

THOMAS P. DiNAPOLI

COMPTROLLER OF THE STATE OF NEW YORK



REQUEST FOR PROPOSALS

RFP 24-06

**FIDUCIARY AND CONFLICT OF INTEREST REVIEW
FOR THE NEW YORK STATE COMMON RETIREMENT FUND**

ISSUED: JUNE 24, 2024

**DIRECTOR OF FINANCE
OFFICE OF THE STATE COMPTROLLER
110 STATE STREET, STOP 13-2
ALBANY, NY 12236-0001**

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1.0 CALENDAR OF EVENTS

<u>EVENT</u>	<u>DATE</u>
Issuance of Request for Proposals (RFP)	June 24, 2024
Deadline for Submission of Written Questions	July 16, 2024 4:00 p.m. ET
Responses to Written Questions Posted	July 23, 2024
Deadline for Submission of Proposals	July 30, 2024 4:00 p.m. ET
Anticipated Start of Interviews (if determined to be necessary)	August 20, 2024
Anticipated Notification of Award	September 3, 2024
Anticipated Approval of Contract	September 24, 2024
Anticipated Commencement of Contract	September 24, 2024

2.0 GENERAL INFORMATION

Through this Request for Proposals (“RFP”), Thomas P. DiNapoli, Comptroller of the State of New York (the “Comptroller”), as the Trustee of the New York State Common Retirement Fund (the “CRF” or the “Fund”), seeks proposals from qualified unaffiliated firms (“Proposers”) to conduct a fiduciary and conflict of interest review of the Fund as described in Section 5.0 (Required Services).

2.1. The Common Retirement Fund

The Fund, as established by Article 9 of the New York Retirement and Social Security Law (“RSSL”), was created in 1967 and holds and invests the assets of the New York State and Local Employees’ Retirement System and the New York State and Local Police and Fire Retirement System (collectively, the “System”)¹. As of December 31, 2023, the total assets of the Fund were estimated at \$259.9 billion. The Fund’s fiscal year end is March 31. The Comptroller, as Trustee of the Common Retirement Fund, is responsible for the investment of all of the funds of the System, which is accomplished through the Division of Pension Investment and Cash Management (“PICM”) of the Office of the State Comptroller (“OSC”).

PICM manages the assets of the Fund on a day-to-day basis under the direction of the Deputy Comptroller for Pension Investment and Cash Management (who is also the Chief Investment Officer of the Fund), with the support of professional staff, consultants, and external advisory committees. The Fund’s mission is to provide System beneficiaries with a secure pension through prudent asset management.

Additional information on the Fund can be found at www.osc.state.ny.us/common-retirement-fund.

The Fund and the System are subject to oversight by the New York State Department of Financial Services (“DFS”) (formerly, the Insurance Department; Insurance Law, § 314[b]).

DFS Regulations governing the Services are contained in 11 NYCRR 136-2 and are attached to this RFP as Appendix D (the “DFS Regulations” or “Regulations”). Section 136-2.5(g)(5) of the DFS Regulations

¹ The Fund was created to hold the assets of the System pursuant to §422 of the RSSL.

requires “fiduciary and conflict of interest reviews of the Fund every three years by a qualified unaffiliated person.” To date, four such reviews have been conducted. The reports can be accessed via the following link: [Financial Reporting and Asset Allocation | Office of the New York State Comptroller \(ny.gov\)](https://www.nyscomptroller.gov/financial-reporting-and-asset-allocation).

2.2. RFP Requirements

This RFP outlines the terms and conditions and all applicable information required for submission of a proposal. Proposers should pay strict attention to the Deadline for Submission of Proposals in Section 1.0 (Calendar of Events) to prevent disqualification. To ensure compliance with these requirements and to prevent possible disqualification, Proposers should follow the format and instructions contained in this document.

Appendix C (OSC Executive Order on Procurement Integrity and the OSC Procurement Integrity Procedures) impacts the procurement and Proposers are encouraged to read and understand these procedures before drafting their proposals.

