

**REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES TO PROVIDE
TREASURY BANKING ADVISORY SERVICES
ISSUED BY THE CASH MANGEMENT POLICY BOARD**

CONTRACT NUMBER: TRE17101-BNKSrvADVS

I. Overview

The State of Delaware Cash Management Policy Board ("Board") is seeking a qualified consulting and/or advisory services firm ("Consultant") with substantial public sector experience to review the State of Delaware's banking framework, and to recommend a course of action to achieve the most efficient architecture. The Consultant will work directly with the Office of the State Treasurer ("OST") and the Banking Structure Task Force ("Task Force") convened by OST.

This request for proposals ("RFP") is issued pursuant to 29 *Del. C.* §§ 6981, 6982 and 6986.

The proposed schedule of events subject to the RFP is outlined below:

| Event | DATE |
|-----------------------------------|----------------------------------|
| Public Notice / Issue of RFP | January 27, 2017 |
| Deadline for Consultant Questions | February 14, 2017 |
| Response to Questions Posted | February 21, 2017 |
| Deadline for Receipt of Proposals | February 28, 2017 at 4:00 PM EST |
| Finalist Presentations | Week of March 9, 2017 |
| Estimated Notification of Award | Week of March 23, 2017 |

Proposal to Remain Open: Consultant must agree to keep any proposal to this RFP open until **September 1, 2017**.

Expected Contract Term: An initial term of eighteen (18) months. The Board reserves the right to extend the contract for up to twelve (12) months, via two six (6) month extensions, following the completion of the initial contract, for a total engagement of up to thirty (30) months.

Respondent Eligibility: This procurement is open to those Consultants that satisfy the minimum qualifications stated in Section IV. A. of this RFP.

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Transmittal Letter: Each proposal must be accompanied by a transmittal letter which briefly summarizes the Consultant's experience and interest in providing the required professional services. The transmittal letter must also clearly state and justify any exceptions the Consultant may take to the minimum requirements and the scope of services of the RFP (which must also be recorded in detail on Attachment 2). Furthermore, the transmittal letter must attest that no activity related to this proposal contract will take place outside of the United States. The State of Delaware reserves the right to deny any and all exceptions taken to the RFP requirements.

No Pre-Bid Meeting: A pre-bid meeting will not be held in connection with this RFP.

II. Background

OST oversees the collection, disbursement and investment of State of Delaware public funds including the procurement and coordination of all banking services for the State's organizations. Banking Services consist of major cash management services, lockbox services, merchant services, and miscellaneous banking services ("Banking Services"). These services and the current vendors to the State are depicted in Appendix C. ("Vendors").

The Board establishes the policies (a) for the investment of all money belonging to the State or on deposit from its political subdivisions (except money deposited in any State Pension Fund or the State Deferred Compensation Program), and (b) to determine the terms, conditions, and other matters relating to those investments including the designation of permissible investments. The guidelines regarding the cash management of the State are available on OST's website:

http://treasurer.delaware.gov/pdfs/cmpb/cmpb_guidelines_08_10_2016.pdf. The Board also approves all banking and investment contracts for the State of Delaware. The Board is comprised of Delaware volunteer citizens (financial professionals) appointed by the Governor and confirmed by the Delaware General Assembly and ex-officiate government officials (including the State Treasurer).

In August 2016, OST convened the Task Force to evaluate the State's current banking architecture and provide feedback on the benefits to be derived from a holistic review of such framework. The Task Force is comprised of several key State agency financial officers representing significant end users of Banking Services. The Consultant will work with both OST and the Task Force in preparing final recommendations for the Board with respect to Delaware's Banking Services given the renewal of contracts to be bid in 2018 as outlined in Table 1.

Table 1: Banking Services Contracts and Expiration

| Banking Service Contract | Contract Expire Date |
|---|-----------------------------|
| Disbursements | 12/31/2018 |
| Electronic Collections | 12/31/2018 |
| Over-the-Counter Collections | 12/31/2018 |
| Direct Deposit of Payroll and Pension | 12/31/2018 |
| Unemployment Insurance and Training Tax Lockbox | 12/31/2017 |
| Corporate Franchise Tax Lockbox | 12/31/2018 |
| Merchant Services (Bank of America) | TBD |
| Merchant Services (American Express) | 90-day notice |
| ATM Network | 90-day notice |
| Stored Value Card | 90-day notice |

Merchant Services, under Bank of America, is still in negotiations as of January 2017. The current Vendor, EPX, was not awarded the business in the most recent RFP for merchant services. Merchant services should be included within the holistic Banking Services structural review; however, the RFP process will not likely be included for rebid in 2018.

III. Scope of Services

The Board seeks the services of a Consultant to (a) undertake a structural review of and make recommendations regarding the State's banking architecture, (b) assist with procurement processes for Banking Services, (c) review and offer suggestions for Vendor management based on industry best practices, and (d) provide transition support as needed to give effect to the engagement of new Vendors and/or Banking Services. The aforementioned services described in clauses (a), (b), and (c) are to be completed by the Consultant during the initial 18-month engagement. The services described in clause (d) are subject to not more than two (2) six-month extensions at the option of the Board. Consultants should bid clauses (a), (b), and (c) as one fixed price contract, with clause (d) bid on a time and materials pricing structure.

During its initial 18-month engagement, the Consultant will also be required to attend any and all meetings of the Task Force, the Board, and the Banking Subcommittee of the Board as they relate to the review, findings, and recommendations of the Consultant. The Board, and its Banking Subcommittee, meets quarterly, with May and November meetings in-person, and August and February telephonically. Given the nature of this RFP and Scope of Services, the Consultant will be expected to attend telephonic meetings which are called as needed.

A detailed list of the services requested pursuant to this RFP is set out in the Scope of Services attached hereto as Appendix A.

IV. Requirements and Evaluation Criteria

A. Minimum Requirements to Apply

In order to apply for the services requested pursuant to this RFP, a prospective Consultant must certify to each of the following:

1. The Consultant must be in the business of providing banking consulting services comparable to those requested pursuant to this RFP to government entities ("Public Clients").
2. The Consultant should have at least five years of continuous experience providing general consulting services to Public Clients.
3. The Consultant, its key professionals and affiliates must not have a material conflict with the Board, OST or its current Vendors for Banking Services.

B. Evaluation Criteria

An evaluation team composed of representatives of OST and other State organizations ("Evaluation Team") will evaluate Consultant proposals on a variety of quantitative and qualitative criteria. Neither the lowest price nor highest scoring proposal will necessarily be selected. The State of Delaware, OST and the Evaluation Team reserve full discretion to determine the responsiveness, competence, professionalism, financial strength and organizational fit of prospective Consultants.

1. Criteria Weight

All proposals shall be evaluated using the same criteria and scoring weights set out in Table 2.

Table 2: Evaluation Criteria for Proposals

| Criteria | Point Value |
|--|--------------------|
| Overall Organizational Fit (including Consultant reputation, referrals, and personnel assigned to engagement) | 15 |
| Experience and capacity to review and analyze the State's current banking architecture and make structural recommendations | 25 |
| Familiarity with and ability to manage RFPs for Public Clients, including preparing, reviewing, and assisting in evaluation of procurement of and contracting with Vendors for Banking Services | 15 |
| Experience designing vendor management processes for Banking Services and outline for implementation of practices within OST's banking architecture | 15 |
| Proposed plan of support should an extension(s) be awarded for the implementation of new Banking Services and/or vendor management practices | 15 |
| Overall Fee & Structure (including detail of breakdown for the three individual components of the fixed price 18-month engagement and the schedule of hourly rates for the optional transition services) | 15 |
| TOTAL POINTS | 100 |

2. Proposal Clarification

The Evaluation Team may contact any Consultant in order to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Proposals may not be modified as a result of any such clarification request. Consultants are to provide in a timely manner any and all information that the Evaluation Team may request.

