

**REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES (INVESTMENT
ADVISORY AND CONSULTING SERVICES) ISSUED BY THE OFFICE OF THE STATE
TREASURER**

**CONTRACT NUMBER: TRE20101-INVESTMENT ADVISORY AND CONSULTING
SERVICES**

I. Overview

By this request for proposals (the “RFP”), the Office of the State Treasurer (“OST”), on behalf of the Plans Management Board (the “Board”), is seeking proposals from qualified firms (“Consultants”) interested in providing plan investment advisory and consulting services to the State of Delaware (the “State”) as detailed herein. The selected Consultant or Consultants will advise on the State’s three retirement savings plans, as well as the State’s college savings plan, and will provide input, if and as requested, on the State’s Achieving a Better Life Experience (“ABLE”) plan. All the plans are tax-advantaged, voluntary saving vehicles that hold assets for the benefit of participants and beneficiaries.

This RFP is issued pursuant to 29 *Del. C.* §§ 6981, 6982(b) and 6986. The State may award one contract to a single Consultant covering all five of the plans referenced above. Alternatively, the State may, pursuant to 29 *Del. C.* § 6986, issue multiple awards; provided, however, that the State shall issue no more than one award in respect of the three retirement savings plans.

A. Timetable

The tentative timetable for this RFP process is as follows:

EVENT	DATE
RFP Published	10/4/19
Deadline for Consultant Questions	10/11/19
Deadline for State responses-Q&A Closed and Published	10/18/19
Deadline for Consultant Proposals	11/01/19
Date for Invitation	11/08/19
Finalist Presentations	11/22/19
Finalists Selected / Begin Contract Negotiations	11/29/19
Complete Contract Negotiations	TBD after 12/14/19
Estimated Award Notifications (Board Approval)	TBD after 12/10

This RFP is not an offer. The State reserves the right to cancel this RFP or modify the above RFP dates at any time, and for any reason.

Consultants are expected to fully inform themselves of, and by submitting a proposal shall be deemed to have read, understood and unconditionally and irrevocably accepted, all conditions, requirements, and specifications of this RFP and all attachments and appendices, subject only to the exception process provided for herein.

B. Proposal to Remain Open

Consultants that submit a proposal in response to this RFP shall be deemed automatically to have consented and irrevocably agreed to keep any such proposal open for six (6) months after the deadline for Consultant proposal submissions, or for such additional period as the State and any Consultant may agree upon. Rates and fees quoted in a proposal shall remain fixed and binding on the Consultant during the six-month or other agreed-upon period.

C. Contract Term

The original term of the contract between each successful Consultant and the State shall be three years, with OST having two one-year extension options, each exercisable in OST's sole discretion, subject only to Board approval.

D. Designated Contact:

This RFP process will be managed by the Director of Contributions and Plan Management ("Designated Contact"):

Name: John Meyer
Title: Director of Contributions and Plan Management
Address: 820 Silver Lake Boulevard, Suite 100
City/State: Dover, DE
ZIP: 19904
Email: Treasury_RFP@delaware.gov
Phone: (302) 672-6705

E. Submission of Written Questions

All questions about the RFP shall be submitted to the Designated Contact listed above via e-mail on or before 4:00 p.m., prevailing Eastern time, on October 11, 2019.

Questions should be directly tied to the RFP and asked in consecutive order from beginning to end, following the organization of the RFP. Each question should begin by referencing the RFP page number, heading and subject number to which it relates.

The State will provide written responses to questions from prospective Consultants no later than October 25, 2019. Responses will be placed on <http://bids.delaware.gov>.

II. Background

A. The Plans Management Board

In 2016, the General Assembly created the Board, the members of which serve as fiduciaries, and have ultimate oversight responsibility, for the State's retirement, college savings and ABLE plans (the "Plans"). The Board is composed of 11 members:

- Four (4) public members appointed by the Governor;
- Two (2) state employees appointed by the Governor; and
- Five (5) ex-officio members: the State Insurance Commissioner; the State Treasurer; the Secretary of Education; the Secretary of Finance; and the Director of the Office of Management and Budget.

In 2018, the Board approved a new operating structure that established a standing Audit and Governance Committee and a standing Investment Committee. Committee membership includes full Board members and “outside” members selected for their unique subject matter expertise.

The PMB meets at least four times a year. Each standing committee also meets at least four times a year.

B. The Office of the State Treasurer

OST serves as the administrative arm of the Board and coordinates all meetings of the Board and its committees. In addition, OST’s Contributions and Plan Management division markets and promotes the Plans, oversees Plan vendors and is responsible for the implementation and day-to-day administration of the Plans.

C. The Plans

As of June 30th, 2019, the Plans had the following balances:

Plan Type	Plan Focus	Vendor	Assets	Total Participants
457(b)	Retirement	Voya	\$692.3mm	16,586
403(b)	Retirement	Voya	\$124.1mm	6,929
401(a)	Retirement	Voya	\$22.1mm	9,503
529	College	Fidelity	\$685.8mm	~22,000
529A	Special Needs	National ABLE Alliance	\$295.5k	45
Legacy 403b Vendors	Retirement	*See Appendix B	\$288.6mm	7,330

1. Retirement Savings

Voya Financial (“Voya”) is the recordkeeper for the State’s deferred compensation Plans under Internal Revenue Code (the “Code”) sections 457(b), 403(b), and 401(a).

Voya, through its “Delaware Defer” website and “Orange Money” mobile solution, provides eligible employees with the ability to make self-directed investment elections from a menu of investment tier options. Employees can choose from three investment tier options: (i) tier one, comprised of a family of target date retirement funds professionally managed by American Funds, (ii) tier two, which allows employees to construct a custom portfolio from a set of actively and passively managed investment options from the major asset classes, and (iii) tier three, a self-directed brokerage option through which eligible employees may select from thousands of individual investment options using a TD Ameritrade brokerage window. Tiers one and two are open architecture except for a fixed investment option offered by Voya.

a) Deferred Compensation 457(b) Plan

The 457(b) Plan is an employer-sponsored defined contribution plan that was established in July 1, 1971. The purpose of the 457(b) Plan is to provide a vehicle through which benefits-eligible employees of the State may, on a voluntary basis, provide for additional retirement income security by deferring a portion of their current earnings on a pre-tax basis, or as after-tax “Roth” contributions.

b) Deferred Compensation 401(a) Match Plan

The 401(a) match Plan is an employer-sponsored defined contribution plan that was established in January 1, 2001. Under the match Plan, the State provided a \$10 per-pay employer match to contributions by 457(b) Plan participants. Matching contributions were made to the Plan between January 1, 2001 through June 30, 2008. Matching contributions were suspended by the General Assembly in fiscal year 2009 and currently remain suspended.

c) State of Delaware 403(b) Plan

The 403 (b) Plan is an employer-sponsored defined contribution plan. The 403(b) program initially was designed to assist eligible public-school employees to save for retirement through tax-sheltered annuities. For several decades, the program in this State was administered at the local district or school level and offered annuities from dozens of vendors. In 2009, in response to federal regulations, the State adopted a formal plan document and centralized oversight responsibility by vesting it in the Deferred Compensation Council (the “DCC”), the predecessor to the Board.

In 2009, the DCC limited Plan investment options to select annuity and mutual fund products offered by 14 DCC-approved 403(b) vendors, including Voya. In 2016, the Board, as successor to the DCC, selected Voya as the sole record keeper for ongoing contributions. A portion of the assets formerly held by the “legacy” vendors (primarily in group contracts) was liquidated and transferred to Voya for reinvestment. There are currently 14 legacy vendors, including Voya, that hold approximately \$288 million of 403(b) Plan assets (primarily in the form of individual annuity contracts) outside of the Voya platform. OST, at the direction of the Board, has been engaged in a campaign to consolidate 403(b) Plan assets.

Under the 403(b) Plan document, public school employees, certain employees of the Delaware Department of Education, and employees of specified State of Delaware-sponsored education organizations (i.e., Delaware Technical and Community College and Delaware State University) are eligible to participate in the 403(b) Plan through payroll deductions. The State does not make any contributions to the Plan.

More information about the 457(b), 403(b), and 401(a) Plans can be found at <https://treasurer.delaware.gov/deferred-compensation-plans/>.

