into any contract negotiated as a result of a proposal submitted in response to an RFP. Any proposed modifications to the terms and conditions of the standard contract are subject to review and approval by AOA. The firm must be referred to as "Contractor" in the agreement.

11.2 The selected firm will be expected to enter negotiations with AOA, which will result in a formal agreement between the parties. Procurement will be in accordance with the subsequent contracted agreement. This RFP and the selected firm's response to this RFP will be incorporated as part of any formal agreement.

11.3 If the firm to whom the contract is awarded fails to enter in the agreement as herein provided, the award will be annulled and an award may be made to another firm. Such firm must fulfill every stipulation embraced therein as if they were the party to whom the first award was made.

11.4 The selected firm under this RFP must be subject to contractual provisions, in a form substantially similar to the following, as well as those agreed to by the parties and not specifically described herein.

a. <u>Term</u>
The term of the contract between the successful firm and AOA must be determined by AOA. The agreement may be terminated by AOA at any time by giving written notice to the Contractor of such termination. Upon such termination, the Contractor will be paid for the hours of work actually completed.

In the event the successful firm materially breaches any obligation under this Agreement, the Contractor must not be relieved of any liability to the State of Delaware for damages suffered by it by virtue of any such breach. AOA may withhold any payments to Contractor for the purpose of set off for such damages.

b. <u>Compensation</u>
AOA agrees to pay Contractor compensation calculated solely on the amount of engagement work performed by firm's staff, based on actual hours billed and hourly rates as set forth in Appendix A herein, as well as approved out-of-pocket expenses.

Contractor agrees to bill AOA only for actual work performed and out-of-pocket expenses incurred during its performance of the engagement. Contractor

must submit all invoices in electronic format for AOA approval. Any additional work outside the contract or for additional fees related to the contract is not permitted without the AOA Liaison's knowledge and approval. Invoices must include the name of the person who performed the work, the nature of work performed, the date(s) work was performed, the number of hours worked, and the corresponding hourly rate, in addition to the amounts, descriptions, and dates of all out-of-pocket expenses for which reimbursement is requested. If approved, AOA will forward the invoice to the engagement entity for payment or pay the invoice itself, depending on the type of engagement.

If the deliverables are not submitted on the due dates as enumerated in the Request for Proposal due to the fault of the Contractor or an advance written request for extension has not been received and approved by AOA in writing per the terms of this contract, the Contractor is thus in default and may be subject to a late penalty. The penalty shall amount to zero point one percent (0.1%) of the total contract price for each day following the deliverable date specified in the Contract up to ten percent (10%) of the total price. This provision does not preclude damages for breach of contract for substandard work or damages as enumerated herein.

c. Non-Appropriation
In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or in part, the agreement must be terminated, as to any obligation of the State of Delaware requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

d. Debarment
AOA reserves the right to debar the Contractor from doing business with AOA. Debarment shall be used only in the public interest and for the State of Delaware's protection, not for purposes of punishment. Although this is not an exhaustive list, AOA may debar the Contractor for any of the following reasons:
1. Offering additional services to the engagement entity without AOA's prior consent.
2. Directly billing the engagement entity outside of the terms of the contract.
3. Failing to perform in accordance with the contract terms and conditions.
4. Refusing to provide information or documents required by a contract.
5. Failing to respond to requests for information regarding performance or accumulating repetitive, substantiated complaints regarding performance of a contract.
6. Demonstrating a lack of integrity from the proposing firm partner or principal within the last three years, which could jeopardize AOA's interest. Factors may include, but are not limited to, any of the following:

a. A conviction of a criminal offense related to the performance of a contract or subcontract with AOA or any State of Delaware agency, board, or authority.
b. A criminal conviction which negatively reflects on the vendor's business integrity, including but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, negligent misrepresentation, price-fixing, bid-rigging, or a violation of state or federal anti-trust statutes.
c. Suspension or loss of license from the AICPA or respective State Board of Accountancy for reasons that are relevant to the contract.
d. A loss or suspension of a business license or the right to do business in the State of Delaware.

e. Notice of Termination
Any notice to AOA required under this Agreement must be in writing and sent by regular mail and registered mail to:

Attention: Kathleen A. Davies
Chief Administrative Auditor
Townsend Building, Suite 1
401 Federal Street
Dover, DE 19901

f. Formal Contract and Purchase Order
The successful firm must promptly execute an agreement incorporating the terms of this RFP within twenty business days after the award of the contract. When purchase orders are applicable, no bidder is to begin any service prior to receipt of a State of Delaware purchase order signed by two authorized representatives of the agency requesting service, properly processed through the State of Delaware Division of Accounting and the engagement entity, where applicable. The purchase order must serve as the authorization to proceed in accordance with the bid specifications and the special instructions, once it is received by the successful firm.