Proposers are encouraged to review Attachment K (Draft Contract), including all appendices, as each Proposer must be willing to enter into a contract substantially in accordance with the terms of Attachment K should the Proposer be selected for contract award. Bracketed language included in Attachment K may, at the sole discretion of the Fund, be revised as mutually agreed between the Fund and Proposer. The Fund may consider limited and reasonable modifications to the non-bracketed language in the Draft Contract in alignment with industry standards, so long as such proposed modifications do not reduce any of the Fund’s rights and protections or increase the Fund’s obligations. However, the Fund has no obligation to accept any such proposed modifications and reserves all rights to reject any proposed changes. The Fund prefers that Proposers submit such proposed modifications to the Draft Contract as an attachment to the Administrative Proposal (see Section 7.1.F - Proposed Modifications to the Draft Contract, if any). No modifications should be submitted with the Technical Proposal.

2.3. Interchangeable Designations

The terms Proposer, Selected Proposer, Consultant, Contractor, and Vendor may be referenced throughout this RFP. Generally, references to the “Proposer” or “Vendor” are used in conjunction with the proposing organization and procurement process leading up to the final RFP selection and award (at which point the Proposer becomes the “Selected Proposer”). The term “Consultant” or “Contractor” denotes the role assumed, post-contract execution, by the Selected Proposer.

2.4. Term

The term of the agreement resulting from this RFP (“Agreement” or “Contract”) will commence upon the date of execution by the Fund and will continue for a period of 12 months (“Term”).

2.5. Covered Period

The review will cover the three-year period ending March 31, 2024.

2.6. Authority

The Consultant will be authorized to review any policy, procedure, or process required to complete the review. The Consultant will be provided with access to all necessary documents and personnel needed to conduct the review. To the extent available, the Fund will provide the Consultant with electronic copies of all Fund and PICM documentation necessary for the Consultant to conduct the review.

2.7. Staff

For the purposes of this RFP, Proposer's staff means Proposer's employees and its subcontractors' employees providing Services. "Staff" includes staff, and also owners, officers, directors, employees, subsidiaries, affiliates, partners, and agents of the Proposer; and Proposer's contractors (including third-party services providers) and their employees providing Services hereunder or who have access to the Fund's confidential information.

3.0 MINIMUM QUALIFICATIONS TO PROPOSE

Proposers must meet the following Minimum Qualifications to submit a proposal. Failure to meet these Minimum Qualifications will result in a proposal being found non-responsive and eliminated from consideration.

1. The Proposer must have conducted within the last 10 years at least two independent, in-depth reviews (substantially focused on policies, procedures, and practices) of investment-related decision-making processes, management, and/or operations of a pension fund or other institutional investor, each having assets at the time of the review of at least \$25 billion.

Prior reviews for the Fund may not be used to meet this Minimum Qualification.

2. The Proposer must provide a project manager ("Project Manager") to serve as the primary point of contact, responsible for managing the contractual relationship with the Fund and overseeing delivery of all Services. Such Project Manager must have provided project management services for a minimum of two reviews comparable to Minimum Qualification #1.
3. The Proposer must have on its team, as an employee or subcontractor (i.e., outside counsel), an attorney with a minimum of five years of experience in institutional investment transactions and fiduciary law to assist in the review.
4. The Proposer and its subcontractors (if any) must be an "unaffiliated person" as defined in Section 136-2.2(k) of the DFS Regulations.

Section 136-2.2(k) defines an "unaffiliated person" as any person other than:

1. the Comptroller or a family member of the Comptroller;
2. an officer or employee of OSC;
3. an individual or entity doing business with OSC or the Fund; or
4. an individual or entity that has a substantial financial interest in an entity doing business with OSC or the Fund.²

² For the purpose of this paragraph, the term substantial financial interest shall mean the control of the entity, whereby control means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract (except a commercial contract for goods or non-management services) or otherwise; but no individual shall be deemed to control an entity solely by reason of his being an officer or director of such entity. Control shall be presumed to exist if any individual directly or indirectly owns, controls or holds with the power to vote 10 percent or more of the voting securities of such entity.

3.1. Registered Investment Advisers: Eligibility to Award

Proposers that are registered investment advisers should be aware of certain factors that could disqualify them from consideration.