3. References

The Evaluation Team may contact any customer or client of a Consultant, whether or not included in the Consultant's reference list, and use such information in the evaluation process. Additionally, the team may choose to visit customer or client sites, which visits which may or may not include Consultant personnel. If the Consultant is involved in such site visits, OST will pay travel costs only for State of Delaware personnel for these visits.

4. Oral Presentations

After initial scoring and a determination that Consultant(s) are qualified to perform the required services, selected Consultant(s) may be invited to make oral presentations to the Evaluation Team. All of a Consultant's costs associated with participation in oral presentations, including travel, meals and lodging are the Consultant's responsibility.

C. Required Information

Consultant shall provide the following information with its proposal in the order listed below. Failure to respond to any request for information within this RFP may result in rejection of the proposal at the sole discretion of OST.

1. A Transmitted Letter as described in Section I of this RFP.
2. Complete all appropriate attachments included with this RFP as follows:
 - a. Attachment 1: Non-Collusion Statement
 - b. Attachment 2: Exception Form
 - c. Attachment 3: Confidential Information Form
 - d. Attachment 4: Business References
 - e. Attachment 5: Employing Delawareans Report
 - f. Attachment 6: Questionnaire
3. Prior to the execution of an award document, the successful Consultant shall furnish OST with proof of (i) valid State of Delaware Business Licensure, (ii) certification(s) necessary to perform services as identified in the Scope of Services set out in Appendix A (including without limitation, any appropriate registration with federal and state securities laws) and (iii) proof of and amount of insurance no less than as identified in Section 10 of the form of contract attached hereto as Appendix B.

V. RFP Issuance and Submission of Proposals

A. RFP Issuance

1. Public Notice

Public notice of this RFP has been provided in accordance with 29 Del. C. §6981.

2. Obtaining Copies of the RFP

This RFP is available in electronic form through the State of Delaware Procurement website at www.bids.delaware.gov and at <http://treasurer.delaware.gov>. Paper copies of this RFP will not be made available.

3. Assistance to Consultants with a Disability

Consultants with a disability may receive reasonable accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the Designated Contact (as defined below) no later than fourteen days prior to the deadline for receipt of proposals.

4. RFP Designated Contact

All requests, questions, or other communications about this RFP shall be made in writing to the State of Delaware to the attention of the person listed below (the "Designated Contact"). Consultants should rely only on written statements issued by the Designated Contact.

James M. DiDonato
Manager of Banking Services
Office of the State Treasurer
820 Silver Lake Blvd., Suite 100, Dover, DE 19904
james.didonato@state.de.us
302-672-6710

To ensure that written requests are received and answered in a timely manner, electronic mail (e-mail) correspondence is acceptable, but other forms of delivery, such as postal and courier services can also be used.

5. Contact with Consultants and Legal Counsel

The State of Delaware may retain professional services or legal counsel to assist in the review and evaluation of this RFP and the Consultants' responses. Consultants shall not contact the State's professional services or legal counsel on any matter related to the RFP unless so instructed in writing by the Designated Contact.

6. Contact with Other State Employees

Direct contact with State of Delaware employees other than the Designated Contact regarding this RFP is expressly prohibited without prior written consent of the Designated Contact. Consultants directly contacting State of Delaware employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State that require contact in the normal course of doing such business.

7. Organizations Ineligible to Bid

Any individual, business, organization, corporation, consortium, partnership, joint venture or other entity currently debarred, suspended or otherwise ineligible to conduct business in the State of Delaware for any reason is not eligible to respond to this RFP.

8. Exclusions

The Evaluation Team reserves the right to refuse to consider any proposal from a Consultant that:

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

9. No Press Releases or Public Disclosure

OST reserves the right to pre-approve any news or broadcast advertising releases concerning this RFP, the resulting contract, the work performed, or any reference to the State of Delaware with regard to any project or contract performance. Any such news or advertising releases pertaining to this RFP or resulting contract shall require the prior express written permission of OST.

Notwithstanding the foregoing, the State of Delaware will not prohibit or otherwise prevent the awarded Consultant(s) from direct marketing to the State of Delaware's agencies, departments, municipalities, and/or any other political subdivisions; provided that, no Consultant shall use the State's seal or imply preference for the solution or goods provided.

10. RFP Not an Offer

This RFP does not constitute an offer by OST or the State of Delaware.

11. Right to Cancel RFP

OST reserves the right to cancel this RFP at any time during the procurement process, for any reason or for no reason. OST makes no commitments, expressed or implied, that this process will result in a business transaction with any Consultant.

12. Revisions to the RFP

If it becomes necessary to revise any part of the RFP, and addendum will be posted on OST's website at www.bids.delaware.gov and on www.treasurer.delaware.gov.

B. Submission of Proposals

1. Acknowledgement of Understanding of Terms

By submitting a proposal, a Consultant shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and attachments hereto, and has fully informed itself as to all existing conditions and limitations, including, without limitation, any minimum requirements herein. The failure or omission to examine any form, instrument or document shall in no way relieve a Consultant from any obligation with respect to this RFP.

A Consultant should describe in detail on Attachment 2 any areas where it will be unable to provide services as requested. In addition, if a Consultant is willing to provide the services exactly as requested, but believes that there would be benefits (such as cost savings or improved service) to making adjustments to the services outlined, the Consultant should describe the adjustments and the benefits on Attachment 2. Acceptance or rejection of any or all exceptions is within the sole discretion of OST.

Consultant must respond to all mandatory requirements presented in this RFP. The words "shall", "will" and/or "must" are used herein to designate a mandatory requirement. Failure to respond to a mandatory requirement may, at OST's discretion, cause the disqualification of a Consultant's proposal.

2. Proposal Deliveries

Each proposal must be submitted with **twelve (12) paper copies and twelve (12) electronic copies on CD or DVD media disk or USB memory drive**. All properly sealed and marked proposals are to be sent to the Designated Contact and received no later than **4:00 PM (Local Time) on February 28, 2017**. The proposals may be delivered by express delivery (e.g., FedEx, UPS, etc.), U.S. Mail, or by hand to:

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James M. DiDonato
Manager of Banking Services
Office of the State Treasurer
820 Silver Lake Blvd., Suite 100, Dover, DE 19904
james.didonato@state.de.us

Consultants are directed to clearly print “BID ENCLOSED” and “TRE17101-BNKSrvADVS” on the outside of the bid submission package.

The proposing Consultant bears the risk of delays in delivery.

3. Proposal Modifications

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original proposal and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

4. Proposal Costs and Expenses

The State of Delaware will not pay any costs incurred by any Consultant associated with any aspect of responding to this RFP, including proposal preparation, printing or delivery, attendance at Consultant's conference, system demonstrations or negotiation process.

5. Proposal Expiration Date

Prices quoted in the proposal to this RFP shall remain fixed and binding on the Consultant at least through **September 1, 2017**. The State of Delaware reserves the right to ask for an extension of time if needed.

6. Late Proposals

Proposals received after the specified date and time will not be accepted or considered. Late proposals will be destroyed or returned to Consultant at Consultant's request and at Consultant's cost. To document compliance with the deadline, each proposal will be date and time stamped upon receipt.

7. Proposal Opening

The State of Delaware will receive proposals until the date and time shown in this RFP. Proposals will be opened in the presence of State of Delaware personnel and a public log will be kept of the names of all Consultants that submit proposals. There will be no public opening of proposals.