g. Indemnification
By submitting a proposal, the proposing firm agrees that in the event it is awarded a contract, the Contractor must defend, indemnify and save harmless the State from and against all liability, damages, costs or expenses, causes of actions, suites, judgments, losses, and claims including reasonable attorney's fees, brought against the State arising out of or resulting from the performance of the auditing services by Contractor under the Agreement resulting from this RFP to the extent caused by Contractor's negligence or arising from any breach or default Contractor under such Agreement. The foregoing obligation of Contractor to defend, indemnify and hold harmless the State must not extend or

apply to any claim alleging that the State's financial statements are inaccurate or incomplete or were not prepared in accordance with generally accepted accounting principles. Further, in no event will Contractor indemnify and hold harmless the State from any claims or liabilities resulting from the acts of the State.

h. Compliance
In performance of the contract the firm is required to comply with all applicable federal, state and local laws and regulations of the jurisdiction in which the Agreement is performed, as well as all applicable professional conduct rules and guidelines. Contractor will also comply with any policies, guidelines and requirements of the jurisdiction in which the Agreement is performed, provided that such policies, guidelines, and requirements are identified to the Contractor by the jurisdiction and the Contractor states, in writing, that it can comply. The cost of permits and other relevant costs required in the performance of the contract must be borne by the successful firm. The firm **must** be properly licensed and authorized to transact business in the State of Delaware as provided in 30 Del. C. §2502 and other applicable statutes and regulations.

AOA reserves the right to audit conformance to the contract terms and may perform this audit with a third party at its discretion. Contractor shall be under no obligation to permit an audit to the extent that such audit would violate applicable professional standards or undermine the integrity of the audit.

i. Non-Disclosure and Data[3] Security Agreement
At no point will any information obtained for the purposes of this engagement be used in any transaction that does not include AOA. Additional precautions must be taken if a Contractor uses cloud computing[4] to perform the services of this Contract. If awarded the Contract, the Contractor must agree to the terms specified in Appendix C prior to the commencement of the engagement. The Contractor and its employees are forbidden from signing any agreements related to this engagement (e.g. non-disclosure agreements, data usage agreements, etc.) that are not presented directly by AOA.

j. Confidentiality of Information
Any reports, information, data, etc. given to, prepared, or assembled by the Contractor under this Contract shall not be released or made available to any

[3] For the purposes of the Contract (including the Non-Disclosure and Data Security Agreement and Biggs Data Center Non-Disclosure Agreement, if applicable) , "data" does not include audit documentation required by the auditing standards.
[4] The National Institute of Standards and Technology (NIST) defines cloud computing as a "model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g. networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort…"

individual or organization by the Contractor without the prior written approval of AOA. All information must be properly secured to prevent unauthorized access in accordance with Internal Revenue Service (IRS) Publication 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies, the Privacy Act of 1974 (as amended by the Computer Matching and Privacy Protection Act of 1988), the Federal Information Security management Act of 2002, the Social Security Administration's "Information System Security Guidelines for Federal, State, and Local Agencies Receiving Electronic Information from the Social Security Administration," and related National Institute of Standards and Technology (NIST) guidelines. Notwithstanding the forgoing, the Contractor is authorized to disclose any information related to this Contract when required to by law, legal process, or applicable professional standards.

Audit working papers, summaries, and similar records must be retained electronically for at least three years after the completion of the engagement in accordance with the Delaware Public Archives Local Government General Records Retention Schedule.

At the end of the engagement all non-working papers (documents provided by the State of Delaware to Contractor) must be destroyed in all forms (e.g. disk, CD, DVD, paper) except those items required for audit documentation purposes.

All Contractor staff working on this engagement are required to have a criminal background check completed through a process approved by AOA at the Contractor's expense. Prior to staff commencing any work on any part of this engagement, each staff member must sign the form at Appendix D of this RFP and submit to AOA directly as part of the contract documentation and a successful criminal background check must be received by AOA. If AOA determines that, due to criminal convictions reported on the background check, a staff member cannot work on the engagement, the Contractor shall remove such staff from the engagement at the request of AOA.

k. Use of Work Product
All reports developed under this Contract are the sole and exclusive property of the State, and the State has the exclusive right to their use.

l. Insurance
The firm recognizes that it is operating as an independent contractor, and not an employee of the State of Delaware, and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the contractor's negligent performance under this contract, and particularly without limiting the forgoing,

caused by, resulting from, or arising out of any act of omission on the part of the contractor in their negligent performance under this contract.

The firm **must** certify that it must maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under the Agreement. The firm is an independent contractor and is not an employee of the State of Delaware.