A registered investment adviser, or a Proposer that is affiliated with a registered investment advisor, that provides consulting or investment management services in competition with Fund consultants and managers (e.g., provides services to institutional clients with respect to the type(s) of assets in which the Fund invests) will, absent distinct business units separated by a sufficient legal and operational “wall,” be disqualified from consideration in order to avoid conflicts of interest and to protect confidential and trade secret information of the Fund and its consultants and managers.

A registered investment adviser that does not provide services in competition with Fund managers and consultants may be considered where the Fund is satisfied that no disqualifying conflict of interest or integrity issue is presented based upon the Proposer’s responses to questions in Attachment J (CRF Vendor Responsibility and Conflict of Interest Disclosure Form) and other relevant information.

4.0 POST-AWARD SECURITY AND CONFIDENTIALITY VERIFICATION

The Selected Proposer must ensure the confidentiality of Fund information provided to or collected by the Selected Proposer in providing all services contemplated by this RFP. Systems and applications that input, store, process, output, and/or transmit confidential information must protect the confidentiality, integrity, and availability of such information, and Selected Proposer’s facilities and infrastructure must be physically and logically secure in accordance with industry-appropriate security standards and compliant with applicable laws and regulations.

Upon notification of conditional award (see Section 10.0), the conditionally-awarded Proposer must demonstrate to the Fund that its security measures, processes, standards, and policies sufficiently align with security standards as set forth below and as required by applicable law or regulation.

- A.** The conditionally-awarded Proposer must identify the industry- or government-accepted security framework (e.g., ISO 27000 series, NIST) that Proposer employs to ensure that its systems and applications used in providing the services are secure from vulnerabilities and defects.
 - 1. Upon notice of conditional award, the conditionally-awarded Proposer should provide the Fund with a third-party assessment and/or certification that its systems and applications are in compliance with the above-identified framework. If the conditionally-awarded Proposer cannot or declines to provide such assessment and/or certification, it must identify how it will verify, to the Fund’s satisfaction, its compliance with such standards and protections.
 - 2. If the conditionally-awarded Proposer uses affiliates or subcontractors to provide any of the Services, all confidentiality and security obligations set forth herein must contractually flow down to such affiliates and subcontractors. The conditionally-awarded Proposer must describe how it will comply with this requirement and how it will ensure compliance by its affiliates and subcontractors.

- B.** The Fund has a strong preference that all services and that all of the systems and infrastructure that input, store, access, process, output, and/or transmit Fund confidential information, including those of any subcontractor (collectively, “Systems”) be located within the contiguous United States (“CONUS”). The conditionally-awarded Proposer must identify whether any of its Systems are located outside the CONUS, and if yes, must identify with specificity the nature of services or functions performed by or within the Systems, and identify the country(ies) where such Systems are located.

- C. The conditionally-awarded Proposer must identify its capabilities and tools for secure data transmission, including whether it is able to provide access to a secure virtual data room for document sharing. The conditionally-awarded Proposer must explain the encryption standards to be applied to Fund confidential information and what limits will be placed on access to and ability to download such information.
- D. The conditionally-awarded Proposer must describe its incident response procedures for security incidents, including unauthorized access, disclosure, modification, or use of Fund confidential information.
 - 1. To the extent not prohibited by applicable law, the conditionally-awarded Proposer must notify the Fund promptly in writing upon the occurrence of any security incident in the most expedient time possible and without unreasonable delay, but in any event no later than within 48 hours of such occurrence. The conditionally-awarded Proposer must keep the Fund informed as the incident is investigated such that the Fund can evaluate and respond to any resulting operational and information risks.
 - 2. The conditionally-awarded Proposer must identify what assistance it will provide to the Fund in responding to an exploited vulnerability or breach, including any required notifications.
- E. The conditionally-awarded Proposer must describe its practices, policies, and procedures regarding the destruction or return of Fund confidential information, including the sanitization method the conditionally-awarded Proposer will apply to Fund confidential information.
 - 1. The conditionally-awarded Proposer must confirm whether an officer or principal of the conditionally-awarded Proposer will certify to Fund in writing that such destruction has been completed in accordance with the New York State Office of Information Technology Services Policy for Sanitization/Secure Disposal in NYS-S13-003 (see link below) or other comparable standard:
[nys-s13-003 sanitization secure disposal standard.pdf](#)
 If the conditionally-awarded Proposer will not provide such certification, it must specify the scope of any such certification of destruction that it will provide.
 - 2. The conditionally-awarded Proposer must identify whether it is subject to any legal or regulatory requirements or professional standards that might require it to retain any Fund confidential information, for how long such information must be retained, and how the conditionally-awarded Proposer intends to ensure the confidentiality of such information.