2. College Savings

The 529 Plan is a tax-advantaged college savings vehicle open to both residents and nonresidents. The plan is managed by Fidelity Investments (“Fidelity”). The Fidelity platform offers participants a choice of portfolios tailored to a child's age or the ability to customize portfolio selections based on an asset allocation strategy. Withdrawals can be used for qualified educational expenses.

More information on the 529 Plan can be found at: <http://www.fidelity.com/delaware>.

3. Special Needs Savings

In December 2017, the State joined the National ABLE Alliance, a consortium of states that through the ABLE Interstate Agreement created the ABLE Consortium Advisory Committee and called for Illinois, as the Facilitating State, to conduct a multi-state procurement pursuant to Illinois law on behalf of the States. The National ABLE Alliance have pooled assets to generate scale for their respective ABLE programs under Code section 529A. The 529A accounts allow individuals with disabilities and their families to save for a broad range of expenses on a tax-advantaged basis, all without jeopardizing their benefits from supplemental security income (SSI), Medicaid and other federal programs. Eligible individuals can open an account for themselves, or an authorized individual can open an account on their behalf. Earnings on ABLE investments are federally tax-deferred and federally tax-free if used for qualified disability expenses.

The National ABLE Alliance program is managed by Ascensus College Savings Recordkeeping Services LLC (“Ascensus”). Ascensus has responsibility for day-to-day operations, including investment advisory, recordkeeping and administrative services.

More information on the ABLE Plan and member structure can be found at the following links:

- <http://www.able.delaware.gov>
- <http://www.de.savewithable.com>

III. Scope of Services

The Board is seeking a firm to serve as an independent investment advisor and consultant in a co-fiduciary capacity (as contemplated in section 3(21) of the Employee Retirement Income Security Act of 1974 (“ERISA”).

A. Core Services

The successful Consultant or Consultants shall, for a fixed monthly fee:

1. Serve as the State’s expert on public and private sector retirement plans, including ERISA plans, with a primary focus on deferred compensation plans under Code sections 457(b), 401(a) and 403(b), and offer guidance and recommendations regarding Plan documents, Plan architecture, Plan vendor performance, Plan administration, investment option performance, industry practices, and consumer, regulatory, financial and economic developments and trends so as to position the State as providing “best in class” investment options for and services to participants.

2. Serve as the State's expert on the national college savings landscape and offer guidance and recommendations regarding Plan documents, Plan architecture, Plan vendor performance, Plan administration, investment option performance, industry practices, and consumer, regulatory, financial and economic developments and trends so as to position the State as providing "best in class" investment options for and services to participants and beneficiaries.
3. Provide guidance and recommendations concerning: (1) long-term investment policy, objectives, and strategies for the State's defined contribution Plans under Code sections 457(b), 401(a) and 403(b) and the State's college savings Plan under Code section 529; (2) appropriate benchmarks for the various Plan asset classes; and (3) the asset allocations for Plan target-date glide paths.
4. Monitor the investment performance of all Plan portfolios and the underlying funds for the State's defined contribution Plans under Code sections 457(b), 401(a) and 403(b) and the State's college savings Plan under Code section 529 and provide quarterly written evaluations of the performance of such Plans, including performance against benchmarks, which evaluations shall be presented quarterly to the Investment Committee and/or the full Board.
5. Evaluate the strengths and weakness of the investment options offered in the State's defined contribution Plans under Code sections 457(b), 401(a) and 403(b) and the State's college savings Plan under Code section 529, as measured against other similar programs, and provide quarterly written reports of such evaluations, which evaluations shall be presented quarterly to the Investment Committee and/or the full Board.
6. Work with OST staff, the Investment Committee, the Audit and Governance Committee and the full Board on issues related to the State's defined contribution Plans under Code sections 457(b), 401(a) and 403(b) and the State's college savings Plan under Code section 529.
7. Assist in drafting and issuing RFPs and evaluating providers and proposals for recordkeeping and other services needed to administer the State's defined contribution Plans under Code sections 457(b), 401(a) and 403(b) and the State's college savings Plan under Code section 529, including acting as an independent member of any evaluation committee formed as part of the RFP process.
8. Assist in drafting or updating the investment policy statements ("IPS") for the State's defined contribution Plans under Code sections 457(b), 401(a) and 403(b) and the State's college savings Plan under Code section 529.
9. With respect to the State's defined contribution Plans under Code sections 457(b), 401(a) and 403(b) and the State's college savings Plan under Code section 529, assist in monitoring and, when appropriate, offer recommendations regarding changes to, among other things, fund management teams, investment philosophies and asset allocations and glide paths for target-date funds.

10. Work with OST staff, the Investment Committee, the Audit and Governance Committee and the Board to identify and implement strategic plans to improve the administration, growth, performance and fee structure of, and participant satisfaction with respect to, the State's defined contribution Plans under Code sections 457(b), 401(a) and 403(b) and the State's college savings Plan under Code section 529, including the development of participant education and communication materials.
11. With respect to the State's defined contribution Plan under Code sections 403(b), provide guidance and recommendations with respect to: (1) the State's obligations relating to "orphaned" assets contributed by eligible employees who participated in the 403(b) program prior to 2009; and (2) the consolidation of orphaned and/or legacy assets and the transfer of those assets to the Voya platform, including an analysis and report on the fees charged by and products sold by the legacy vendors. See **Appendix B** for sample.
12. Periodically confirm that investment options are consistent with the IPS for each Plan.
13. If and as requested by OST, a committee or the Board, provide research, guidance and/or recommendations on specific topics related to the State's defined contribution Plans under Code sections 457(b), 401(a) and 403(b) and the State's college savings Plan under Code section 529.
14. Attend all committee and Board meetings, telephonically or in person, if and as requested by OST.

Fees for core services shall be set at an annual rate and billed monthly in arrears.

B. ABLE-Related Services

1. OST, a committee, or the full Board may request, and Consultant shall provide, similar guidance, recommendations and other assistance related to the ABLE Plan. Compensation for ABLE-related services will be earned on an hourly basis. Consultants are encouraged to propose fixed rates for each individual who may work on an ABLE-related matter and an optional blended rate. ABLE-related fees shall be separately billed monthly in arrears.

IV. Minimum Requirements to Apply

Proposals that do not meet the following minimum requirements, or that do not comply with the specifications or material terms and conditions of this RFP, may be considered non-responsive and rejected. Respondents must clearly demonstrate in their proposals how they meet the following minimum qualifications:

1. At least five (5) years of experience consulting on investment options and plans under Code sections 457(b), 401(a), 403(b) and 529. Respondent must demonstrate fundamental proficiency with college savings programs and participant-directed retirement plans.
2. Firm-wide assets under advisement of at least \$1 billion, as of the period ending June 30, 2019, either in one stand-alone state plan or cumulatively among various clients.

3. All assigned key professional staff (1) are properly registered and/or licensed to provide investment consulting services, and (2) have made all necessary filings with the Securities and Exchange Commission (the “SEC”) and other regulatory bodies.
4. In the past five (5) years, the firm and its personnel have not been (1) suspended or censured by the SEC or any other regulatory body, (2) subject to any regulatory action, and (3) named as a defendant in any criminal proceeding, or in any civil lawsuit involving investment consulting services.
5. Absence of actual or potential conflicts of interest with the Board and its members, the committees and their members, OST, the State and vendors that, directly or indirectly, provide Plan-related services.

V. RFP Issuance and Submission of Proposals

A. RFP Issuance

1. Public Notice

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

2. Obtaining Copies of the RFP

This RFP is available in electronic form only and as a courtesy, may be found at the website of the Delaware Office of Management and Budget at <http://www.bids.delaware.gov/>.

3. Assistance to Consultants with a Disability

Consultants with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the Designated Contact no later than ten 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 Designated Contact. Electronic mail (e-mail) is preferred, but other forms of delivery, such as postal and courier services, can also be used.

5. Consultants and Legal Counsel

OST may retain consultants or legal counsel to assist in the review and evaluation of this RFP and the proposing firms' responses. Consultants shall not contact any other consultant or legal counsel on any matter related to the RFP.