The firm **must**, at its expense, carry insurance of minimum limits as follows:

Commercial General Liability	$1 million per claim/ $3 million aggregate
Professional Liability	$1 million per claim/ $3 million aggregate

The firm **must** provide a certificate of insurance as proof that the firm has the required insurance.

m. Non-Discrimination
In performing the services subject to this RFP, the firm agrees that it will not discriminate against any employee or applicant for employment because of race, creed, age, marital status, religion, color, sex, genetic information, national origin, or disability. The successful firm must comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

n. Covenant Against Contingent Fees
The successful firm warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees, bona-fide established commercial or selling agencies maintained by the bidder for the purpose of securing business. For breach or violation of this warranty, AOA must have the right to annul the contract without liability or at its discretion to deduct from the contract cost or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

o. Contract Documents
The RFP, the Purchase Order and the executed Agreement between AOA and the successful firm must constitute the Contract between AOA and the firm. In the event there is any discrepancy between any of these contract documents, the

following order of documents governs so that the former prevails over the latter: Agreement, Purchase Order, and RFP. No other documents must be considered. These documents contain the entire agreement between AOA and the firm. The firm agrees to be bound by the terms of this RFP pending final execution of the Agreement by the parties.

p. Applicable Law
The laws of the State of Delaware must apply, except where Federal law has precedence. The successful firm consents to exclusive jurisdiction in the State of Delaware and agrees that any litigation relating to this Agreement must be filed and litigated in a court in the State of Delaware.

q. Scope of Agreement
If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision must be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement must not thereby fail, but the scope of such provisions must be curtailed only to the extent necessary to conform to the law.

12. Additional Services

12.1 If, during the course of the engagement, the firm suspects that there will be significant delays in the timing of the work due to the actions of the engagement entity, such as not providing requested items in a timely manner or not adhering to the agreed-upon time schedule discussed at the entrance conference, the firm must notify AOA immediately. AOA and the firm will discuss the issues and develop a solution for completing the engagement.

12.2 If it must become necessary for AOA to request the firm to render any additional services to either supplement the services requested in this RFP or to perform additional work as a result of the specific recommendations included in any report issued on this engagement, then such additional work must be performed only if set forth in an addendum to the Agreement between AOA and the firm. Any such additional work agreed to between AOA and the firm must be performed at the same rates set forth in the schedule of fees and expenses included in the cost section of the proposal. Further, if these delays cause the firm to perform additional work, the AOA liaison must approve any additional hours **before** they are incurred.

13. Manner of Payment Notice

13.1 Progress payments may be made no more frequently than 90 and 100 percent of completion for each quarter based on the hours of work completed during the

course of the engagement and out-of-pocket expenses incurred in accordance with the firm's cost section of the proposal and not less than a calendar month.

13.2 The invoice must include the following: (1) name of engagement entity/engagement; (2) amount and if it is a progress or final invoice; and (3) a breakdown of staff and hours for each. Ten percent of the contract amount will be retained until the Exit Conference has been held and the final reports have been reviewed and accepted by AOA.

Appendix A – Sample Schedule of Professional Fees and Expenses

Audit of Department XYZ
Fiscal Years 20X1 - 20X2

	Partner		Manager		Supervisor/Senior		Staff		Subtotals	
Hourly Rate:	$180		$150		$125		$85			
Engagement Segment:	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost
Planning	5	900	10	1,500	30	3,750	15	1,275	60	7,425
Fieldwork	5	900	15	2,250	75	9,375	150	12,750	245	25,275
Reporting	2	360	4	600	15	1,875	7	595	28	3,430
Drafting & Finalizing Findings under GAGAS	2	360	8	1,200	10	1,250	5	425	25	3,235
[OTHER]	-	-	-	-	-	-	-	-	-	-
	14	2,520	37	5,550	130	16,250	177	15,045	358	39,365
									Out-of-pocket Expenses:	
									Mileage	100
									Lodging	150
									Total Cost	39,615

Sample

Appendix B – Non-Collusion Statement

This is to certify that the undersigned Vendor has not, directly nor indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal. The undersigned Vendor further certifies that it is not a subcontractor to another vendor who also submitted a proposal as a primary vendor in response to this solicitation.

Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal contract with the State of Delaware, Office of Auditor of Accounts.

Company Name: _____

Check One: ☐ Corporation ☐ Partnership ☐ Individual

Company Classifications: [This information is used for statistical purposes only.]