8. Non-Conforming Proposals

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The

determination of whether an RFP is non-conforming shall reside solely with the State of Delaware.

9. Concise Proposals

The State of Delaware discourages overly lengthy and costly proposals and prefers that proposals be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a complete and effective proposal are not desired. The State of Delaware's interest is in the quality and responsiveness of the proposal.

10. Realistic Proposals

Proposals must be realistic and must represent the best estimate of time, materials and other costs including the impact of inflation and any economic or other factors that are reasonably predictable. The State of Delaware expects that Consultants can fully satisfy the obligations of the proposal in the manner and timeframe defined within the proposal. The State of Delaware shall bear no responsibility for a Consultant's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

11. Confidentiality of Documents

Subject to applicable law or the order of a court of competent jurisdiction to the contrary, all documents submitted as part of a Consultant's proposal will be treated as confidential during the evaluation process and will not be available for review by anyone other than OST, the Evaluation Team and their designated agents. There shall be no disclosure of any Consultant's information to a competing Consultant prior to award of the contract unless such disclosure is required by law or by order of a court of competent jurisdiction.

The State of Delaware and its constituent organizations are required to comply with the State of Delaware Freedom of Information Act, 29 *Del. C.* § 10001, *et seq.* ("FOIA"). FOIA requires that the State of Delaware's records are public records (unless otherwise declared by FOIA or other law to be exempt from disclosure) and are subject to inspection and copying by any person upon a written request. Once a proposal is received by the State of Delaware and a decision on a contract award is made, the content of selected and non-selected Consultant proposals will likely become subject to FOIA's public disclosure obligations.

The State of Delaware wishes to create a business-friendly environment and procurement process. As such, the State respects that Consultants desire to protect intellectual property, trade secrets, and confidential business information (collectively referred to herein as "confidential business information"). If a Consultant feels that it cannot submit a proposal without including confidential business information, it must adhere to the following

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procedure or such proposal may be deemed unresponsive, may not be recommended for selection, and any applicable protection for the Consultant's confidential business information may be lost.

In order to allow the State to assess its ability to protect confidential business information, Consultants will be permitted to designate appropriate portions of their proposal as confidential business information.

Consultants may submit portions of a proposal considered to be confidential business information in a separate, sealed envelope labeled "Confidential Business Information" and include the specific RFP number. The envelope must contain a letter from the submitting Consultant's legal counsel describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 Del. C. § 10002, and briefly stating the reasons that each document meets such definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the State of Delaware will open the envelope to determine whether the procedure described above has been followed. A Consultant's allegation as to its confidential business information shall not be binding on the State of Delaware; rather, the State shall independently determine the validity of any Consultant designation as set forth in this section. Any Consultant submitting a proposal or using the procedures discussed herein expressly accepts the State's absolute right and duty to independently assess the legal and factual validity of any information designated as confidential business information. Accordingly, Consultants assume the risk that confidential business information included within a proposal may enter the public domain.

12. Discrepancies and Omissions

Consultant is fully responsible for the completeness and accuracy of its proposal, and for examining this RFP and all addenda. Failure to do so will be at the sole risk of Consultant. Should Consultant find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFP, Consultant shall notify OST, in writing, of such findings at least fourteen (14) days before the deadline for receipt of proposals. This will allow issuance of any necessary addenda. It will also help prevent the opening of a defective proposal and exposure of Consultant's proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

Protests based on any omission or error, or on the content of the RFP, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing, at least ten (10) calendar days prior to the deadline for receipt of proposals.

13. RFP Question and Answer Process

OST will allow written requests for clarification of the RFP as well as other questions relating to the RFP so long as such inquiries are received in writing, on or prior to **February 14, 2017**. All such requests and questions received from all prospective Consultants will be consolidated into a single set of responses and posted on the State's website at www.bids.delaware.gov and on <http://treasurer.delaware.gov> by **February 21, 2017**. Consultant names will be removed from inquiries in the responses released. Questions should be submitted in the following format. Deviations from this format will not be accepted.

Section number

Paragraph number

Text of passage being questioned

Questions not submitted electronically to James.DiDonato@state.de.us shall be accompanied by a CD, DVD or USB drive and questions shall be formatted in Microsoft Word.

14. State's Right to Reject Proposals

OST reserves the right to accept or reject any or all proposals or any part of any proposal, to waive defects, technicalities or any specifications (whether they be in OST's specifications or Consultant's response), to sit and act as sole judge of the merit and qualifications of each proposal offered, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as OST may deem necessary in the best interest of the State of Delaware.

15. Receipt of Proposal Not a Contract

Consultant's submission of a proposal in connection with this RFP may result in OST selecting Consultant to engage in further discussions and negotiations toward execution of a binding contract. Neither the award of this RFP nor the commencement of such negotiations, constitutes a commitment by OST to execute a contract or to consummate negotiations.

16. Notification of Withdrawal of Proposal

Consultant may withdraw its proposal by written request, provided that both proposal and request is received by OST prior to the proposal due date. Proposals must be re-submitted prior to the proposal due date in order to be considered further.

17. Proposal Constitutes an Offer

All proposals received are considered firm offers if not withdrawn in writing prior to the proposal submission deadline.

18. Award of RFP

The final award of a contract is subject to approval by OST in its sole discretion. OST has the sole right to select the successful Consultant(s) for award, to award a contract to other than the lowest priced proposal, to award multiple contracts, or not award a contract.

19. Binding Agreement

Notice in writing to a Consultant of the acceptance of its proposal by OST and the subsequent full execution of a written contract pursuant to the terms below will constitute a binding agreement. No Consultant will acquire any legal or equitable rights or privileges until the occurrence of both such events.

VI. Contract Process

1. Formal Contract

Consultant(s) receiving an award of this RFP will be expected to enter into a formal contract with OST in the form attached hereto as Appendix B, as modified by any terms agreed to by OST pursuant to paragraph 2 below. Consultant(s) must note any material objections to the form of contract attached as Appendix B on the schedule of exceptions attached hereto as Attachment 2. A Consultant's subsequent negotiation of the terms of the standard contract not noted on Attachment 2 may result in cancellation of the award of the RFP to such Consultant.

2. Modification of Contract Terms

OST reserves the right to modify the terms and conditions of the form of contract attached hereto as Appendix B, subject to negotiation with Consultant in accordance with the exceptions taken and recorded on Attachment 2. Any modifications to the standard contract shall be determined by OST in its sole discretion, and OST may terminate such negotiations at any time for any reason, or for no reason.

3. Supplemental Terms

The formal contract may be supplemented with ancillary agreements specifically identified by the Consultant and agreed to by OST. The terms and conditions of any such agreements are subject to negotiation with the Consultant during the time frame set out below.

4. Time Frame

The successful Consultant shall promptly execute a contract as set out above within thirty (30) business days after award of the RFP. If no final contract has been executed by such date, OST reserves the right to cancel the award of this RFP to such Consultant and make a new award of the RFP to another Consultant.

5. Provision of Services

No Consultant is to begin any service prior to the execution of a formal contract by OST and the Consultant.

6. Cancellation of RFP Award

If the Consultant to whom the award is made fails to enter into a final contract as herein provided, the award will be annulled, and an award may be made to another Consultant.

7. Collusion or Fraud

Any evidence of agreement or collusion among Consultants acting to illegally restrain freedom from competition by agreement to offer a fixed price, or otherwise, will render the proposals of such Consultants void.

By responding to this RFP, the Consultant shall be deemed to have represented and warranted that: (i) its proposal is not made in connection with any competing Consultant submitting a separate response to this RFP; (ii) its approval is in all respects fair and without collusion or fraud; (iii) the Consultant did not participate in the RFP development process and had no knowledge of the specific contents of the RFP prior to its issuance; and, (iv) no employee or official of OST participated directly or indirectly in the Consultant's proposal preparation.