The Fund expressly reserves its right to decline to make a final award to any conditionally-awarded Proposer that the Fund concludes is unable to demonstrate that its security measures, processes, standards, and policies sufficiently align with security standards set forth above and as required by applicable law or regulation. Upon such determination, the Fund may elect to grant the award to the next-highest scoring Proposer. The Fund may simultaneously engage in discussions with multiple Proposers regarding their security practices.

5.0 REQUIRED SERVICES

The Selected Proposer will conduct a fiduciary and conflict of interest review of the Fund for the three-year period of April 1, 2021 – March 31, 2024 (“Covered Period”). The review will cover the investment-related operations of the Fund set out below; it will not cover the administrative operations of the System (i.e., the administration of retirement benefits to participants).

- Task 1:** Evaluate compliance with Fund investment policies and procedures, and compliance with DFS Regulations, for every transaction requiring Comptroller approval that closed during the Covered Period.
- Task 2:** Review the Fund’s asset allocation process as more specifically set forth in Section 5.2 below.
- Task 3:** Based upon the above matters examined in the course of this fiduciary and conflict of interest review, evaluate whether the Fund continues to be in compliance with the fiduciary principles set out in the DFS Regulations.
- Task 4:** Recommend improvement opportunities identified in the course of this review, if any, to the Fund’s investment-related policies, procedures, and practices to bring them in line with prevailing and/or best practices.

5.1. Task 1: Review of Investments: Compliance with Fund Investment Policies and Procedures and DFS Regulations

The Selected Proposer will review documents for all investment transactions requiring the Comptroller’s approval that closed during the Covered Period to determine whether the transaction documents (i) demonstrate the Fund’s compliance with its investment policies and procedures, and (ii) include representations from investment managers on the use of placement agents, disclosure of conflicts of interest and access to records as required by the DFS Regulations, and other key terms as identified by the Fund.

Schedule of Invested Assets as of March 31, 2023	Dollars in Thousands
Domestic Equity	\$ 75,054,447
Global Fixed Income	\$ 48,479,229
International/Global Equity	\$33,944,147
Private Equity	\$ 36,976,567
Real Estate	\$ 25,054,357
Real Assets	\$ 7,811,998
Opportunistic/Absolute Return Strategies	\$ 6,463,357
Mortgage Loans	\$ 1,310,637
Credit	\$ 9,411,439
TOTAL:	\$ 244,506,178

The Consultant is not expected to test any underlying investments and will refer to the charts that are appended to the reports of the three prior fiduciary and conflict of interest reviews as an indication of the scope of the transaction review required. The chart below provides the estimated number of mandates during the Covered Period by asset class.

³ The Annual Comprehensive Financial Reports (“ACFR”) are available on the OSC website: [Financial Reporting and Asset Allocation | Office of the New York State Comptroller \(ny.gov\)](https://www.osc.ny.gov/financial-reporting-and-asset-allocation).

Asset Class	Estimated Mandates⁴
Global Fixed Income	1
Public Equities	16
Private Equity	64
Real Estate	34
Opportunistic/Absolute Return Strategies	25
Commercial Mortgage Loans	3
Real Assets	19
Credit	36
Multi-asset strategic partnerships	3
TOTAL:	201

5.2. Task 2: Review of Fund's Asset Allocation Process

The Selected Proposer will

1. Review the Fund's asset allocation process, including significant inputs and their sources, as well as key steps in the decision-making process, including internal and external collaboration;
2. Identify the Fund's unique characteristics such as its risk appetite and legal restrictions that result in a customized asset allocation proposal.; and
3. For context, compile strategic asset allocations, targets, and ranges in both public and private markets for the 10 largest U.S. state pension plans as of March 31, 2024, along with funded status information, payout ratios, and a brief narrative overview of each. This information should be compiled from publicly available materials.