(circle one)

Women Business Enterprise (WBE)	Yes	No
Minority Business Enterprise (MBE)	Yes	No
Disadvantaged Business Enterprise (DBE)	Yes	No

Authorized Representative and Title: _____

Address: _____

Phone Number: _____ Email address: _____

Signature: _____ Date: _____

SWORN TO AND SUBSCRIBED BEFORE ME this ____ day of _____, 20 _____

Notary Public: _____ Commission Expires: _____

City of _____ County of _____ State of _____

Appendix C – Non-Disclosure & Data Security Agreement for Contracted CPA Firms

We, _____[firm name]_____ (the "Contractor") agree to perform auditing services under our contract with the State of Delaware ("State") [5] through the Office of the Auditor of Accounts ("AOA") captioned as AOA Original Contract Number [Contract Number] (the "Contract") to perform and complete the [Description of Engagement] for, *inter alia*, the fiscal year(s) ending [Date(s)] (the "Audit"). In that capacity, and in the performance of our Audit-related duties, we acknowledge and understand the following:

1. The State shall at all times own all right, title and interest in data and information, regardless of format, as set forth in the Contract. We shall not access State user accounts or State data, except as required by the express terms of the Contract. We acknowledge and agree that we shall have no right, title, or interest in such data and information.

2. We shall protect confidential information[6] and proprietary information[7] to ensure that there is no inappropriate or unauthorized use or disclosure of State information at any time. To this end, we shall safeguard the confidentiality, integrity, and availability of confidential information and proprietary information and comply with the following conditions:

a) Personally identifiable information (PII)[8] obtained by us is and shall remain property of the State.
b) At no time shall any data or processes which either belongs to or are intended for the use of the State or its officers, agents, or employees, be copied, disclosed, or retained by us for subsequent use in any transaction that does not include the State.
c) No use shall be made of any information collected in connection with the services provided under the Contract except as necessary to fulfill the auditing services required under the Contract.
d) PII, confidential information, and proprietary information shall be safeguarded from loss, theft, or inadvertent disclosure at all times.
e) Desktop computers, laptops, tablets, cell phones and all other portable electronic devices/media containing PII and/or confidential information and/or proprietary information shall be encrypted and/or password protected.

---

[5] "State" as used here (and hereinafter) shall mean the State of Delaware and any agency or instrumentality of the State of Delaware, including, but without limitation, the Delaware Department of Transportation, the Department's Transportation Trust Fund, and any other fund administered by the Department.

[6] "Confidential Information" includes, without limitation, tax returns and related information, driver performance records, financial data, claimant or employer names and addresses, and social security and tax identification numbers.

[7] "Proprietary Information" includes, without limitation, cost or pricing data, government spending plan data, contractor technical qualifications data, independent government cost estimates, negotiation strategies and contractor data presented in negotiations, contracting plans, statements of work, together with information about the design and configuration of system, application, network and access information.

[8] Personally identifiable information is defined in 6 *Del. C.* § 12B-101(4), and includes a resident's name in combination with the resident's Social Security Number, Driver's License number, Delaware Identification Card number or bank account or credit or debit card numbers.

f) The disclosure of information and details relating to a PII loss shall be limited to those who need to know for purposes contemplated under the Contract.
g) All State, non-public data in transit via Secure FTP shall be encrypted, including data that resides on mobile devices.
h) Management of our firm (up to and including the engagement partner) is responsible for clarifying what may represent PII or sensitive data/information and how to ensure adequate safeguards are in place to protect such information.

3. State data shall not be stored or transferred outside of the United States except to the extent permitted in the Contract. This includes backup data and data stored at disaster recovery locations.

4. We shall account for all copies of State data that we obtain during the course of the audit engagement, and we shall not disclose such data to any person or entity except to the extent the Contractor is permitted to disclose information as provided in the Contract.

5. We understand our responsibilities under 6 *Del. C.* Ch. 12B ("Computer Security Breach") and the importance of compliance with the notification provisions of that chapter in the event that a data breach occurs. We further acknowledge that we have read 6 *Del. C.* § 12B-104 that sets forth the enforcement procedures available to the Attorney General in the event of a violation of chapter 12B.

6. Within 24 hours of the discovery of any security breach or suspicious intrusion involving State data, we shall disclose to AOA, in writing, the occurrence of such breach or intrusion and the assets that might have been breached or disclosed.

7. It is understood we are bound by and must comply with all applicable State and Federal laws relating to confidentiality, privacy and non-disclosure. We further understand that the State may seek any remedy available to it to enforce this agreement, including, but not limited to, application for a Court order prohibiting disclosure of information in breach of this agreement. Nothing in this agreement shall affect the applicability or enforcement of the Delaware Return Secrecy Statute (30 *Del. C.* § 368) or corresponding provisions of Federal law (26 U.S.C. §6103(i)(1)); Delaware Bank Franchise Tax Return secrecy statute (5 *Del. C.* §1113); Delaware Department of Labor confidentiality statute (19 *Del. C.* § 3125); Delaware Department of Technology and Information Internal Policy on Confidentiality (Non-disclosure) and Integrity of Data dated 1/3/06 (Doc. Ref. No. DTI-0065); Delaware Department of Transportation confidentiality statute regarding the release of motor vehicle driving history and license records (21 *Del.C.* § 305); HIPAA and the accompanying implementing Administrative Simplification regulations (45 C.F.R. parts 142, 160, 162, and 164) to the extent those laws, regulations, and policies apply to the information covered by this agreement.