8. Lobbying and Gratuities

Lobbying or providing gratuities shall be strictly prohibited. Consultants found to be lobbying, providing gratuities to, or in any way attempting to influence a State of Delaware employee or agent of OST concerning this RFP or the award of a contract resulting from this RFP shall have their proposal immediately rejected and shall be barred from further participation in this RFP.

The selected Consultant will warrant that no person or selling agency has been employed or retained to solicit or secure a contract resulting from this RFP upon agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, OST shall have the right to annul any contract resulting from this RFP without liability or, at OST's sole discretion, deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

All contact with State of Delaware employees, contractors or agents of OST concerning this RFP shall be conducted in strict accordance with the manner, forum and conditions set forth in this RFP.

9. Solicitation of State Employees

During the RFP process, Consultants shall not, directly or indirectly, solicit any employee of OST to leave OST's employ in order to accept employment with

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the Consultant, its affiliates, actual or prospective contractors, or any person acting in concert with Consultant, without prior written approval of OST. Solicitation of OST employees during the RFP process by a Consultant may result in rejection of the Consultant's proposal.

VII. Attachments and Appendices

- Attachment 1 – Non-Collusion Statement
- Attachment 2 – Exception Form
- Attachment 3 – Confidential Information Form
- Attachment 4 – Business References
- Attachment 5 – Employing Delawareans Report
- Attachment 6 – Questionnaire
- Appendix A – Scope of Services
- Appendix B – Form of Professional Services Contract
- Appendix C – Banking Architecture Diagram

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Attachment 1

CONTRACT NO.: TRE17101-BNKSrvADVS
CONTRACT TITLE: TREASURY BANKING ADVISORY SERVICES
ISSUED BY THE CASH MANGEMENT POLICY BOARD

DEADLINE TO RESPOND: February 28, 2017 at 4:00 PM EST

NON-COLLUSION STATEMENT

This is to certify that the undersigned consultant has neither 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, **and further certifies that it is not a sub-contractor to another consultant who also submitted a proposal as a primary consultant in response to this solicitation** submitted this date to the State of Delaware, Office of the State Treasurer.

It is agreed by the undersigned consultant that the signed delivery of this proposal represents, subject to any express exceptions set forth at Attachment 2, the consultant's acceptance of the terms and conditions of this solicitation including all specifications and special provisions.

NOTE: 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 the State Treasurer.

COMPANY NAME _____ Check one)

| | |
|--------------------------|-------------|
| <input type="checkbox"/> | Corporation |
| <input type="checkbox"/> | Partnership |
| <input type="checkbox"/> | Individual |

NAME OF AUTHORIZED REPRESENTATIVE
(Please type or

print) _____

SIGNATURE _____ TITLE _____

COMPANY
ADDRESS _____

PHONE NUMBER _____ FAX
NUMBER _____

EMAIL ADDRESS _____

STATE OF DELAWARE
FEDERAL E.I. NUMBER _____

LICENSE NUMBER _____

| COMPANY CLASSIFICATIONS: CERT. NO.: | Certification type(s) | Circle all that apply | |
|---|---|-----------------------|----|
| | Minority Business Enterprise (MBE) | Yes | No |
| | Woman Business Enterprise (WBE) | Yes | No |
| | Disadvantaged Business Enterprise (DBE) | Yes | No |
| | Veteran Owned Business Enterprise (VOBE) | Yes | No |
| | Service Disabled Veteran Owned Business Enterprise (SDVOBE) | Yes | No |

[The above table is for informational and statistical use only.]

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PURCHASE ORDERS SHOULD BE SENT TO: (COMPANY
NAME) _____

ADDRESS _____

CONTACT _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

AFFIRMATION: Within the past five years, has your firm, any affiliate, any predecessor company or entity, owner, Director, officer, partner or proprietor been the subject of a Federal, State, Local government suspension or debarment?

YES _____ NO _____ if yes, please explain _____

THIS PAGE SHALL HAVE ORIGINAL SIGNATURE, BE NOTARIZED AND BE RETURNED WITH YOUR PROPOSAL

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

Notary Public _____ My commission expires _____

City of _____ County of _____ State _____ of _____

Attachment 2

EXCEPTION FORM

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Attachment 3

CONTRACT NO.: TRE17101-BNKSrvADVS
CONTRACT TITLE: TREASURY BANKING ADVISORY SERVICES
ISSUED BY THE CASH MANGEMENT POLICY BOARD

CONFIDENTIAL INFORMATION FORM

- ☐ By checking this box, the consultant acknowledges that they are not providing any information they declare to be confidential or proprietary for the purpose of production under 29 Del. C. ch. 100, Delaware Freedom of Information Act.

| Confidentiality and Proprietary Information |
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Note: Use additional pages as necessary.

STATE OF DELAWARE
Office of the State Treasurer

Attachment 4

CONTRACT NO.: TRE17101-BNKSrvADVS
CONTRACT TITLE: TREASURY BANKING ADVISORY SERVICES
ISSUED BY THE CASH MANGEMENT POLICY BOARD

BUSINESS REFERENCES

List a minimum of three business references, including the following information:

- Business Name and Mailing address
- Contact Name and phone number
- Number of years doing business with
- Type of work performed

Please do not list any State of Delaware employee as a business reference. If you have held a State of Delaware contract within the last 5 years, provide a separate list of the contract(s).

| | | |
|----|---------------------------------------|--|
| 1. | Contact Name & Title: | |
| | Business Name: | |
| | Address: | |
| | | |
| | Email: | |
| | Phone # / Fax #: | |
| | Current Consultant | |
| | (YES or NO): | |
| | Years Associated & Type of | |
| | Work Performed: | |
| | | |
| 2. | Contact Name & Title: | |
| | Business Name: | |
| | Address: | |
| | | |
| | Email: | |
| | Phone # / Fax #: | |
| | Current Consultant | |
| | (YES or NO): | |
| | Years Associated & Type of | |
| | Work Performed: | |
| | | |
| 3. | Contact Name & Title: | |
| | Business Name: | |
| | Address: | |
| | | |
| | Email: | |
| | Phone # / Fax #: | |
| | Current Consultant | |
| | (YES or NO): | |
| | Years Associated & Type of | |
| | Work Performed: | |

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Attachment 5

CONTRACT NO.: TRE17101-BNKSrvADVS
CONTRACT TITLE: TREASURY BANKING ADVISORY SERVICES
ISSUED BY THE CASH MANGEMENT POLICY BOARD

EMPLOYING DELAWAREANS REPORT

As required by House Bill # 410 (Bond Bill) of the 146th General Assembly and under Section 30, no bid for any public works or professional services contract shall be responsive unless the prospective consultant discloses its reasonable, good-faith determination of:

1. Number of employees reasonably anticipated to be employed on the project: _____
2. Number of such employees who are bona fide legal residents¹ of Delaware: _____
3. Percentage of such employees who are bona fide legal residents of Delaware: _____
4. Total number of employees of the consultant: _____
5. Total percentage of employees who are bona fide resident of Delaware: _____

If subcontractors are to be used:

1. Number of employees who are residents of Delaware: _____
2. Percentage of employees who are residents of Delaware: _____

¹ "Bona fide legal resident" shall mean any resident who has established residence of at least 90 days in the State.