6. Contact with Other State Employees

Direct contact with State employees other than the Designated Contact regarding this RFP is expressly prohibited without prior written consent from the Designated Contact. Consultants who directly contact a State employee in violation of this RFP may be disqualified from participation in the RFP process. Exceptions exist only for Consultants currently doing business with the State who require contact with State employees in the ordinary course of business.

7. Organizations Ineligible to Bid

Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity currently debarred, suspended or otherwise ineligible to conduct business in the State or any other jurisdiction for any reason is ineligible to respond to this RFP.

8. Exclusions

The State reserves the right to refuse to consider any proposal from a Consultant who itself or its officers or staff:

- 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 subcontract, or in the performance of the contract or subcontract;
- 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 integrity or honesty;
- c) Has been convicted or has had a civil judgment entered for a violation of any state or federal antitrust statute;
- d) Has failed:
 - i. Without good cause to perform under an investment consulting contract; or
 - ii. To perform satisfactorily in accordance with terms of any investment consulting contracts;
- e) Has violated ethical standards set out in law or regulation; and
- f) 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 suspension or debarment by another governmental entity for a cause listed in the regulations.

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 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.

10. RFP Not an Offer

This RFP does not constitute an offer by OST, the Board or the State.

B. Submission of Proposals

1. Acknowledgement of Understanding of Terms

By submitting a proposal, each Consultant shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all attachments and appendices, and has fully informed itself as to all existing conditions and limitations.

A Consultant should describe in detail on **Attachment 3** any areas where it will be unable to provide services as requested or required herein. In addition, if a Consultant is able to provide the services exactly as requested or required, but believes that there would be benefits (such as cost savings or improved service) to making adjustments to the services outlined, the Consultant should note any recommended adjustments on **Attachment 3** and describe them, as well as the anticipated benefits, in detail in the main body of the Consultant's proposal. Acceptance or rejection of any or all exceptions is within OST's sole discretion.

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

2. Proposal Delivery

Each proposal must be submitted in writing and respond to the items outlined in this RFP. OST reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with ten (10) paper copies and one (1) electronic copy on CD or USB flash drive.

All properly sealed and marked proposals are to be sent to the attention of the Designated Contact so as to be **received no later than 4:00 p.m., prevailing Eastern time, on November 1, 2019** (the "Proposal Deadline"). A proposal may be delivered by express delivery (*e.g.*, FedEx, UPS, etc.), United States mail, or by hand to the address for the Designated Contact listed above:

Consultants are directed to clearly print “PROPOSAL ENCLOSED” and “CONTRACT NO. TRE20101” on the outside of the bid submission package.

3. Proposal Modifications

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response 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 Proposal Deadline.

4. Proposal Costs and Expenses

The State is not responsible for and will not pay any costs incurred by any Consultant in responding to this RFP, including, but not limited to, costs associated with proposal preparation, printing, and delivery, the interview/presentation process and contract negotiations.

5. Late Proposals

Proposals will be date and time stamped upon receipt. Proposals received after the Proposal Deadline will not be opened or considered and shall be returned unopened. Consultants bear the risk of delay in delivery.

6. Proposal Opening

Proposals will be opened only in the presence of OST personnel. OST staff will create a public log containing the names of all Consultants that submitted proposals and the dates and times of OST’s receipt of each proposal. Unless required by applicable law, the contents of any proposal shall not be disclosed prior to contract award.

7. Non-Conforming Proposals

OST may, in its discretion, reject any non-conforming proposals. Non-conforming proposals are defined as those that do not meet the material requirements of this RFP. OST shall have the authority and discretion to determine whether an RFP requirement is material, or a mere formality or nonsubstantive requirement.

8. Concise Proposals

The State discourages overly lengthy and costly proposals and prefers that they be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a fully responsive proposal are not desired.

9. 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 shall have no responsibility or liability for a Consultant's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

10. 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 pricing or other proposal 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 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 provides that the State'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 written request. Once a proposal is received by the State and a decision on a contract award is made, the content of selected and non-selected Consultant proposals may become subject to FOIA's public disclosure obligations.

The State 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 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 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; 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.

11. Sub-Contracting

Subcontracting is not permitted.

12. Discrepancies and Omissions

Consultants are fully responsible for the completeness and accuracy of their proposals, and for examining this RFP and all attachments, appendices and addenda. Failure to do so will be at the sole risk of Consultants. Should a Consultant find discrepancies, omissions, or unclear or ambiguous language in this RFP, Consultant should seek clarification from OST pursuant to the question and answer process detailed below. Protests based on any discrepancies, omissions, or unclear or ambiguous language will be disallowed if the same have not been timely raised in and preserved through the question and answer process below.

13. RFP Question and Answer Process

OST will allow written requests for clarification of the RFP. Consultants must submit written questions in the format specified below so as to be received by the Designated Contact by 4:00 p.m., prevailing Eastern time, on October 11, 2019. OST prefers that questions be submitted electronically to the following email address: Treasury_RFP@delaware.gov.

All questions will be consolidated and answered in a single response that will be posted on the State's websites at <http://www.bids.delaware.gov/> by 4:00 p.m., prevailing Eastern time, on October 25, 2019 or such other date and time as may be prescribed by OST. Consultant names will not be attributed to questions in OST's response.

Questions should be submitted in a standalone Microsoft Word document in the following format:

Section number
Paragraph number
Page number
Text (of passage being questioned)

Deviations from this format will not be accepted. Questions not submitted electronically shall be mailed in the manner prescribed above and accompanied by a CD or UBS flash drive containing a Microsoft Word version of the document.

14. State's Right to Reject Proposals

OST and the Board reserve 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 RFP specifications or contained in a Consultant's response), to determine the merits and qualifications of each service offered, or to solicit new proposals on the same engagement, or on a modified project which may include portions of the originally proposed engagement as OST or the Board may deem necessary or appropriate, or in the best interest of the State.

15. State's Right to Cancel Solicitation

The State reserves the right to cancel this solicitation at any time during the procurement process, for any reason, or for no reason at all. The State makes no commitments, expressed or implied, that this process will result in a contract with any Consultant.

A Consultant's participation in this RFP process may result in the State selecting the Consultant to engage in discussions and negotiations of a formal contract. The commencement of such negotiations does not signify, and may not be interpreted as, a commitment by the State to execute a contract or continue negotiations. The State may terminate negotiations at any time and for any reason, or for no reason at all.

16. State's Right to Award Multiple Source Contracting

Pursuant to 29 Del. C. § 6986, the State may award multiple contracts to two or more Consultants if the Board makes a determination that such action is necessary or appropriate, or in the best interest of the State.

17. Notification of Withdrawal of Proposal

Consultant may modify or withdraw its proposal by written request, provided that both the proposal and subsequent request is received by the Designated Contact prior to the Proposal Deadline. A withdrawn proposal may be revised and re-submitted and will be considered timely as long as the revised proposal is received by the Proposal Deadline.

All proposals received prior to, and which have not been withdrawn by, the Proposal Deadline shall become firm offers and shall not be revocable after that time.

18. Revisions to the RFP

If it becomes necessary to revise any part of the RFP, an addendum will be posted at <http://www.bids.delaware.gov>.

19. Exceptions to the RFP

Any exceptions to the RFP or any attachments, exhibits or addenda, along with corresponding explanations and alternatives, must be noted and explained on **Attachment 3** and submitted with a proposal by the Proposal Deadline. Consultants that fail to timely

and otherwise adequately preserve and assert exceptions shall be deemed to have waived all such exceptions and related arguments. OST and the Board have discretion with respect to the acceptance or rejection of RFP exceptions.

20. Exceptions to the PSA

Attached hereto as **Appendix A** is OST standard form of Professional Services Agreement and related exhibits (the “PSA”). The terms of the PSA will govern the contractual relationship between a Consultant and the State. Any exceptions to the PSA, along with corresponding explanations and alternatives, must be noted and explained on **Attachment 3**. Consultants must also provide a redlined version of the PSA (“Redline”) reflecting all requested changes. Consultants that fail to timely and otherwise adequately preserve and assert exceptions to the PSA shall be deemed to have waived all such exceptions and related arguments. OST and the Board have discretion with respect to the acceptance or rejection of PSA exceptions.