5.3. Task 3: Assess Compliance with Fiduciary Principles

Based on its review and analysis under Task 1, the Selected Proposer will determine whether policies, procedures, and processes are in place to ensure that the conduct of the investment-related operations of the Fund continue to be consistent with fiduciary principles set forth in the DFS Regulations, specifically:

1. the Fund operates under a strong governance framework with a rigorous system of internal controls;
2. the Fund maintains a high level of operational transparency;
3. the Comptroller adheres to and manages the Fund with the highest ethical, professional, and conflict of interest standards;
4. the Comptroller acts for the sole benefit of the retirement system's members and

⁴ Estimated number for the Covered Period.

beneficiaries; and

5. the Fund is managed in the most efficient and effective manner possible.

5.4. Task 4: Identify Recommendations for Improvement

The Selected Proposer will evaluate how the Fund could enhance the investment-related policies, procedures, and practices that were considered in the course of the review to bring them in line with prevailing and/or best practices. To the extent relevant to the scope of the review, the Selected Proposer is expected to identify any significant changes in the investment or regulatory industry affecting public pension fund investment-related operations during the intervening three years and discuss how the Fund is responding or should plan to respond to those changes. The Selected Proposer will not provide advice on specific investments.

5.5. Conferences and Final Report

An Opening Conference, a Project Plan Review Session, an Interim Briefing Session, and a Closing Conference will be held in-person at the Office of the State Comptroller, 110 State Street, Albany, New York. Additional meetings may be scheduled, as appropriate, in Albany or New York City.

The Opening Conference will provide the Selected Proposer with the opportunity to meet key personnel and request pertinent documents and discuss preferred transmission methods for exchanging such documents.

The Project Plan Review Session will function as a project planning meeting. The Selected Proposer will present a schedule of specific activities planned to complete the review and its requests for access to specific records and personnel. The Selected Proposer can expect meaningful feedback from executive and senior staff regarding the proposed timing and structure of the project.

The Interim Briefing Session will be an opportunity for the Selected Proposer and the Fund to determine if the review is proceeding towards timely completion and production of a meaningful report. The Selected Proposer will provide the Fund with a status update on its progress in conducting the review, raise any issues it may be experiencing in accessing Fund records or personnel, and point out any weaknesses or improvement opportunities in investment-related operations that it has observed in the course of the review to that point. This Session is intended to be an informed and informal exchange among the Selected Proposer's key personnel conducting the review and the members of applicable Fund staff. Accordingly, the Selected Proposer will not be expected to present a formal written draft report at the Interim Briefing Session.

The Selected Proposer will, at least 30 business days prior to the Closing Conference, provide the Fund with a copy of the initial draft report. The Fund may provide a written response, which will be included in the final report. The final report will note, either in the text or as footnotes, instances where the Fund has taken action in response to any improvement opportunities identified in the draft report. The final report produced by the Selected Proposer must be cohesive, well written, and ready for publication.

The purpose of the Closing Conference is to present the conclusions and any improvement opportunities identified in the final report to executive and senior staff of the Fund. The Selected Proposer will provide the Fund with the final report no less than 10 business days in advance of the Closing Conference. The Closing Conference must take place no later than March 31, 2025.

Note: The final report will be made public.

5.6. Timeline for Conduct of Review

The review should be completed within the timeline proposed on Attachment E (Summary Timeline Chart for Conduct Review). It is the Fund's preference that the summary timeline for completing the review does not exceed four months from the date of the Opening Conference to the date of the Closing Conference. However, if the Selected Proposer anticipates that more time will be required, the timeline may exceed four months if accompanied by a justification demonstrating that such additional time is in the best interests of completing a quality review. See Section 7.2.E(4).

Note the following:

A current organizational chart indicating Fund and OSC executive staff and their office locations will be provided to the Selected Proposer. **Fund and OSC staff interviews are expected to be conducted in-person and on-site at the interviewee's location in either Albany or New York City.** At the discretion of the Fund, telephone or video conference interviews or follow-up interviews may be allowed.