CONTRACT NO.: TRE17101-BNKSrvADVS
CONTRACT TITLE: TREASURY BANKING ADVISORY SERVICES
ISSUED BY THE CASH MANAGEMENT POLICY BOARD

QUESTIONNAIRE

I. Overview of Your Firm

1. Generally, describe the background of your firm. Include a brief history, functional organizational chart and ownership structure. Include any recent, in the last 24-months, or anticipated internal changes in ownership.
2. Briefly describe the business lines in which your firm is engaged. Identify the portion of your firm's business that consists of Public Client banking advisory services and how the provision of such services fits within and/or relates to the entirety of your firm's operations.
3. Describe your firm's core values, governing principles and mission statement. How do these traits and/or goals relate to your firm's provision of banking advisory services? Why do they make your firm a "good fit" for this engagement?

Public Client Banking Consulting

4. What distinguishes your firm from its peers in the banking services consulting industry, and specifically in the Public Client banking segment?
5. List and describe any significant contributions your firm has made in developing and defining "best practices" in the Public Client banking advisory field.
6. Currently, how many banking advisory consultants does your firm have? How many banking advisory clients? Public Clients for banking advisory? On average, how many clients does each consultant serve?
7. Identify three current or recent client engagements of your firm that are most similar to the relationship you envision with Delaware pursuant to this engagement. Provide full name, business address, business phone, and e-mail address for potential contact for each of such relationships as required in Attachment 4.

Personnel Assigned to Delaware

8. Provide detailed biographies of the individuals to be assigned to Delaware, including the year each such person joined your firm, his or her position, current responsibilities, areas of expertise, years and type of experience, education,

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professional designations and memberships, and relevant publications and presentations.

9. Provide a list of current clients for each person to be assigned to Delaware with a brief description of matters handled for such client.
10. What percentage of the time of each consultant will be dedicated to Delaware?
11. How are the recommendations of the consultants to be assigned to Delaware reviewed and approved by your firm?
12. What is your firm's process for reassigning personnel assigned to Delaware, either at Delaware's request or at the instigation of your firm?

II. Structural Analysis and Redesign

1. How many Public Client banking structural reviews has your firm completed in the prior five (5) years? What are the principal and/or recurring issues that you have addressed in those reviews?
2. Describe the methodology your firm employs in its structural analysis and formulation of redesign recommendations. Would this be the same approach you would adopt in this engagement? If not, why?
3. Be specific about the major steps and/or milestones involved in the analysis you would undertake pursuant to this engagement. Typically, how long does this process take for Public Clients? Provide a proposed timetable for this review of and recommendations for Delaware's banking architecture.
4. Based on the diagram provided as part of this RFP (Appendix C), what would be the top three questions or concerns that you would have regarding Delaware's banking architecture. Why?
5. Is Delaware's banking architecture comparable to that of other Public Clients that you have advised? What are the greatest similarities and differences?

III. Procurement Processes

1. How many procurement processes on behalf of advisory clients for banking services has your firm participated in during the previous five (5) years? Does your firm have specific experience working with state procurement regulations and public bid processes? List all such state-level engagements during the previous five (5) years.

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2. Generally describe the type of assistance your firm provides with the Vendor evaluation and selection process. Does your firm ordinarily participate in the Vendor contract review as well as the selection process?
3. How does your firm ensure a competitive process among Vendors? Does your firm maintain lists of Vendors for banking services to ensure that clients will receive a sufficient number of competitive RFP responses?
4. If requested, will your firm's dedicated representative act as a voting member on the State's evaluation and selection committee? What type of support can your firm provide to assist committee members in their decision-making process?
5. Provide an example of a "scorecard" that your firm would recommend for use in the procurement process for banking services.

IV. Vendor Risk Management

1. Describe your firm's experience assisting clients in establishing a program to manage vendor risk of banking partners. Is there any difference in the level of diligence required to monitor risk of established Vendors versus new Vendors?
2. How is risk measured (metrics used) and what criteria are used to delineate low from high risk Vendors? What procedures are required to identify potential risks with and between Vendors?
3. Provide an example of a vendor risk management program you designed and implemented for Public Clients which you would consider a "best practice" for these types of programs.
4. Given OST's limited resources, what strategy would be best for our office to implement to monitor risk and be in a position to address changes in a Vendor's risk "profile."
5. How can required collateralization of public funds be implemented to manage vendor risk? Detail your firm's experience in assisting Public Clients in designing and implementing a collateralization program to manage vendor risk and protect state funds. Provide an example of a collateral program designed by your firm for a Public Client.
6. Besides traditional vendor management programs and collateralization, what other "best practices" can be implemented to manage risk and safeguard public monies?
7. Describe your firm's capacity and processes for monitoring the banking sector and market trends as well as industry developments affecting public fund operational needs. How will these insights be conveyed to the Board and OST?

8. What is your firm's view on the future of the U.S. banking sector? Where do you see opportunity and risk in the banking sector and what challenges do new modes of payment platforms pose for large providers of Banking Services?

V. Transition Services

1. How many engagements for transition/conversion assistance has your firm participated in during the previous five (5) years on behalf of advisory clients for Banking Services? Does your firm have specific experience working with Public Clients in such instances? List all such state-level engagements during the previous five (5) years.
2. Generally describe the type of assistance your firm provides with the Vendor transition and conversion assistance. Does your firm ordinarily participate in the operational assistance (account setup at the Vendor) following engagements for advisory and selection process services? If so, does the team assigned with preparing recommendations continue through the setup and implementation?
3. In your experience, how have clients benefitted from engaging your firm in connection with transition and conversion processes? Please provide three specific examples of how you have added-value to banking advisory clients with transition services.

VI. Fee Structure and Timetable

1. Provide a comprehensive schedule of fees for all services to be provided during this engagement. In particular, with respect to the initial 18-month, fixed price arrangement, provide a breakdown of fees for (a) advisory work related to the review of the State's banking architecture, (b) assistance with procurement processes (i.e., RFPs), and (c) development of vendor management practices. In the case of services to be rendered at the State's option to facilitate the conversion/transition under new Vendor contracts, provide a schedule on a time and materials basis with hourly rates for relevant personnel that will be held constant over the two option periods. In all cases, indicate if and what additional billings would apply for travel, printing, mailing, etc.
2. Provide a timetable (as applicable) for the completion of the discrete components of this request set out above and as more fully described in the Scope of Services attached as Appendix A to this RFP.

VII. Legal Matters

1. Describe how your firm identifies and manages potential conflicts of interest.

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- a. Are there any areas of potential conflict of interest between other activities of your firm and your consulting function? If so, identify these activities and the potential conflict, and explain the safeguards implemented by the firm to preclude the occurrence of conflicts.
 - b. Disclose all third party business relationships that exist between your firm and the State of Delaware's current Vendors.
 - c. Does your firm hold or sponsor conferences? If so, describe the fee arrangement with sponsors and clients that attend or present at the conference(s).
2. Does your firm have a written code of conduct or set of standards for professional behavior? If yes, explain. How is your code of conduct/ethics monitored and enforced?
3. Has your organization been involved in any investigation, examination, complaint, disciplinary action or other proceeding relating to or affecting the firm or its employees' ability to perform its duties under any investment advisory engagement during the previous five (5) years? If so, describe.
3. Has any person in your organization involved in providing banking advisory services been convicted of a felony, found liable in a civil or administrative proceeding, pleaded no contest, or agreed to any consent decree with respect to any matter involving a breach of trust, breach of fiduciary duty, fraud, securities law violations or bankruptcy law violations during the previous five (5) years? If so, describe.