8. We understand that Federal tax information received from the IRS and the SSA may be accessed by agency personnel only. This includes file transfers. We understand that unauthorized inspection and use of Federal tax information, such as fax transmittals that are not addressed to Contractor engagement staff or the extraction of Federal tax information that is outside the scope of the engagement can result in civil and criminal penalties under the Internal Revenue Service Code §§ 7213, 7213(A) and 7431 for unauthorized

inspection. These penalties include fines, not to exceed $5,000 and/or five (5) years imprisonment, plus any cost of prosecution.

9. Without limitation of additional legal bases, pursuant to the State of Delaware Constitution of 1897 at Art. VIII, §§ 3 and 6, and 29 *Del.C.* § 6519(a) the State of Delaware is not at all permitted to agree to any limitation on liability.

10. We understand that we shall promptly contact AOA, in writing, unless prohibited by law from providing such notice, upon receipt of any electronic discovery, litigation holds, discovery searches, and expert testimonies related to, or which in any way might reasonably require access to, State data. Further, we shall not respond to subpoenas, service of process, and other legal requests related to the State without first notifying AOA, in writing, unless prohibited by law from providing such notice.

11. We understand that our staff may be subject to clearance through the State's Security Clearance Program prior to the review of any State data.

12. We agree to safeguard any password or security codes provided to us during the course of this engagement.

13. We agree to follow the Contractor's security procedures and ensure that all data and information relative to this engagement is properly stored, encrypted on portable devices, and password protected at all times.

14. We understand our liability for any losses experienced by the State or any remediation costs associated with a breach and that the State will pursue whatever legal means necessary to recover all such losses and costs, as well as any appropriate equitable relief to prevent unauthorized disclosures.

15. We understand that data shall be permanently deleted in accordance with the terms of the Contract and shall not be recoverable, according to the National Institute of Standards and Technology (NIST) approved methods except for copies retained in work paper files or records, anything that may be stored in back up media or other electronic data storage systems, latent data and metadata. Certificates of destruction must be provided to the AOA.

16. We understand that we are expected to comply with sections 4.40 through 4.44 of the Generally Accepted Government Auditing Standards as to reporting confidential and sensitive information.

17. We understand nothing in this agreement shall be interpreted in such a way as to relieve the Contractor from its duty to comply with auditing standards, including AICPA ET Section 301.

18. The obligations imposed herein do not extend to information or data which:
   a) is in the public domain at the time of receipt or which comes into the public domain thereafter through no fault of the Contractor;

b) is disclosed with the prior written approval of the designated Contracting Officer of the applicable State entity;
c) is determined to have been developed by the Contractor independently of disclosures made hereunder; or
d) is disclosed pursuant to Court order after prior notification to the designated Contracting Officer of the applicable State entity.

19. If cloud or offsite hosting is used, we agree to the following terms and conditions:
a) We will perform an independent audit of our data centers at least annually and provide a redacted version of the audit report upon request. We may remove our proprietary information from the redacted version. For example, a Service Organization Control (SOC) 2 audit report would be sufficient.
b) We will provide advance notice to AOA of any major upgrades or system changes that we will be performing. AOA reserves the right to defer these changes if desired.
c) We will disclose our non-proprietary security processes and technical limitations to AOA such that adequate protection and flexibility can be attained between AOA and our firm. For example, we will work with AOA to understand each other's roles and responsibilities in areas such as virus checking and port sniffing.

Our signature below represents our agreement with the items above for the duration of the Contract and until engagement work papers are properly destroyed under the terms of the Contract. The signature of the authorized representative is of an individual who legally may enter his/her organization into a formal contract with the State of Delaware, Office of Auditor of Accounts.

Contractor:

[NOT TO BE COMPLETED UNTIL A FIRM HAS BEEN AWARDED THE CONTRACT]

Print Name Title Signature Date

Appendix D – Non-Disclosure & Data Security Agreement for Individual Audit Staff

I, _____[name]_____ am a[n] _____[title]_____ performing certain auditing services on behalf of [FIRM] (the "Contractor") under its contract with the State of Delaware ("State") through the Office of the Auditor of Accounts ("AOA") captioned as AOA Original Contract Number [Contract Number] (the "Contract") to perform and complete the [Description of Engagement] for, *inter alia*, the fiscal year(s) ending [Date(s)] (the "Audit"). In that capacity, and in the performance of my Audit-related duties, I acknowledge and understand the following:

1. The State shall at all times own all right, title and interest in data and information, regardless of format, as set forth in the Contract. I shall not access State user accounts or State data, except as required by the express terms of the Contract. I acknowledge and agree that I shall have no right, title, or interest in such data and information.