21. Award of Contract

The issuance of a contract award (“Award”) is subject to approval by the Board. The Board has the sole right to select the successful Consultant or Consultants and approve the issuance of any Award and the terms of any PSA. The Board may (a) approve the issuance of an Award to a Consultant other than the Consultant who submitted the lowest priced proposal, (b) issue multiple Awards, or (c) direct OST to withdraw the RFP and issue no Award. No Award or contract resulting from this RFP process shall be effective unless and until authorized by the Board.

Awards, if any, will be communicated to successful Consultants and published only after (a) the Board authorizes the issuance of an Award, and (b) OST and each such Consultant execute a formal PSA on terms acceptable to OST and the Board. No Consultant will acquire any legal or equitable rights or privileges until the occurrence of both events.

The Award, the PSA and all attachments and exhibits, including all pricing information, as well as details concerning any payments subsequently made to a successful Consultant shall be matters of public record subject to disclosure under FOIA.

VI. Proposal Requirements and Evaluation

A. Required Information

1. Consultants shall provide the following information with their proposals in the order listed below. Failure to respond to any request for information within this RFP may result in rejection of the proposal. The proposal will be presented in a 3-ring binder, with each completed attachment identified in its own tab.
 - a) Tab A: Transmittal Letter.
 - b) Tab B: Questionnaire(s). Provide a detailed set of responses to the questions posed in **Attachment 1**. All Consultants must respond to **Attachment 1**. Responses should be both complete and concise.

- c) Tab C: Confidential Information Form. Consultants should identify any material information that is considered confidential using the form of **Attachment 2**. Any information not within this form is automatically subject to FOIA.
- d) Tab D: Exception Form. Provide a detailed listing of any exceptions to the RFP, including all attachments and appendices, and the PSA, including all exhibits, using the form included as **Attachment 3**. The Redline, if required, must be attached to **Attachment 3**. Successful Consultants who do not take exceptions as required are deemed to have consented and irrevocably agreed to the terms of the RFP and the PSA.
- e) Tab E: Business References. Provide at least four (4) business references using the form provided in **Attachment 4**.
- f) Tab G: Employing Delawareans Report. Consultants responding to this RFP must complete and return **Attachment 5**.
- g) Prior to award, the successful Consultant shall furnish OST with proof of: (i) all necessary business licenses, including a valid State business license; (ii) certification(s) necessary to perform the services outlined in Section III, Scope of Services, above; and (iii) proof of insurance identified in the PSA attached hereto as **Appendix A**.

B. Proposal Evaluation

1. The Evaluation Team

An evaluation team (“Evaluation Team”) that may be composed of representatives from OST, the Board, and other State entities will evaluate Consultant proposals based on the quantitative and qualitative criteria set forth below. Neither the lowest price nor highest scoring proposal will necessarily be selected. OST may in its discretion remove or add members of the Evaluation Team.

2. Evaluation Criteria

Consultants must review the evaluation criteria below and provide responses that address the criteria. The Evaluation Team will not be able to make assumptions about the Consultants’ capabilities; therefore, responses should be detailed and concise within the proposal.

The State has outlined the services it will require in Section III, Scope of Services, above. In formulating responses, Consultants are encouraged to suggest additional or modified services in their proposals if such additional or modified services will help to improve the Plans or assist OST and the Board in administering and overseeing the Plans.

Proposals that meet submission requirements of the RFP will be evaluated and scored based on the criteria and points system set forth in the table below.

Evaluation Criteria	Point Value
Consultant’s organizational fit (firm history, reputation, values, and personnel)	20
Breadth and depth of Consultant’s experience in providing advisory services to public retirement, college investment and ABLE plan sponsors	20
Scale and scope of Consultant’s ability to provide market research and benchmark analysis for current and potential replacement Plan investment options and other Plan performance metrics	20
Experience in assisting with procurement and implementation processes involving public retirement, college investment and ABLE plans and vendors	20
Pricing proposal (structure and cost)	20
TOTAL POINTS	100
*Compliance with RFP submission requirements	<input type="checkbox"/> Yes <input type="checkbox"/> No

3. Proposal Clarification

The Evaluation Team may communicate with a Consultant in order to clarify uncertainties or gain better understanding of a proposal. The Evaluation Team may require or permit Consultants to modify or supplement their proposals as a result of such communication. Consultants must provide all requested information in a timely manner, which shall mean on or before any deadline established by the Evaluation Team.

4. Communication with References and Past or Present Clients

The Evaluation Team may communicate with all references provided by a Consultant and may use information gained thereby in the evaluation process. In addition, the Evaluation Team may communicate with any known past or present client of a Consultant outside of the reference list, and any information gained may be used in the evaluation process. Consultants that submit a proposal in response to this RFP shall be deemed to have (a) waived any confidentiality or other restrictions that may limit in any way a reference or client’s ability to convey information relevant to the evaluation process and (b) to all such communications with references or clients.

5. Oral Presentations

The Evaluation Team may invite selected Consultants to make in-person oral presentations to the Evaluation Team. Presentations are tentatively scheduled for the week of November 22, 2019. *Any costs associated with oral presentations will be borne by the Consultant.* The State requests that the individuals who will be working directly with the State to either provide or implement the service(s) be in attendance.

VII. Contract Process

A. Formal Contract

Consultants selected as finalists and invited via written notification from OST (the “Invitations”) to enter into written agreements for investment advisory and consulting services will be expected to enter into formal contracts with OST in the form of the PSA attached here to as **Appendix A**. Consultant’s attempt to negotiate pricing or other material contract terms that were not disclosed and detailed in the Consultant’s proposal and Redline may result in the termination of negotiations with, and/or the disqualification of, such Consultant.

B. Modification of PSA

OST, in its discretion, may consider and accept proposed modifications to a PSA, whether or not raised in an exception, subject to necessary Board approval. OST has the absolute right to reject any proposed PSA terms, including, without limitation, any requested PSA modifications that were timely raised as required herein.

C. Time Frame

A Consultant who receives an Invitation must execute a PSA within twenty (20) business days from the date of the Invitation, unless such period is extended by OST, in its discretion. If no PSA has been executed by the applicable deadline, OST may in its discretion cancel the Invitation and enter negotiations with another Consultant.

D. Inception of Services

Absent OST’s prior written request or approval, no Consultant is to begin providing services to the State, or any State agency, prior to the issuance of an Award.

E. Cancellation of Award

If a Consultant that receives an Award fails to commence providing investment advisory and consulting services when due under the PSA, OST, without liability, may cancel and annul the Award and PSA. In such event, an Award under this RFP may be made to another Consultant.

F. Collusion or Fraud

Consultants may not restrain competition by agreement to offer a fixed price, or otherwise. 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 the State, the Board or OST participated directly or indirectly in the Consultant's proposal preparation.

If at any time, whether prior to or after the issuance of an Award, OST determines that any of the foregoing representations was untrue when made or subsequently became untrue, OST may, without liability, cancel and annul the Award and terminate any PSA. In such event, an Award under this RFP may be made to another Consultant.

G. Lobbying and Gratuities and Contingency Fees

As required by 29 *Del. C.* § 6903(b), all successful Consultants are deemed to have sworn under oath that the Consultant has not employed or retained any company or person to solicit or secure a PSA by improperly influencing any State official or employee, including without limitation any OST or Board member, employee or agent, in this procurement process. Consultants found to have violated this oath shall have their Awards and PSAs annulled and terminated. In such event, an Award under this RFP may be made to another Consultant.

In addition, all Consultants represent and warrant that Consultant has not directly or indirectly paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working primarily for Consultant, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from an Award or PSA.

For breach or violation of the foregoing oaths, representations or warranties, OST, in its discretion and without liability, shall have the right to annul and terminate any Award or PSA, or deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

H. 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 the Consultant, its affiliates, 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 or annulment of any Award.

VIII. Attachments and Appendices

The following items are provided for use in your response. Attachments are required forms to be submitted with your proposal as described in **Section A**. Appendices are provided as additional detail or information to assist in your proposal response.