CONTRACT NO.: TRE17101-BNKSrvADVS
CONTRACT TITLE: TREASURY BANKING ADVISORY SERVICES
ISSUED BY THE CASH MANGEMENT POLICY BOARD

SCOPE OF SERVICES

- I. Structural Review: Provide a “top down” review and analysis of the State’s current banking structure depicted in Appendix C, with the end goal of determining the optimal number and mix of Vendors that will ensure the most efficient delivery of Banking Services to State organizations. As part of that review, the Consultant will 1) identify risks that may be present in the current architecture, together with opportunities for Delaware to exploit underutilized services offered by current Vendors, 2) provide examples, analyses, and a comprehensive review of other public and private banking structures and identify trends in the formation of same, and 3) recommend changes in a formal report to the Task Force, OST, and the Board.
- II. RFP Assistance: Assist in the development of Request for Proposal (“RFP”) processes for Banking Services set out in Appendix C consistent with the proposed banking architecture recommendations approved by the Board. Work will include drafting RFPs, evaluating applicant submissions, serving on selection committees, and providing expertise during the evaluation process. In addition, Consultant will participate in reviewing contracts with awarded Vendors to ensure terms of engagement reflect requested needs.
- III. Vendor Management Policies: Provide a plan for management of Vendors based on industry best practices. Assist in development of the implementation strategy and identify any technological and/or internal staff needs for ongoing management. Ensure an implementation plan for newly awarded and existing Vendors to guarantee proper controls are in place as dictated by industry best practices.
- IV. Conversion/Implementation Assistance: Assist state authorities and OST staff with the conversion from the current banking architecture through the implementation of the proposed architecture. Provide assistance in the implementation of the vendor management processes with the newly awarded Vendors for banking services.
- V. Meeting Attendance
Consultants will be responsible for attending all meetings that relate to the Board and Task Force for the duration of the initial agreement. For the Board, the Consultant will be required to attend in-person the meetings in May and November, telephonically attend the August and February meetings. Task Force meetings will be held throughout the engagement, and Consultants should be prepared to attend these meetings in-person, as dictated by the Chair of the Task Force.

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Throughout the course of this engagement, questions and needs may arise as a result of the findings or recommendations made by Consultant for Banking Services. OST expects the Consultant to perform reasonable additional tasks as a result of recommendations or findings as they relate to the above outlined Scope of Services.

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APPENDIX B

CONTRACT NO.: TRE17101-BNKS RVAD
CONTRACT TITLE: TREASURY BANKING ADVISORY SERVICES
ISSUED BY THE CASH MANGEMENT POLICY BOARD

PROFESSIONAL SERVICES AGREEMENT
for
TREASURY BANKING ADVISORY SERVICES
ISSUED BY THE CASH MANGEMENT POLICY BOARD
Contract No. TRE17101-BNKS RVADVS

This Professional Services Agreement ("Agreement") is entered into as of _____, 20____ ("Effective Date") and will end on _____, 20____, by and between the State of Delaware, Office of the State Treasurer ("Delaware"), and _____, ("Consultant"), with offices at _____.

WHEREAS, Delaware desires to obtain those services set out in the Statement of Work on Appendix 1 to this Agreement on behalf of the State of Delaware Cash Management Policy Board ("Board");

WHEREAS, Consultant desires to provide such services to Delaware on the terms set forth below;

WHEREAS, Delaware and Consultant represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, Delaware and Consultant agree as follows:

1. Services and Term.

- 1.1. Consultant shall perform for Delaware the services as specified on Appendix 1 to this Agreement, attached hereto and made a part hereof, as well as such services or work as Delaware may request from time to time and for which the parties shall mutually agree (collectively, "Services").
- 1.2. If and when Delaware desires any addition or deletion to the Services or a change in the Services, it shall notify Consultant, who shall then submit to Delaware a "Change Order" for approval authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price or the time required by Consultant for any aspect of its performance under this Agreement. To the extent set out herein, pricing of changes shall be consistent with those established within this Agreement. Any such changes in pricing shall be reflected in an amended and updated Appendix 2 to this Agreement. No work for which additional compensation may be charged by Consultant shall be furnished, without the written authorization of Delaware.
- 1.3. The initial 18-month term of this Agreement shall be from _____, 20____ through _____, 20____; provided that the initial term can be extended at Delaware's sole option for up to two additional six-month terms upon written notice to Consultant no later than 60 days prior to the expiration of the initial term or an optional term, as the case may be.

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2. Payment for Services and Expenses.

- 2.1. Delaware will pay Consultant for the performance of Services in accordance with the payment schedule set out on Appendix 2 attached hereto and made a part hereof.
- 2.2. Delaware's obligation to pay Consultant for the performance of Services will not exceed the fee amounts set out on Appendix 2. It is expressly understood that the Services must be completed by Consultant and it shall be Consultant's responsibility to ensure that hours and tasks are properly budgeted so that all Services are completed for the agreed upon fees.
- 2.3. Unless otherwise provided on Appendix 2, all payments will be sent to the Consultant's identified address on record with the State of Delaware's Division of Accounting as identified in the completion of the electronic W-9.
- 2.4. Consultant shall submit monthly invoices to Delaware in sufficient detail to identify the Services provided during the previous month. Delaware agrees to pay those invoices within thirty (30) days of receipt. In the event that Delaware disputes all or any portion of an invoice, Delaware agrees to provide Consultant with a detailed statement of Delaware's position on the invoice, or disputed portion of the invoice, within thirty (30) days of receipt.
- 2.5. Unless provided otherwise in Appendix 1, all expenses incurred in the performance of the Services are to be paid by Consultant. If Appendix 1 specifically provides for expense reimbursement, Consultant shall be reimbursed only for reasonable expenses incurred by Consultant in the performance of the Services, including, but not necessarily limited to, travel and lodging expenses, communications charges, and computer time and supplies.
- 2.6. Delaware is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.
- 2.7. Delaware shall have the right to set aside or subtract from any payment to be made to Consultant all damages, costs and expenses caused by Consultant's negligence, resulting from or arising out of errors or omissions in Consultant's provisions of Services hereunder.
- 2.8. Invoices shall be submitted to:

**Manager of Banking Services
Office of the State Treasurer
820 Silver Lake Blvd., Suite 100
Dover, DE 19904**

**Copy to:
Senior Fiscal Admin Officer
Office of the State Treasurer
820 Silver Lake Blvd., Suite 100**

Dover, DE 19904

3. Time Schedule.

- 3.1. A project schedule is set out on Appendix 3, attached hereto and made part hereof.
- 3.2. Any delay of Services or change in the sequence of Services, as applicable, must be approved in writing by Delaware.
- 3.3. In the event that Consultant fails to complete the Services or any portion thereof within the time specified in Appendix 3, or with such additional time as may be granted in writing by Delaware, or fails to perform the Services, or any separable part thereof, with such diligence as will insure its completion within the time specified in Appendix 3 or any extensions thereof, Delaware shall suspend the payments scheduled as set forth in Appendix 2.

4. Responsibilities of Consultant.

- 4.1. Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all Services furnished by Consultant, its subcontractors and its and their principals, officers, employees and agents under this Agreement. In performing the Services, Consultant shall follow practices consistent with generally accepted professional and technical standards and comply with all applicable federal, state and local laws, ordinances, codes and regulations.
- 4.2. Consultant shall be responsible for ensuring that all Services, additional work, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/>, and as modified from time to time by DTI during the term of this Agreement. If any Service, additional work product or deliverable furnished pursuant to this Agreement does not conform to DTI standards, Consultant shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform to DTI standards. Consultant shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by Consultant's failure to ensure compliance with DTI standards.
- 4.3. It shall be the duty of the Consultant to assure that all Services are technically sound and in conformance with all pertinent federal, state and local statutes, codes, ordinances, resolutions and other regulations. Consultant will not produce a work product that violates or infringes on any copyright or patent rights. Consultant shall, without additional compensation, correct or revise any errors or omissions in its work product.
- 4.4. Permitted or required approval by Delaware of any Services by Consultant shall not in any way relieve Consultant of responsibility for the professional and technical accuracy and adequacy of such work. Delaware's review, approval, acceptance, or payment for any of Consultant's Services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Consultant shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by Consultant's performance or failure to perform under this Agreement.