The Fund will designate a senior staff member as a central point of contact who will be responsible for coordinating access to records and personnel.

6.0 ADMINISTRATIVE INFORMATION

NOTE: Procurement documents may, from time to time, be amended or addenda issued by the Fund. All amendments and/or addenda to procurement documents will be posted to the OSC website at <http://www.osc.state.ny.us/procurement/index.htm>. Proposers should review the OSC website prior to submission of a proposal to ensure that they have all information required to submit a complete and responsive proposal.

The following administrative information applies to this RFP. Failure to comply fully with this information may result in disqualification of a proposal.

6.1. Restrictions on Communication

All inquiries concerning this procurement must be addressed to the Director of Finance as the Contracting Officer, or designee(s) at OSC, via email (preferred) to RFP@osc.ny.gov or via hard copy mail to:

Director of Finance
Questions for RFP 24-06 Fiduciary and Conflict of Interest Review for the CRF
Office of the State Comptroller
110 State Street, Stop 13-2
Albany, NY 12236-0001

During the "restricted period," as defined below, no Proposer-initiated contact with any OSC or Fund official will be permitted regarding this procurement, except as provided herein. This prohibition applies to any oral, written, or electronic communication under circumstances where a reasonable person would infer that the communication was intended to influence this procurement. Violation of any of the requirements described in this section may be grounds for a determination that the Proposer is non-responsible and therefore ineligible for this contract award. "Restricted period" means the period of time commencing with the earliest written notice, advertisement, or solicitation of an RFP, Invitation for Bid, or proposals, or any other method for soliciting a response from Proposers intending to result in a procurement contract with the Fund and ending with the final contract award by the Fund or termination of the procurement.

6.2. Questions and Requests for Clarification

There will be an opportunity for submission of written questions and requests for clarification regarding this

RFP. All questions and requests for clarification should cite the particular RFP section and paragraph number where applicable and must be submitted via email (preferred) or by hard copy mail to the Contracting Officer as indicated in Section 6.1 (Restrictions on Communication), no later than the Deadline for Submission of Written Questions as specified in Section 1.0 (Calendar of Events). Questions received after the deadline may not be answered.

Proposers are encouraged to review the requirements in the RFP and Attachment K (Draft Contract) and notify the Fund of requirements that would prohibit the Proposer from submitting a proposal.

NOTE: It is the Proposer's responsibility to ensure that hard copy mail or email containing written questions and/or requests for clarification is received at the above address no later than the Deadline for Submission of Written Questions specified in Section 1.0.

The comprehensive list of questions and responses will be posted to the OSC website and notice of such posting will be distributed by email to all vendors known to the Fund who have received electronic access to this RFP on the date specified in Section 1.0. This list will not include the identities of the vendors submitting the questions; those vendors will remain anonymous to the extent allowed by law.

6.3. Pre-deadline Fund Right to Modify RFP

The Fund reserves the right to modify any part of this RFP, including but not limited to, the date and time by which proposals must be submitted and received by the Fund listed in Section 1.0. Modifications to this RFP will be made by issuance of amendments or addenda. Any amendments or addenda issued by the Fund will be posted to the OSC website and subsequent email notification will be provided to all potential Proposers known to the Fund to have received access to this RFP. The Fund also reserves the right to cancel this RFP, in whole or in part, and to reject any or all proposals.

If a Proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the Proposer must immediately notify the Contracting Officer (see Section 6.1) of such error in writing and request clarification or modification of the document. If, prior to the Deadline for Submission of Proposals, a Proposer fails to notify the Contracting Officer of a known error or an error that reasonably should have been known, the Proposer shall assume the risk of proposing. If awarded a contract, the Proposer will not be entitled to additional compensation by reason of the error or its correction.

6.4. Equal Employment Opportunity ("EEO"), Minority- and Women-Owned Business Enterprise ("M/WBE"), and Other Requirements

A. EEO

The Comptroller, as Trustee of the Fund, recognizes the value to the Fund of affording minority group members and women the opportunity to participate in the performance of contracts of the Fund. Toward this end, the Comptroller encourages Proposers to undertake or continue existing programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Upon request of the Comptroller, Proposers must report the result of such programs to the Fund.