2. I shall protect confidential information[9] and proprietary information[10] to ensure that there is no inappropriate or unauthorized use or disclosure of State information at any time. To this end, I shall safeguard the confidentiality, integrity, and availability of confidential information and proprietary information and comply with the following conditions:

a) Personally identifiable information (PII)[11] obtained by me is and shall remain property of the State.
b) At no time shall any data or processes which either belongs to or are intended for the use of the State or its officers, agents, or employees, be copied, disclosed, or retained by me for subsequent use in any transaction that does not include the State.
c) No use shall be made of any information collected in connection with the services provided under the Contract except as necessary to fulfill the auditing services required under the Contract.
d) PII, confidential information, and proprietary information shall be safeguarded from loss, theft, or inadvertent disclosure at all times.
e) Desktop computers, laptops, tablets, cell phones and all other portable electronic devices/media containing PII and/or confidential information and/or proprietary information shall be encrypted and/or password protected.
f) The disclosure of information and details relating to a PII loss shall be limited to those who need to know for purposes contemplated under the Contract.

[9] "Confidential Information" includes, without limitation, tax returns and related information, driver performance records, financial data, claimant or employer names and addresses, and social security and tax identification numbers.
[10] "Proprietary Information" includes, without limitation, cost or pricing data, government spending plan data, contractor technical proposal data, independent government cost estimates, negotiation strategies and contractor data presented in negotiations, contracting plans, statements of work, together with information about the design and configuration of system, application, network and access information.
[11] Personally identifiable information is defined in 6 *Del. C.* § 12B-101(4), and includes a resident's name in combination with the resident's Social Security Number, Driver's License number, Delaware Identification Card number or bank account or credit or debit card numbers.

g) All State, non-public data in transit via Secure FTP shall be encrypted, including data that resides on mobile devices.
h) Clarification shall be obtained from the Contractor's management (up to and including the engagement partner) on what may represent PII or sensitive data/information and how to ensure adequate safeguards are in place to protect such information.

3. State data shall not be stored or transferred outside of the United States except to the extent permitted in the Contract. This includes backup data and data stored at disaster recovery locations.

4. I shall account for all copies of State data that I obtain during the course of the audit engagement, and I shall not disclose such data to any person or entity except to the extent the Contractor is permitted to disclose information as provided in the Contract.

5. I understand my responsibilities under 6 *Del. C.* Ch. 12B ("Computer Security Breach") and the importance of compliance with the notification provisions of that chapter in the event that a data breach occurs. I further acknowledge that I have read 6 *Del. C.* § 12B-104 that sets forth the enforcement procedures available to the Attorney General in the event of a violation of chapter 12B.

6. Within 24 hours of the discovery of any security breach or suspicious intrusion involving State data, I shall disclose to the Contractor engagement partner and to AOA, in writing, the occurrence of such breach or intrusion and the assets that might have been breached or disclosed.

7. It is understood I am bound by and must comply with all applicable State and Federal laws relating to confidentiality, privacy and non-disclosure. I further understand that the State may seek any remedy available to it to enforce this agreement, including, but not limited to, application for a Court order prohibiting disclosure of information in breach of this agreement. Nothing in this agreement shall affect the applicability or enforcement of the Delaware Return Secrecy Statute (30 *Del. C.* § 368) or corresponding provisions of Federal law (26 U.S.C. § 6103(i)(1)); Delaware Bank Franchise Tax Return secrecy statute (5 *Del. C.* §1113); Delaware Department of Labor confidentiality statute (19 *Del. C.* § 3125); Delaware Department of Technology and Information Internal Policy on Confidentiality (Non-disclosure) and Integrity of Data dated 1/3/06 (Doc. Ref. No. DTI-0065); Delaware Department of Transportation confidentiality statute regarding the release of motor vehicle driving history and license records (21 *Del.C.* § 305); HIPAA and the accompanying implementing Administrative Simplification regulations (45 C.F.R. parts 142, 160, 162, and 164) to the extent those laws, regulations, and policies apply to the information covered by this agreement.

8. I understand that Federal tax information received from the IRS and the SSA may be accessed by agency personnel only. This includes file transfers. I understand that unauthorized inspection and use of Federal tax information, such as fax transmittals that are not addressed to KPMG engagement staff or the extraction of Federal tax information that is outside the scope of the engagement can result in civil and criminal penalties under the Internal Revenue Service Code §§ 7213, 7213(A) and 7431 for unauthorized inspection. These penalties include fines, not to exceed $5,000 and/or five (5) years imprisonment, plus any cost of prosecution.