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- 4.5. Consultant shall appoint a senior representative who will manage the performance of Services and act as the single point of contact to the Board and Delaware. All of the Services shall be performed by such representative, or by Consultant's associates and employees under the personal supervision of such representative.
- 4.6. Designation of persons for each position is subject to review and approval by Delaware. Should the staff need to be diverted off the project for what are now unforeseeable circumstances, Consultant will notify Delaware immediately and work out a transition plan that is acceptable to both parties, as well as agree to an acceptable replacement plan to fill or complete the work assigned to this project staff position at no cost to Delaware. Replacement staff persons are subject to review and approval by Delaware. If Consultant fails to make a required replacement within 30 days, Delaware may terminate this Agreement for default. Upon receipt of written notice from Delaware that an employee of Consultant is unsuitable to Delaware for good cause, Consultant shall remove such employee from the performance of services and substitute in his/her place a suitable employee.
- 4.7. Consultant shall furnish to Delaware's Designated Contact (as defined below) copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.
- 4.8. Consultant agrees that its officers and employees will cooperate with Delaware in the performance of Services and will be available for consultation with Delaware at such reasonable times with advance notice as to not conflict with their other responsibilities.
- 4.9. Consultant has or will retain such employees as it may need to perform the Services. Such employees shall not be employed by Delaware or any other political subdivision of Delaware.
- 4.10. Consultant will not use Delaware's name, either express or implied, in any of its advertising or sales materials without Delaware's express written consent.
- 4.11. Consultant and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* ' §2502.

5. Delaware Responsibilities.

- 5.1. Delaware agrees that its officers and employees will cooperate with Consultant in the performance of Services and will be available for consultation with Consultant at such reasonable times with advance notice as to not conflict with their other responsibilities.
- 5.2. The Services performed by Consultant shall be subject to review for compliance with the terms of this Agreement by Delaware's Designated Contact.
- 5.3. The Designated Contact may delegate any or all responsibilities under the Agreement to appropriate staff members, and shall so inform Consultant by written notice before the effective date of each such delegation. The review of Delaware's Designated Contact may be reported in writing to the Consultant but shall not relieve Consultant from the responsibility for the professional and technical accuracy of all Services delivered under this Agreement.

6. Work Product.

- 6.1. All materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by Consultant for Delaware relating to the Services to be performed hereunder shall become the property of Delaware and shall be delivered to Delaware's Designated Contact upon completion or termination of this Agreement, whichever comes first. Delaware shall have the right to reproduce all documentation provided in connection with or otherwise supplied pursuant to this Agreement.
- 6.2. Consultant may retain title and interest to the data furnished and/or generated by Consultant pursuant to this Agreement but only to the extent that retention of such title and interest does not conflict with Delaware's rights to the materials, information and documents developed in performing the Services. Upon final payment, Delaware shall have a perpetual, nontransferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of all materials in which Consultant retains title, whether individually by Consultant or jointly with Delaware. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.

7. Confidential Information.

To the extent permissible under 29 *Del. C.* '§10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

8. Warranty.

- 8.1. Consultant warrants that the Services will be performed in a good and workmanlike manner. Consultant agrees to re-perform any Services or correct any other work product not in compliance with this warranty.
- 8.2. Third-party products within the scope of this Agreement are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by Consultant for Delaware in connection with the provision of the Services, Consultant shall pass through or assign to Delaware the rights Consultant obtains from the manufacturers and/or consultants of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

9. Indemnification; Discharge of Liability.

- 9.1. Consultant shall indemnify and hold harmless Delaware, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) arising out of the negligent or other wrongful conduct of the Consultant, its agents or employees, or Consultant's breach of any material provision of this Agreement.

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- 9.2. If Delaware notifies Consultant in writing of a third party claim against Delaware that any work product of Consultant developed, designed or delivered in connection with this Agreement infringes a copyright or a trade secret of any third party, Consultant will defend such claim at its expense and will pay any costs or damages that may be finally awarded against Delaware.

10. Insurance.

10.1. Consultant shall maintain the following insurance during the term of this Agreement:

- a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law;
- b. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate;
- c. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate;
- d. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate; and
- e. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.

10.2. Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered to Delaware in accordance with the policy provisions.

10.3. Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

**Office of the State Treasurer
820 Silver Lake Blvd., Suite 100
Dover, DE 19904
Contact: James DiDonato**

10.4. In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

11. Independent Contractor.

11.1. It is understood that in the performance of the Services, Consultant shall be, and is, an independent contractor, and is not an agent or employee of Delaware and shall furnish such Services in its own manner and method except as required by this Agreement.

11.2. Consultant has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by Consultant in the performance of the Services.

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- 11.3. Consultant shall be solely responsible for, and shall indemnify, defend and save Delaware harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.
- 11.4. Consultant acknowledges that Consultant and any subcontractors, agents or employees employed by Consultant shall not, under any circumstances, be considered employees of Delaware, and that they shall not be entitled to any of the benefits or rights afforded employees of Delaware, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits.
- 11.5. Consultant shall be responsible for providing liability insurance for its personnel.
- 11.6. As an independent contractor, Consultant has no authority to bind or commit Delaware. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

12. Suspension.

- 12.1. Delaware may suspend performance by Consultant under this Agreement for such period of time as Delaware, at its sole discretion, may prescribe by providing written notice to Consultant at least 30 working days prior to the date on which Delaware wishes to suspend. Upon such suspension, Delaware shall pay Consultant its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. Consultant shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from Delaware to resume performance.
- 12.2. In the event Delaware suspends performance by Consultant for an aggregate period in excess of 30 days for any cause other than default or the error or omission of the Consultant, Consultant shall be entitled to an equitable adjustment of the compensation payable to Consultant under this Agreement to reimburse Consultant for reasonable, foreseeable costs occasioned as a result of such suspension of performance by Delaware, subject to appropriated funds and approval by Delaware.

13. Termination.

- 13.1. This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party, but only after the other party is given:
- a. Not less than 20 calendar days written notice of termination; and
 - b. An opportunity for consultation with the terminating party prior to termination.
- 13.2. This Agreement may be terminated in whole or in part by Delaware for its convenience, at any time, for any reason, but only after Consultant is given 20 calendar days advance written notice of termination.

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13.3.If this agreement is terminated, for cause or convenience, Delaware will pay Consultant that portion of the compensation which has been earned under the Agreement as of the effective date of termination, but:

- a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work;
- b. Any payment due to Consultant at the time of termination may be adjusted by offset to the extent of any additional costs occasioned to Delaware by reason of Consultant's default;
- c. Upon termination, Delaware may take over the work and perform or cause to be performed the same to completion by agreement with another party or otherwise;
- d. In the event Consultant shall cease conducting business, Delaware shall have the right to make an unsolicited offer of employment to any employees of Consultant assigned to the performance of the Agreement, notwithstanding the provisions of Section 11.2; and
- e. If, and only if, Consultant terminates this agreement for cause, Consultant shall have the right to an equitable adjustment as provided in Section 12.2.

13.4.[Reserved]

13.5.The rights and remedies of Delaware and Consultant provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

13.6.Delaware may terminate this Agreement for cause, if gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Consultant or any agent or representative of Consultant to any officer or employee of the State of Delaware with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.