1. Attachments (Required to Return)

<u>Attachment 1</u>	Consultant Questionnaire
<u>Attachment 2</u>	Confidential Information Form
<u>Attachment 3</u>	Exception Form
<u>Attachment 4</u>	Business References
<u>Attachment 5</u>	Employing Delawareans Report

2. Appendix (For information purposes only)

<u>Appendix A</u>	Form of Professional Services Agreement
<u>Appendix B</u>	List of 403b Legacy Vendors

Attachment 1: Consultant Questionnaire

CONTRACT NUMBER: TRE20101 INVESTMENT ADVISORY AND CONSULTING SERVICES

Organizational Background

1. Provide the following background of your organization.

Specific (proper) name of Organization	
Company's Address	
Year Founded	
Year Firm became SEC registered & File #	
% of firm owned by employees	
% of employees with ownership stake	
Parent Company (or equivalent)	
State of Incorporation if applicable	

2. Provide a brief history of your organization, including how long you have been providing deferred compensation (457 (b), 401(a), 403(b)), 529 and 529(a) plans consulting services to governmental and municipal entities. Provide profiles of key employees and consultants that would be assigned to the state of Delaware.
3. Provide a summary description of your primary business focus and report the ratio to your total business for revenue, staff and technology resources dedicated to the deferred compensation, 529 and 529(a) plan business.
4. Has your firm adopted the CFA Institute's Code of Ethics and Standards of Professional Conduct or the CFP Board adopted the Code of Ethics? Has any employee of your firm been disciplined or barred from the securities industry by a regulatory body?
5. Does the firm engage in other business activities, besides consulting? If so, list the business services your firm provides.

Advisory Experience

1. State the number of advisory clients, their total assets, and assets by client type for the following time periods (12/31 dates where available):

Year	Number of Clients	Total Assets Under Management	Retirement AUM	529 Assets AUM
2019 (YTD)				
2018				
2017				
2016				
2015				
2014				

2. Identify your firm's client retention rate for the most recent three years.
3. Describe the experience, expertise, and breadth of your full-time investment research and systems staff.
4. What is the firm's experience assessing target date fund glide paths, including complexity of asset classes and trajectory of adjustments?
5. Please describe your organization's experience with our current investment management companies.

Research and Analysis

1. Describe your investment consulting philosophy and research capabilities. Indicate whether your research systems and recommendations are proprietary or provided by a third party or by subscription. Do you use a specific scoring system? Proprietary, purchased or subscription? Identify to what extent you incorporate quantitative data and qualitative fund information in your analysis. Describe the evaluation criteria and provide sample reports.
2. Describe your firm's investment selection and monitoring process. How often are funds reviewed?
3. When and what action will your firm take in the case of a fund variance or watch event. Identify your process of recommendation to add, replace or freeze a fund resulting from a "poor score."
4. Describe your fee and service benchmarking capabilities. Do you maintain a proprietary provider and fee data base? If not, do you subscribe to or have access to benchmarking tools? Identify these relationships and systems.
5. How many fee and benchmark projects did you complete in 2019 (YTD), 2018, 2017, 2016, 2015, and 2014? How many recordkeeping/product providers are currently in use among your existing clients?

Procurement and Implementation

1. To what extent can your organization provide leverage or negotiation support during contract negotiations with our current provider? With an alternate provider of choice?
2. Describe your record keeper search RFP service and process. How many record keeper search RFP projects did you complete in 2019 (YTD), 2018, 2017, 2016, 2015, and for DC plans your firm supports? How many record keeper search RFP projects did you complete in 2019 (YTD), 2018, 2017, 2016, 2015, and 2014 for 529 plans your firm supports?
3. Describe your working relationship and monitoring program for recordkeeping/product providers (i.e. assigned consulting representatives, onsite interviews, phone updates, database updates, industry ratings or other methods used to remain current and test provider fees and service quality).

4. Discuss any additional value you can provide to an RFP review committee during the procurement process.

Pricing Proposal

1. Please provide a proposed fee schedule for the services described in the Scope of Service for the initial contract period and any extension periods. No asset-based fee structure will be considered. The fee schedule may include an annual fee for core services and hourly rates for ABLE- related work.

Attachment 4: Business References

CONTRACT NUMBER: TRE20101 INVESTMENT ADVISORY AND CONSULTING SERVICES

List a minimum of four with at least two (2) of the references must be from firms/individuals involved with the 529, defined contribution or deferred compensation industry. Business references should include 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 employee as a business reference. If you have held a State 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:	

4. **Contact Name & Title:**
Business Name:
Address:
Email:
Phone #/Fax #
Current Consultant
(Yes/No)
Years Associated & Type
of Work Performed:

Attachment 6: Employing Delawareans Report

CONTRACT NUMBER: TRE20101 INVESTMENT ADVISORY AND CONSULTING SERVICES

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 residents of Delaware: _____

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

APPENDIX A: PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (the "Agreement") is entered into by and between the Office of State Treasurer ("OST") for the State of Delaware (the "State"), on behalf of the Plans Management Board (the "Board"), and [_____] ("Vendor").

WHEREAS, in October 2019, OST, on behalf of the Board, issued a formal Request for Proposals ("RFP") pursuant to the State Procurement Code seeking proposals from qualified consulting firms to provide consulting services to OST, the Board and its committees;

WHEREAS, on [_____] [___], 2019, the Board, by majority vote, approved Vendor as the successful bidder and authorized OST to enter into this Agreement;

WHEREAS, OST desires to obtain independent advisory and consulting services as set out in the Statement of Work on **Exhibit 1** to this Agreement;

WHEREAS, Vendor desires to provide such services to OST and the Board on the terms set forth in the Agreement;

WHEREAS, OST and Vendor 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, OST and Vendor agree as follows:

1. Services and Term.

- 1.1. Vendor shall provide to OST, the Board and its committees those services as set forth herein and as specified on the Statement of Work attached hereto as **Exhibit 1** (collectively, "Services"). Vendor shall serve as independent investment advisor and consultant in a co-fiduciary capacity (as contemplated in section 3(21) of the Employee Retirement Income Security Act of 1974.
- 1.2. The initial term of this Agreement shall begin on the date this Agreement is fully executed, or as may be otherwise agreed upon by the parties, and shall extend for three years from that date. OST has two one-year extension options. OST, in its discretion, may exercise each option at any time prior to the expiration of the initial or extended term, as the case may be, subject only to Board approval of any such extension.
- 1.3. Vendor shall meet and confer with OST, the Board and/or any committee at such times and places as OST, the Board or a committee may reasonably request. Vendor shall keep OST staff informed of progress and provide updates on the status of the Services. This interface shall include regular telephone communication, exchange of written data and analysis and other interaction as requested by OST.

2. Payment for Services and Expenses.

- 2.1. OST will pay Vendor for the performance of Services in accordance with **Exhibit 2**.
- 2.2. OST's obligation to pay Vendor for the performance of Services will not exceed the rates and limits set forth on **Exhibit 2**. Vendor is solely responsible for ensuring that all Services are completed for the agreed upon fees and within any applicable cap.

- 2.3. Unless otherwise agreed, all payments will be sent to Vendor's identified address on record with OST.
- 2.4. Vendor shall submit invoices to OST as provided in **Exhibit 2**. OST agrees to pay undisputed amounts within 30 days of receipt. In the event that OST disputes all or any portion of an invoice, OST agrees to provide Vendor with a detailed statement of OST's position on the invoice, or disputed portion of the invoice, within 30 days of receipt.
- 2.5. All expenses incurred in the performance of the Services are Vendor's responsibility. Vendor shall not be reimbursed for any expenses incurred by Vendor in the performance of the Services, including, but not limited to, travel and lodging expenses, communications charges, and computer time and supplies.
- 2.6. OST 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 by Vendor as a consequence of this Agreement.
- 2.7. OST shall have the right to setoff or subtract from any payment to be made to Vendor all damages, costs and expenses caused by Vendor's breach of the Agreement, or Vendor's negligence, gross negligence or other tortious or illegal conduct in connection with the provision of Services hereunder, to the extent such damages, costs and expenses have not otherwise been reimbursed by Vendor.
- 2.8. Invoices shall be submitted electronically to Michael Green, OST's Investment and Operation Manager, mike.green@delaware.gov, with a copy to John Meyer, Director of Contributions and Plan Management, john.meyer@delaware.gov.

3. [Reserved.]