9. Without limitation of additional legal bases, pursuant to the State of Delaware Constitution of 1897 at Art. VIII, §§ 3 and 6, and 29 *Del.C.* § 6519(a) the State of Delaware is not at all permitted to agree to any limitation on liability.

10. I understand that I shall promptly contact the Contractor engagement partner and AOA, in writing, unless prohibited by law from providing such notice, upon receipt of any electronic discovery, litigation holds, discovery searches, and expert testimonies related to, or which in any way might reasonably require access to, State data. Further, I shall not respond to subpoenas, service of process, and other legal requests related to the State without first notifying the Contractor engagement partner and AOA, in writing, unless prohibited by law from providing such notice.

11. I understand that I may be subject to clearance through the State's Security Clearance Program prior to the review of any State data.

12. I agree to safeguard any password or security codes provided to me during the course of this engagement.

13. I agree to follow the Contractor's security procedures and ensure that all data and information relative to this engagement is properly stored, encrypted on portable devices, and password protected at all times.

14. I understand my personal liability for any losses experienced by the State or any remediation costs associated with a breach and that the State will pursue whatever legal means necessary to recover all such losses and costs, as well as any appropriate equitable relief to prevent unauthorized disclosures.

15. I understand that data shall be permanently deleted in accordance with the terms of the Contract and shall not be recoverable, according to the National Institute of Standards and Technology (NIST) approved methods except for copies retained in work paper files or records, anything that may be stored in back up media or other electronic data storage systems, latent data and metadata. Certificates of destruction must be provided to the AOA.

16. I understand that I am expected to comply with sections 4.40 through 4.44 of the Generally Accepted Government Auditing Standards as to reporting confidential and sensitive information.

17. I understand nothing in this agreement shall be interpreted in such a way as to relieve the Contractor from its duty to comply with auditing standards, including AICPA ET Section 301.

18. The obligations imposed herein do not extend to information or data which:
   a) is in the public domain at the time of receipt or which comes into the public domain thereafter through no fault of the Contractor;
   b) is disclosed with the prior written approval of the designated Contracting Officer of the applicable State entity;
   c) is determined to have been developed by the Contractor independently of disclosures made hereunder; or

d) is disclosed pursuant to Court order after prior notification to the designated Contracting Officer of the applicable State entity.

My signature below represents my agreement with the items above for the duration of my assignment and until engagement work papers are properly destroyed under the terms of the Contract.

Printed Name: _____

Position: _____

Signature/Date: [NOT TO BE COMPLETED UNTIL A FIRM HAS BEEN AWARDED THE CONTRACT]

Appendix E – Frequently Asked Questions

1. The RFP asks for authorization from NASBA. Since Delaware is a State that is part of the Portability Act, can we just say that we meet the requirements of the Act and provide a copy of our firm [State] license and a copy of the [State] licenses for the Partner, Manager, and Supervisor in the proposal?
   Yes, that is acceptable. Copies of the firm and the partner, manager, and supervisor-in-charge licenses must be provided. Please keep in mind that a copy of a valid State of Delaware business license is also required.

2. What do you want to see in the proposal pertaining to Affirmative Action? We have a policy, so can we simply say that we have an Affirmative Action Policy? What identifying information on engagement staff is needed regarding Affirmative Action?
   Yes, you may state that you have an Affirmative Action Policy. The RFP states, "The firm must identify the extent to which staff to be assigned to the engagement reflect the State of Delaware's commitment to Affirmation Action."

3. Can we include an insurance binder showing our limits to satisfy the proof of Insurance requirement? Can the insurance certificate have an expired date?
   Yes, however AOA will require the selected firm to provide evidence of actual insurance prior to the contract being signed. The insurance certificate will not be accepted if the certificate is not active as of the date the proposals are submitted.

4. Can you share with us the information given to other bidders in response to their inquiries?
   Answers to all questions received are posted at bids.delaware.gov.

5. What assistance is given to the auditors during the audit?
   Per the RFP, "The firm agrees it will not prepare the reconciliations or schedules included in the agreed-upon procedures report. The firm should notify AOA immediately of any request to perform such services."

6. Is this RFP for a fixed price contract?
   No, our contracts are not fixed in price. As described in Section IX B. of the RFP, the Contractor agrees to bill AOA only for actual work performed and out-of-pocket expenses incurred during its performance of the engagement. Therefore, if a firm's work is less than the estimated hours in its proposal, the firm should only bill for actual hours. Any additional work outside the contract or for additional fees related to the contract is not permitted without the AOA Liaison's knowledge and approval.