13.7.Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. Should such funds not be so appropriated Delaware may immediately terminate this Agreement, and this Agreement shall be terminated as to any obligation of the State of Delaware requiring the expenditure of money for which no specific appropriation is available.

13.8.Notwithstanding any other provisions of this Agreement, this Agreement shall terminate and Delaware's obligations under it shall be extinguished at the end of the fiscal year in which the General Assembly fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

14. Assignment; Subcontracts.

14.1.Any attempt by Consultant to assign or otherwise transfer any interest in this Agreement without the prior written consent of Delaware shall be void.

14.2.Services specified by this Agreement shall not be subcontracted by Consultant, without prior written approval of Delaware.

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- 14.3. Approval by Delaware of Consultant's request to subcontract or acceptance of or payment for subcontracted work by Delaware shall not in any way relieve Consultant of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.
- 14.4. Consultant shall be and remain liable for all damages to Delaware caused by negligent performance or non-performance of work under this Agreement by its assignees, subcontractors or any of their assignees or sub-subcontractors.
- 14.5. Except as approved by Delaware in writing, the compensation otherwise due to Consultant pursuant to Appendix 2 shall not be affected by Delaware's approval of the Consultant's request to assign or subcontract.

15. Complete Agreement.

- 15.1. This Agreement and its Appendices shall constitute the entire agreement between Delaware and Consultant with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this Agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement.
- 15.2. 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 shall 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 shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.
- 15.3. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.
- 15.4. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

16. Miscellaneous Provisions.

- 16.1. In performance of this Agreement, Consultant shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. Consultant shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.
- 16.2. Neither this Agreement nor any appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement

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shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

- 16.3. The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.
- 16.4. Consultant covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Consultant further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.
- 16.5. Consultant acknowledges that Delaware has an obligation to ensure that public funds are not used to subsidize private discrimination. Consultant recognizes that its refusal to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, may result in Delaware declaring Consultant in breach of the Agreement, terminating the Agreement, and designating Consultant as non-responsible.
- 16.6. Consultant warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Delaware shall have the right to annul this Agreement without liability or at its discretion deduct from the Agreement price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.
- 16.7. This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.
- 16.8. Consultant shall maintain all public records, as defined by 29 *Del. C.* § 502(1), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 *Del. C.* Ch. 5. During the term of this Agreement, authorized representatives of Delaware may inspect or audit Consultant performance and records pertaining to this Agreement at the Consultant business office during normal business hours.
- 16.9. The rights and remedies of Delaware provided for in this Agreement are in addition to any other rights and remedies provided by law or at equity.

17. Assignment of Antitrust Claims.

As consideration for the award and execution of this Agreement by Delaware, Consultant hereby grants, conveys, sells, assigns, and transfers to Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the goods or Services and other work product purchased or acquired by Delaware pursuant to this Agreement.

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18. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where federal law has precedence. Consultant consents to jurisdiction and venue in the State of Delaware.

19. Notices.

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

DELAWARE:

Office of the State Treasurer
Manager of Banking Services
820 Silver Lake Blvd., Suite 100
Dover, DE 19904
Attention: Jim DiDonato

CONSULTANT:

(Consultant contact address)

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

STATE OF DELAWARE:
Office of the State Treasurer

Witness

Name

Title

Date

CONSULTANT:

Witness

Name

Title

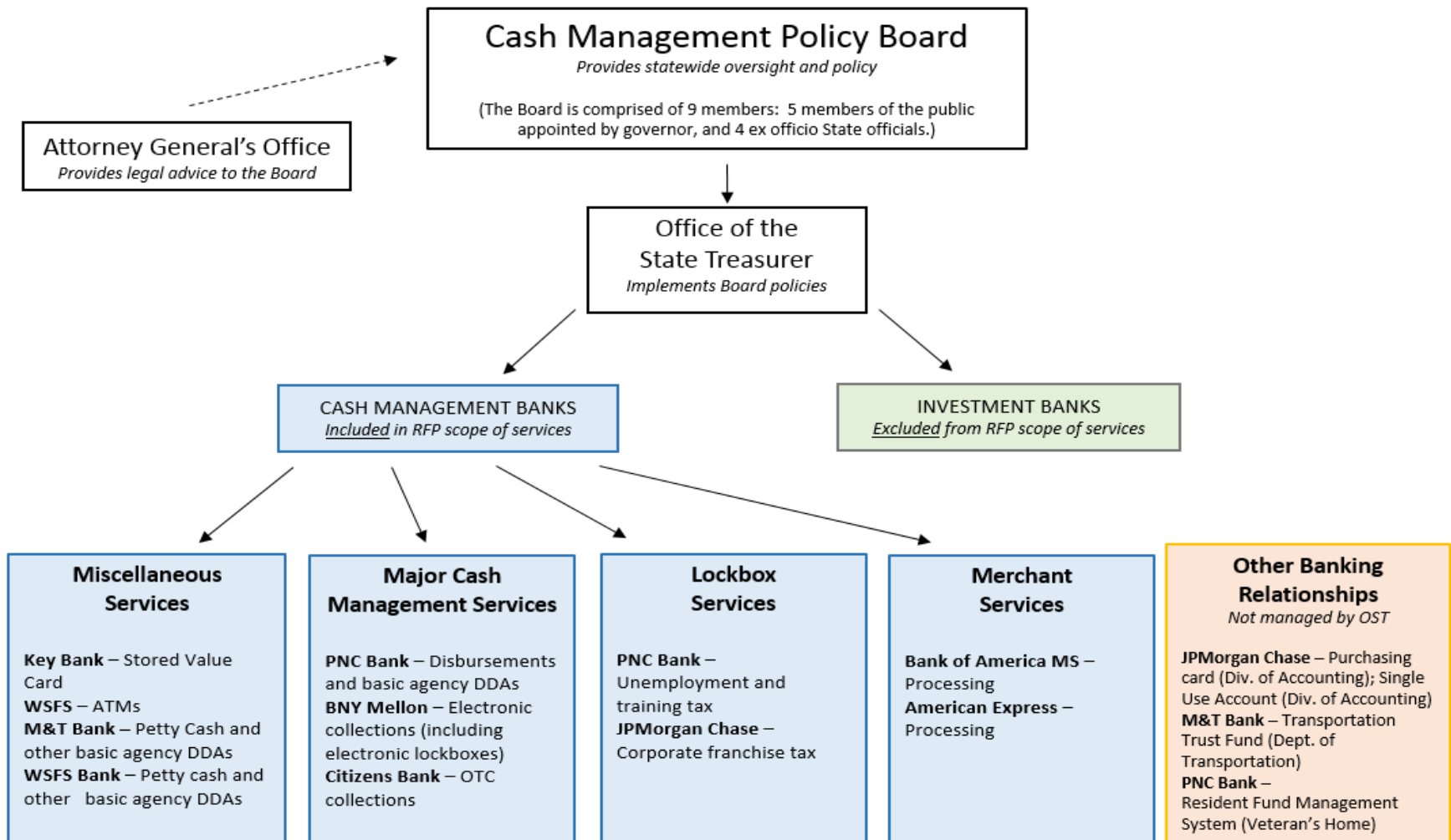
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The following attachments and appendices shall be considered part of this Agreement:

- Appendix 1 – Statement of Work **[Incorporate Fully Negotiated Scope of Services]**
- Appendix 2 – Payment Schedule **[Incorporate Fully Negotiated Fee Schedule]**
- Appendix 3 – Project Schedule **[Incorporate Fully Negotiated Project Schedule]**

Appendix C

STATE OF DELAWARE BANKING STRUCTURE



January 1, 2017

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