B. M/WBE Asset Management and Financial Institution Strategy

The Comptroller, as Trustee of the Fund, has chosen to establish an M/WBE Asset Management and Financial Institution Strategy ("Strategy") aimed at reporting on and increasing the use of M/WBE Asset Managers, M/WBE Financial Institutions, and M/WBE Financial and Professional Service Firms. The implementation of the Strategy is subject to the Comptroller's fiduciary duties and obligations as Trustee of the Fund to the members, retirees, and beneficiaries of the System and such other investment limitations as may be prescribed by Retirement and Social Security Law.

In accord with the Strategy, the Comptroller has established a certification process for the purpose of identifying and reporting the use of those M/WBE firms performing investment-related services (e.g., asset management, brokerage, other financial services or related professional services such as accounting, valuation, or legal services) by contract with the Fund. For the purposes of the Strategy, an M/WBE is defined as a business enterprise that is:

1. A traditional M/WBE that is majority owned (at least 51%) by one or more minority group members, or one or more women; or
2. A non-traditional M/WBE that is “substantially owned and/or operated” by women and/or minority group members (i.e., at least 33% ownership and/or senior management; of which 25% must reflect ownership).

The Selected Proposer, upon request of the Comptroller, shall provide information relating to any such identification, certification, and reporting. Any individual who submits false information on behalf of a business enterprise, and/or any business enterprise that submits false information, may be barred from doing business with the Fund for a period of time to be determined by the Comptroller based on the nature and extent of the false information.

C. Other Reporting Requirements

The Selected Proposer may be required to provide information on participation by other groups that the Fund may determine to certify or report on, such as firms that are owned (or substantially owned and/or operated) by service-disabled veterans (Service-Disabled Veteran-Owned Businesses or SDVOBs).

6.5. State Ethics Law Provision

Officers and employees of OSC, the System, and the Fund are subject to the ethics requirements and restrictions of the Public Officers Law and other laws that apply to State employees, including the requirements of Public Officers Law §§ 73⁵ and 74⁶, and other State codes, rules, and regulations establishing ethical standards for the conduct of State officers and employees.

By submitting a proposal, the Proposer certifies that:

- A.** The Proposer, its officers, directors, employees, subsidiaries, affiliates, partners, subcontractors, and agents have read and understand the above Public Officers Law provisions, including without limitation: (i) restrictions on acceptance or solicitation of gifts and hospitality by a State employee, (ii) the two-year bar on a State employee from appearing before the State employee’s former agency after leaving State service, and (iii) the life-time bar on a State employee from rendering services on any matters with respect to which the State employee was directly concerned during State service and in which the State employee personally participated, or which was under the State employee’s active consideration during State service.
- B.** If the proposal is selected for award, the Selected Proposer, its officers, directors, employees, subsidiaries, affiliates, partners, subcontractors, and agents who will be assigned to perform services must not: (i) offer or make any gift or hospitality to a State employee, (ii) hire any former State employee to appear before OSC, the System, or the Fund to perform services on this engagement in violation of the two-year bar or the lifetime

⁵ <https://www.nysenate.gov/legislation/laws/PBO/73>

⁶ <https://www.nysenate.gov/legislation/laws/PBO/74>

bar, or (iii) assign any current Proposer employee, officer, director, subsidiary, affiliate, partner, or agent to appear before OSC, the System, or the Fund to perform services on this engagement in violation of the two-year bar or the lifetime bar.

This certification is material to the proposal and the Fund intends to rely on it. The Proposer must promptly report to the Fund any non-compliance with the above requirements to:

Office of the State Comptroller
110 State Street – 14th Floor
Albany, New York 12236
Attn: Special Counsel for Ethics

and

Office of the State Comptroller
110 State Street – 14th Floor
Albany, New York 12236
Attn: CRF Compliance Officer

Proposers may address any questions concerning these provisions to:

Special Counsel for Ethics
New York State Office of the State Comptroller
110 State Street – 14th Floor
Albany, New York 12236
(518) 408-3855

6.6. Background Investigations

A. Background Investigation by Consultant

OSC policy requires that background investigations be conducted by the Selected Proposer on its employees and by the Selected Proposer's affiliates and subcontractors on their employees who will provide any of the Services, or employees who will have access to OSC's IT systems, access to Fund confidential information or handle Fund assets, or access to any OSC facility for five consecutive business days or 10 business days over the annual term of the engagement ("Covered Employees").