7. Is the proposing partner required to submit clarifying questions to AOA?
   Questions may be submitted by any representative deemed appropriate by the firm; however, the proposing partner should sufficiently participate in the proposal process to eliminate unnecessary questions.

8. Does the quality of past engagement reports play a role in firm's technical proposal score?
   Yes. GAGAS 1.02 states that "Legislators, oversight bodies, those charged with governance, and the public need to know whether (1) management and officials manage government resources and use their authority properly and in compliance with laws and regulations; (2) government programs are achieving their objectives and desired outcomes; and (3) government services are provided effectively, efficiently, economically, ethically, and equitably." AOA relies heavily on the engagement report to effectively communicate necessary information. Therefore, when evaluating a firm on previous work experience, the Evaluation Committee will consider whether engagement reports were complete, accurate, objective, convincing, clear, and concise (GAGAS A7.02).

Appendix F – Agreed-Upon Procedures

1. Compare the list of accounts generated from First State Financials (FSF) *Activity by Balance Sheet Account* DGL046 to the bank accounts reconciled by the Office of the State Treasurer and the accounts included as part of each quarter's ending cash balance in the cash accounts in FSF.

   a. Determine if there are reconciliations performed at the agency and department level to the specific fund cash balances.
   b. If not, determine if there are reports available to perform such reconciliations. (Provide AOA with a copy of those reports identified when performing this procedure.)

2. Reconcile the Ending Balances on the *Activity by Balance Sheet Account* (DGL046) "Cash account sub-totals" page to the *Daily Validity Report* (DGL060) "STATE TOTALS" page. Report the reconciliation in the following format:

Available Cash Balance
06/30/20XX

Combined Cash Balance as of 06/30/XX[12]				$ 2,233,897
DGL046 070/5/XX FYXX 06/30/XX total on page 88				
Less Encumbrances and Remaining Spending Authority:				
	Encumbrances	Remaining Spending Authority	Total to Spend	
GF - 03 (prior year continuing fund)	35,237	226,617	261,854	
GF - 04 (prior year encumbrance balance)	39,259	-	39,259	
General Funds Total			301,113	
NSF (Non-appropriated Special Funds)	89,775	884,664	974,439	
ASF HOLD (Appropriated Special Funds)	57,679	326,050	383,729	
Special Funds Total			1,358,168	
DGL060 07/09/12 as of 07/01/12 page 847				
Remaining Balance carry forward to next FY				1,659,281
Available Cash Balance as of 06/30/12				$ 574,616

[12] All amounts presented are for demonstrative purposes only.

3. Determine if the bank account balances held by the Office of the State Treasurer are sufficient to support the use of the fund types as listed at step 2. by using the *Daily Validity Report* DGL060 as an independent cash confirmation for all departments and agencies.

4. Obtain the Office of the State Treasurer's reconciliation of bank balances to FSF for each quarter.

5. For each quarterly reconciliation, agree all bank balances to bank statements, also agree each book balance to the *Activity by Balance Sheet Account* (DGL046).

6. For each quarterly reconciliation, obtain explanations and examine supporting documentation for significant reconciling items, including the subsequent clearing of these reconciling items in following months, when applicable.

7. Recalculate the quarterly reconciliations for mathematical accuracy.

8. For each quarterly reconciliation, compare the types and amounts of significant reconciling items for non-recurring items.

9. Agree each quarter's ending cash balance to the Financial Report submitted to the Governor by the Secretary of Finance.

10. Obtain and review a copy of the Office of the State Treasurer's bank reconciliation policies and procedures in order to determine if these policies and procedures were applied when the Office of the State Treasurer performed its quarterly reconciliations.

11. Obtain the Wire Transfer Log for each quarter and select significant transfers for each quarter and agree the transfer information to the applicable bank statement, ensuring both sides of the transfer actually occurred within one business day.

12. Agree the transfer activity selected to the appropriate postings in the accounts on the *Activity by Balance Sheet Account* (DGL046).

13. Haphazardly select five transfers per quarter from the zero-balance bank accounts and agree the net activity to the corresponding clearing in the concentration bank account. In addition, agree the monthly posting of the zero balance and concentration account activity to the *Activity by Balance Sheet Account* (DGL046).

14. Obtain the Office of the State Treasurer's General Account Reconciliation for each quarter, summarize each quarter's reconciliations for presentation in the Agreed-Upon Procedures Report, agree the bank account information to the corresponding bank statements, and agree the ending book balance to the ending balance as reported in the Office of the State Treasurer's "Proof of Cash Reconciliation" and quarter-end reconciliations.

15. Obtain the monthly roll forward of cash activity from the Office of the State Treasurer, summarize the quarterly activity and obtain the "Proof of Cash Reconciliation." Agree the beginning balances to the prior month's ending balances and the ending balances to the monthly reconciliations.