4. Responsibilities of Vendor.

- 4.1. Vendor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all Services. In performing the Services, Vendor 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. Vendor shall be responsible for ensuring that all Services and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the State's 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 or deliverable furnished pursuant to this Agreement does not conform to DTI standards, Vendor shall, at its expense and option either (a) replace it with a conforming equivalent or (b) modify it to conform to DTI standards. Vendor shall be liable and indemnify the State and its officers, employees and attorneys for all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees), incurred by the State or its agents or employees resulting from or attributable to Vendor's failure to comply with DTI standards and requirements.
- 4.3. [Reserved.]
- 4.4. It shall be Vendor's duty to assure that Vendor does not compromise the security, confidentiality, or integrity of information owned or maintained by the State. In providing

Services, Vendor will meet or exceed the standards set forth in the Top 20 Critical Security controls located at: <http://www.sans.org/critical-security-controls/>.

- 4.5. Vendor shall be responsible for all security breaches caused by its employees and contract employees, its subcontractors, and the employees and contract employees of its subcontractors, and Vendor shall indemnify and hold harmless the State and its officers, employees and attorneys from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) arising out of such breaches. In addition to all rights and remedies available to it in law or in equity, the State may offset against and subtract from any payment to be made to Vendor any damages, costs and expenses caused by any such breach.
- 4.6. Multifunction peripherals must be hardened when used or connected to the State's network.
- 4.7. Electronic information storage devices (hard drives, tapes, diskettes, compact disks, USB, multifunction peripherals, etc.) shall be disposed of in a manner corresponding to the classification of the stored information, up to and including physical destruction.
- 4.8. [Reserved.]
- 4.9. [Reserved.]
- 4.10. It shall be the duty of Vendor to assure that all Services and deliverables are technically sound and in conformance with all applicable federal, state and local statutes, codes, ordinances, resolutions and other regulations applicable to the Services. Vendor will not provide access to a portal or other software, or produce work product, that violates or infringes on any copyright, trademark, patent or other intellectual property rights. Vendor shall, without additional compensation, correct or revise any errors or omissions in the portal, software or work product and shall indemnify the State and its officers, employees and attorneys for all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees), incurred by the State or its officers, employees or attorneys resulting from or attributable to Vendor's failure to comply with this Section.
- 4.11. OST's review, approval, acceptance, or payment for any Services shall not be construed to operate as an admission or acknowledgement of any fact or circumstance, or a waiver of any rights under this Agreement or otherwise, and Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages caused by Vendor's breach or negligent performance or failure to perform under this Agreement.
- 4.12. Vendor shall appoint a senior employee who will manage the performance of Services and act as the single point of contact to OST.
- 4.13. Upon receipt of written notice from OST that an employee of Vendor is unsuitable for good cause, Vendor shall remove such employee from the performance of Services and substitute in his/her place an employee suitable to OST.
- 4.14. Unless legally prohibited, Vendor shall promptly notify OST's Designated Contact (as defined below) in writing of any investigation, examination or other proceeding involving Vendor, or any key personnel or designated staff of Vendor, including a contract employee, or a subcontractor or any key personnel or designated staff of a subcontractor, commenced by any regulatory or law enforcement agency and involving allegations of fraud or illegal conduct, or a data breach.

- 4.15. Vendor agrees that its senior employee and other key personnel or designated staff will cooperate with OST in the performance of Services and will be available for consultation with OST upon reasonable request.
- 4.16. [Reserved.]
- 4.17. [Reserved.]
- 4.18. Vendor has or will retain such employees as it may need to perform the Services.
- 4.19. Vendor will not use OST's, the Board's or the State's name, either express or implied, in any of its advertising or sales materials without OST's prior written consent.
- 4.20. Vendor represents that it is properly licensed, registered and authorized to transact business and perform Services in the State.
- 4.21. Vendor will provide to OST audited or unaudited financial statements, as requested by OST.

5. OST Responsibilities/Representations.

- 5.1. OST agrees that its officers and employees will cooperate with Vendor in the performance of Services and will be available for consultation with Vendor upon reasonable request.
- 5.2. OST shall pay for the Services as provided on **Exhibit 2**, subject to review for compliance with and the terms of this Agreement.

6. Ownership of Work Product and Data and Documents.

- 6.1. All materials, information, documents, reports and other work product, whether finished, unfinished, or draft, developed, prepared or completed by Vendor relating to the Agreement shall become the property of the State and shall be delivered upon request by OST. The State shall have the right to reproduce and disclose all work product related to this Agreement. The State's rights under this Section shall survive termination of the Agreement.
- 6.2. The State shall have and retain title and interest to all data and documents related to this Agreement, including Vendor work product and data and documents electronically stored by Vendor. Upon termination of the Agreement, and for a period of six (6) months thereafter, OST shall have the right to request and shall, at OST's option and at Vendor's expense, be provided with copies of all data and documents electronically stored by Vendor related to the Agreement. Promptly after such six (6) month period, all State data and documents shall be destroyed or retained in accordance with Section 7.8.

7. Confidential Information of the State.

- 7.1. "Confidential Material," as used herein, means all documents and data that contain confidential commercial, financial, consumer, or other confidential information of the State, whether or not such agreements or other documents are marked "confidential" or otherwise designated as confidential by OST.
- 7.2. Confidential Material shall be used by Vendor solely for purposes of executing its duties and obligations under the Agreement. Vendor may disclose Confidential Material only to those Vendor employees who have a need to access Confidential Material in the scope of their employment for Vendor, and who have been informed, understand and acknowledge in

writing that Confidential Material is highly sensitive and confidential and must be held in strictest confidence.

- 7.3. Confidential Material shall not be copied or reproduced without the express written permission of OST, except for such copies as may reasonably be required for Vendor to execute its duties and obligations under the Agreement. Except as contemplated by the Agreement, Vendor shall not store or aggregate in a data base or other electronic storage means any Confidential Material; provided, however, that Vendor is permitted to store Confidential Material in physical or electronic files in accordance with this Section 7 while executing its duties under the Agreement and for a reasonable period of time thereafter, after which the Confidential Materials, including all physical and electronic copies, shall be destroyed or retained in accordance with Section 7.8.
- 7.4. Except as expressly permitted in this Section 7, Confidential Material shall not be disclosed to any individuals or third parties without the prior written consent of OST, unless such disclosure is required by law. Vendor shall immediately notify OST in writing of Vendor's receipt of a court order, subpoena or discovery requests seeking or ordering the production, disclosure or inspection of any Confidential Material. Vendor shall, at the request of OST, object to any such order, subpoena or discovery and shall take all other measures that may reasonably be necessary to protect against the unwarranted production, disclosure or inspection of Confidential Material. In the event disclosure of Confidential Material is compelled or otherwise required by law, Vendor shall mark all documents submitted in connection with any such disclosure so as to indicate the confidential nature of the material and OST's interest therein.
- 7.5. This Section 7 shall not restrict the disclosure or use of Confidential Material that:
 - a. is in the public domain at the time of disclosure or thereafter enters the public domain through no breach of the Agreement;
 - b. is in the possession of Vendor without restrictions when received;
 - c. has been lawfully obtained or is lawfully obtainable without restrictions from a source other than OST, the Board or the State through no breach of the Agreement;
 - d. has been developed independently by Vendor and without reliance upon Confidential Material.
- 7.6. Vendor shall take reasonable steps to restrict access to and otherwise safeguard the confidentiality and integrity of Confidential Material at all times, including, without limitation, the implementation of electronic security procedures and other measures designed to ensure that all Confidential Material is properly stored and password protected at all times.
- 7.7. Vendor shall immediately disclose to OST the discovery of any security breach or suspicious intrusion involving Confidential Material and shall identify the type and amount of Confidential Material that was compromised or disclosed.
- 7.8. Within six (6) months from the termination of the Agreement, all Confidential Material, regardless of form, shall be permanently deleted or destroyed in accordance with all applicable law, orders, rules and regulations and industry best practices. Any electronic data or documents deleted under this Section 7.8 shall be permanently deleted and shall not be recoverable, according to the National Institute of Standards and Technology's approved methods. If requested, Vendor shall provide a destruction certificate to OST listing the type

and contents of electronic records or physical documents destroyed or permanently deleted under this Section 7.8. Notwithstanding the foregoing, Vendor may, subject to Vendor's confidentiality obligations under this Agreement, retain copies of State data and documents to the extent required by applicable state or federal law, regulations, rules, or orders or Vendor's document retention policy.

- 7.9. OST shall have no obligation to disclose Confidential Material. OST may, in its discretion, provide or refuse to provide Confidential Material requested by Vendor.
- 7.10. Vendor understands and agrees that OST may suffer irreparable harm in the event that Vendor fails to comply with its obligations hereunder and that monetary damages may not be adequate to compensate OST for such breach. Vendor agrees that OST, in addition to other remedies available to it at law or in equity for actual damages, shall be entitled to seek injunctive relief to enforce the terms of this Section 7.
- 7.11. Vendor's confidentiality obligations shall survive termination of the Agreement.

8. Warranty.

- 8.1. Vendor agrees to correct or re-perform any Services not in compliance with this Agreement.
- 8.2. Third-party products within the scope of this Agreement, if any, 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 Vendor in connection with the provision of the Services, if any, Vendor shall pass through or assign to the State all rights Vendor obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), to the extent that such rights are assignable.

9. Indemnification; Limitation of Liability.

- 9.1. Vendor shall indemnify and hold harmless OST, the Board, the State and their respective officers, members, employees and attorneys ("Indemnified Parties") from any and all liability, suits, actions, claims or damages, together with all reasonable costs and expenses (including attorneys' fees), arising out of Vendor's breach of the Agreement, or the negligent, reckless, intentional or other tortious, fraudulent, illegal, or unlawful conduct of Vendor or any subcontractor, or their respective officers, employees, contract employees or agents, arising out of or related to this Agreement ("Claims").
- 9.2. If OST notifies Vendor in writing of a Claim against an Indemnified Party, including, without limitation, any Claim based on Vendor's disclosure of or failure to safeguard any personal financial or other Confidential Material, Vendor will defend such Claim at Vendor's expense if so requested by OST in OST's sole discretion. Vendor will pay any costs or damages that may be finally awarded against an Indemnified Party.
- 9.3. Except for fees that may be due and owing as set forth in Section 2 above and **Exhibit 2** hereto, and notwithstanding anything to the contrary in this Agreement, neither OST, the Board or the State, nor any officers, members, employees or attorneys of the foregoing, shall have any liability to Vendor or any other party for fees (including attorneys' fees), expenses, suits, actions, claims or damages, whether direct or indirect, compensatory or punitive, actual or consequential, in or for actions, claims, causes of action or rights, including indemnification rights, arising out of or related in any way to this Agreement.

- 9.4. Notwithstanding anything to the contrary herein, no provision of this Agreement shall constitute a waiver or limitation of any right of OST, the Board or the State that may exist under applicable law.
- 9.5. Notwithstanding anything to the contrary herein, to the extent available under applicable law, OST, the Board and the State, and their respective officers, members, employees and attorneys, expressly reserve all rights, claims, arguments, defenses and immunities, including, without limitation, claims or defenses based on sovereign immunity, qualified immunity and other statutory or common law rights, claims, defenses or immunities; provided, however, that Vendor shall have the right to seek to enforce this Agreement in the courts of this State.

10. Insurance.

- 10.1. Vendor 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 per occurrence/\$3,000,000 per aggregate;
 - c. Professional liability - \$5,000,000 per occurrence/\$5,000,000 per aggregate;
 - d. Automotive liability insurance covering all automotive units used in the work with limits of not less than \$100,000 for each person and \$300,000 for each accident as to bodily injury and \$25,000 as to property damage to others; and
 - e. Cyber Liability – data such as names, addresses, phone numbers, email addresses, social security numbers, tax return information, bank account information, dates of birth, driver's license numbers and other personally identifiable information or consumer Confidential Material maintained by Vendor under the Agreement (collectively, "PII") shall be encrypted at rest with validated cryptography standards as specified in National Institute of Standards and Technology FIPS140-2 Security Requirements. If Vendor cannot offer encryption at rest, Vendor must maintain cyber security liability insurance coverage for any loss resulting from a data breach. The policy, if required, shall remain in place in the amounts set forth below for the term of the Agreement, inclusive of any extension(s), or for as long as the Vendor possesses or controls PII, whichever is longer.

Levels of cyber liability insurance required are based on the number of records with PII anticipated to be possessed or controlled by Vendor in connection with the Agreement. Should the actual number of PII records exceed the anticipated number, it is the Vendor's responsibility to ensure that sufficient coverage is obtained (see table below). In the event that Vendor fails to obtain sufficient coverage, Vendor shall be liable to cover damages and shall indemnify the State for any damages, cost or expenses beyond the coverage amount.

Level	Number of PII records	Level of cyber liability insurance required (occurrence = data breach)
1	1-10,000	\$2,000,000 per occurrence
2	10,001 – 50,000	\$3,000,000 per occurrence
3	50,001 – 100,000	\$4,000,000 per occurrence
4	100,001 – 500,000	\$15,000,000 per occurrence
5	500,001 – 1,000,000	\$30,000,000 per occurrence
6	1,000,001 – 10,000,000	\$100,000,000 per occurrence

The policy shall include but not be limited to, coverage for liabilities relating to Vendor's or any independent contractor's or subcontractor's premises, operations, products, completed operations, or conduct relating to the Agreement. At a minimum, the policy must include third-party coverage for credit monitoring, notification costs to data breach victims, and regulatory penalties and fines. Vendor shall be responsible for any deductible or self-insured retention contained in the insurance policy. The coverage under the policy shall be primary, and not excess, to any other insurance carried by the Vendor.

10.2. Should any of the above-described policies be cancelled before the expiration date thereof, notice will be delivered to OST.

10.3. Before any work is performed pursuant to this Agreement, certificate of insurance and/or copies of the insurance policies specified in Section 10.1 shall be provided to OST. The certificate holder is as follows:

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

10.4. In no event shall OST, the Board or the State, or their respective officers, members, employees or attorneys, 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, Vendor is an independent contractor, not an agent or employee of OST, the Board or the State, and shall furnish such Services in its own manner and method, except as required by this Agreement.

11.2. Vendor has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by Vendor in the performance of the Services; provided, however, that Vendor will, subject to scheduling and staffing considerations, attempt to honor OST's request for specific individuals.

11.3. Vendor shall be solely responsible for, and shall indemnify, defend and hold OST, the Board and the State, and their respective officers, members, employees and attorneys, harmless from all matters relating to the payment of Vendor's employees, contract employees, subcontractor or subcontractor's employees, including compliance with Social Security withholding and all other wages, salaries, benefits and taxes of any nature whatsoever.

11.4. Vendor acknowledges that Vendor and any agents or employees employed or contracted by Vendor shall not, under any circumstances, be considered employees of OST, the Board or

the State, and that they shall not be entitled to any of the compensation, benefits or rights afforded employees of the State, including, but not limited to, sick leave, vacation leave, holiday pay, pension benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits.

- 11.5. Vendor shall be responsible for providing liability insurance for its personnel and agents.
- 11.6. As an independent contractor, Vendor has no authority to bind or commit OST, the Board or the State. Nothing herein shall be deemed or construed to create a joint venture, partnership, or fiduciary or agency relationship between the parties for any purpose.

12. Suspension.

- 12.1. OST may for any reason suspend performance by Vendor under this Agreement for such period of time as OST, in its discretion, may prescribe by providing written notice to Vendor. Upon receipt of such notice, Vendor shall not perform further work under this Agreement until Vendor's receipt of written notice from OST to resume performance.
- 12.2. OST shall pay Vendor compensation earned through the effective date of suspension, less all previous payments and subject to any rights of offset or recoupment that OST or the State may have against Vendor.

13. Termination.

- 13.1. This Agreement may be terminated by either party for default, which shall mean the failure of the other party to fulfill a material obligation under this Agreement, through no fault of the terminating party, but only after the other party is given:
 - a. Not less than 10 calendar days' written notice of intent to terminate; 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 OST for its convenience, but only after Vendor is given 15 calendar days' written notice of intent to terminate.
- 13.3. If termination is effected, OST will pay Vendor that portion of compensation earned for Services provided as of the effective date of termination, but:
 - a. No amount shall be allowed for anticipated profit on unperformed Services or other work;
 - b. Any payment due to Vendor at the time of termination may be adjusted or reduced to the extent of the State's offset or recoupment rights; and
 - c. In the event Vendor ceases conducting business, OST shall have the right to make an unsolicited offer of employment to any officers or employees of Vendor.
- 13.4. In connection with any notice issued under this Section 13, OST may immediately retain another vendor to perform the Services. Vendor shall at all times cooperate in the transition and shall perform such Services and additional services as OST shall determine are necessary or appropriate to enable the transition of work to a successor vendor or vendors. Vendor's obligation to provide transition services shall survive termination and shall continue until such date as is communicated in writing to Vendor that such Services or additional services are no longer needed.

- 13.5. If after termination for breach it is determined that Vendor has not so failed, the termination shall be deemed to have been effected for convenience.
- 13.6. The termination of this Agreement shall not terminate any rights or obligations that are intended to or customarily extend beyond termination.
- 13.7. The rights and remedies of OST provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.
- 13.8. Gratuities.
 - a. OST may, by written notice to Vendor, terminate this Agreement without liability if it is found that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Vendor or any agent or representative of Vendor to any officer or employee of OST, the Board or the State 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.
 - b. In the event this Agreement is terminated as provided in Section 13.8.a, the State shall be entitled to pursue the same remedies against Vendor it could pursue in the event of a breach of this Agreement by Vendor.
 - c. The rights and remedies of OST, the Board and the State provided in Section 13.8 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
- 13.9. Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. If such funds are not so appropriated, (a) OST may immediately terminate this Agreement without liability, and (b) the Agreement shall be terminated without liability as to any obligation of OST requiring the expenditure of money for which no specific appropriation is available.

14. Assignment; Subcontracts.

- 14.1. Any attempt by Vendor to assign or otherwise transfer any interest in this Agreement without the prior written consent of OST shall be void.
- 14.2. Vendor's employees shall perform all Services, unless OST contents in writing to Vendor's request to use temporary staff, independent contractors or a subcontractor. Neither approval by OST of any such request, nor OST's acceptance of any software, deliverable or payment of any invoice, shall relieve Vendor of responsibility for the professional and technical accuracy and adequacy of the Services. All temporary staff, independent contractors and subcontractors shall adhere to and be bound by all applicable provisions of this Agreement, including all exhibits.
- 14.3. Vendor shall be and remain liable for all damages to OST, the Board and the State caused by the negligent performance or non-performance of work under this Agreement by any use temporary staff, independent contractors or a subcontractor.
- 14.4. The compensation otherwise due to Vendor pursuant to **Exhibit 2** shall not be affected by OST's approval of Vendor's request to use temporary staff, independent contractors or a subcontractor.

15. Complete Agreement.

- 15.1. This Agreement and its exhibits, which are incorporated herein by reference, shall constitute the entire Agreement between OST and Vendor 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 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. Each Exhibit, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement, modify and supersede the terms and conditions of this Agreement. 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. Except for fees that may be due and owing as set forth in Section 2 above and **Exhibit 2** hereto, Vendor shall solely bear the costs incurred in the performance of this Agreement.
- 16.2. Neither this Agreement nor any exhibit may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom enforcement is sought.
- 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. Vendor covenants that it presently has no interest, and that it will not acquire any interest, direct or indirect, that conflicts or would conflict in any manner or degree with the performance of Services required under this Agreement. Vendor further covenants that, in the performance of said Services, no person having any such interest shall be employed or utilized.
- 16.5. Vendor acknowledges that OST, the Board and the State have obligations to ensure that public funds and resources are not used to subsidize private discrimination. Vendor

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 OST declaring Vendor in breach of the Agreement, terminating the Agreement without liability and/or taking such additional action as may be warranted under the circumstances.

- 16.6. Vendor 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, OST shall have the right to terminate this Agreement without liability.
- 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. At the option of OST, the parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between officials or executives who have authority to settle the controversy. All offers, promises, conduct and statements, in each case relating to dispute resolution, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible in any proceeding involving the parties; provided, however, that evidence that is otherwise admissible or discoverable may not be rendered inadmissible merely because it was the subject of discussion in the course of negotiation.
- 16.9. Any disputes, claims or controversies arising out of or relating to this Agreement that are not resolved through resolution pursuant to Section 16.8, may be submitted to mediation if OST so elects. Any such proceedings held pursuant to this provision shall be governed by the State's laws, and venue shall be in this State. The parties shall maintain the confidential nature of the proceedings and shall keep the terms of any resulting settlement or award confidential to the extent permissible under applicable law. Each party shall bear its own costs of mediation, including attorneys' fees and half of the mediator's fees and expenses.
- 16.10. The rights and remedies of OST and the State provided for in this Agreement are in addition to any other rights and remedies provided by law or at equity.
- 16.11. Neither party to this Agreement shall be liable for damages resulting from delayed or defective performance of its obligations under this Agreement when such delays or defective performance arise out of causes beyond the reasonable control and without the negligence or willful misconduct of the party.
- 16.12. This Agreement, including all exhibits, and its contents, including pricing information, is a public document subject to mandatory disclosure under 29 *Del. C.* § 10001-10007. In the event that OST is required by law (any statute, governmental rule or regulation, or judicial or governmental order, judgment or decree) to disclose to the public any information or document reasonable designated as "confidential" by Vendor, OST will, to the extent reasonably practicable prior to disclosure, give Vendor prior written notice of such disclosure or potential disclosure.
- 16.13. The provisions of this Agreement are for the sole benefit of the parties hereto. This Agreement confers no rights, benefits or claims upon any person or entity not a party hereto.
- 16.14. The terms of the RFP and any addenda or clarifications and Vendor's proposal (the "RFP Documents") are incorporated herein by reference and shall govern the Services and Vendor except to the extent the terms of the RFP Documents conflict with the terms of this

Agreement. When construing or interpreting the Agreement (a) the terms of the exhibits shall control and take precedence over the main text of the Agreement; and (b) the terms of the Agreement, including all exhibits, shall control and take precedence over the RFP Documents.

17. Assignment of Antitrust Claims.

As consideration for the award and execution of this Agreement by OST, Vendor hereby grants, conveys, sells, assigns and transfers to the State all of Vendor's 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 or this State relating to the Services and other work product purchased or acquired by OST or the State pursuant to this Agreement.

18. Governing Law.

This Agreement shall be governed by and construed in accordance with Delaware law, without regard to conflict of laws rules or principles. Vendor consents to jurisdiction and venue in this State.

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:

If to OST:

Attn: John Meyer
Director of Contributions and Plan Management ("Designated Contact")
Office of the State Treasurer
820 Silver Lake Blvd., Suite 100
Dover, DE 19904

If to Vendor:

Attn:

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be duly executed as of the date indicated below.

**STATE OF DELAWARE, by and through
the OFFICE OF THE STATE TREASURER,
on behalf of the PLANS MANAGEMENT
BOARD**

Signature

Name

Title

Date

[VENDOR]

Signature

Name

Title

Date

The following two exhibits are attached and shall be considered part of this Agreement:

- **Exhibit 1 – Statement of Work**
- **Exhibit 2 – Fee Structure**

Exhibit 1: Statement of Work²

[To be negotiated.]

² Terms used but not defined in the exhibits to this Agreement shall have the meanings ascribed to such terms in the Agreement.

Exhibit 2: Fee Structure

[To be negotiated.]

APPENDIX B: List of 403b Legacy Vendors

List of legacy vendors

1. AXA Equitable
2. Foresters Financial
3. Great American Life Insurance Company
4. Horace Mann
5. Kades Margolis
6. Lincoln Financial Group
7. Lincoln Investments
8. Metlife
9. New York Life
10. Security Benefit
11. Symetra Life Insurance
12. MassMutual
13. Valic
14. Voya (Reliastar and non-group contracts)

Legacy Vendor Proposed Fee Analysis Layout					
Vendor	Fund Expense		Max Administrative Fee	Max Surrender Charge	Annual Fee Impact on \$10,000 (range)
	Low	High			
Firm X	0.50	1.0	\$35.00	7%	\$50 - \$100