Accordingly, each Proposer, by submitting a proposal, certifies that it has conducted or will conduct a background investigation on any Covered Employees prior to the commencement of Services. The Selected Proposer must obtain, upon the Fund's request and unless prohibited by applicable law, the consent of such Covered Employees to allow the Office of the State Comptroller Inspector General to audit the results of these background investigations, and (i) to review unredacted background investigation records, including all supporting documentation, and (ii) to conduct its own background investigation. The Selected Proposer must undertake a background investigation of any new/replacement Covered Employees during the term of the engagement. During the term of the engagement, the Selected Proposer must maintain records related to the background investigations performed and in accordance with Appendix A (Section 5, Records).

Only Covered Employees who have passed the background investigation, and provided such consent, shall be assigned to provide Services to the Fund or given access to Fund confidential information or assets.

At a minimum the background investigations must include a review/evaluation of the following:

- identity verification, including Social Security Number or national identity number search, as applicable;
- employment eligibility, including verification of U.S. citizenship or legal immigration status, where appropriate;
- watchlists and a National Sex Offender Registry search;
- sanctions and OFAC search (including SEC information sheet);
- criminal history/court records (Federal, state and local for the past five years), as permitted under applicable law;
- work experience/history for the past five years;
- bankruptcy matters;
- financial Professional Registrations (IAPD, FINRA, NFA), pertinent skills, qualifications, and education/professional credential verification; and
- references.

B. Background Investigations by the Fund

A background investigation will be conducted by the Fund on the Selected Proposer, and its key principals, its key personnel to be assigned to provide the Services, its Chief Compliance Officer (or person serving in similar capacity), and persons with substantial ownership interests in the Selected Proposer ("Covered Persons" as identified in Attachment J - CRF Vendor Responsibility and Conflict of Interest Disclosure Form). At the discretion of the Fund, background investigations may also be conducted on subcontractors and their principals and key personnel. Such background investigation may, at the discretion of the Fund, be conducted prior to the Selected Proposer's execution of an agreement with its subcontractor(s). The Fund may conduct subsequent background investigations on the Selected Proposer and Covered Persons (or its subcontractors) where the Fund deems there has been a material change in circumstances or where an additional background investigation may be prudent.

Upon receipt of the Fund's notice of its intent to conduct such background investigation, the Selected Proposer, Covered Persons, and subcontractor(s) must provide to the Fund, or its third-party vendor, written consent of all individuals subject to the Fund's background investigation. Failure to obtain such consent may be grounds for rescinding preliminary award, or termination of the Services and the Agreement resulting from this RFP.

Note: In the event the attorney assigned to the Project Team is subcontracted, the Fund does not intend to conduct a background investigation on the attorney, nor on the law firm that employs the attorney. However, upon conditional award, the law firm will be required to complete a legal vendor responsibility and conflicts of interest questionnaire.

6.7. Compliance with Laws and Regulations Applicable to the Fund

The Selected Proposer must comply with legal restrictions, and statutory and regulatory requirements, including but not limited to 11 NYCRR § 136-2, attached as Appendix D; and policy guidelines of the Fund; and render advice within these laws, regulations, and guidelines ensuring that no Services are provided in conflict with applicable laws or Fund policies.

6.8. Prohibited Benefits Relating to the Procurement

The Proposer represents and warrants that neither the Proposer nor its Staff has received or paid, or entered into an agreement to receive or pay, any compensation, fees, or any other benefit from or to any

third party, including any subcontractor, to influence the outcome of this procurement.

6.9. Debrief

Any Proposer not selected for award may, within 15 calendar days of release of OSC's written or electronic notice that the Proposer has not been selected for award, request a debriefing to discuss the reasons(s) the proposal submitted was not selected for an award. A debriefing request must be in writing and be submitted to the Contracting Officer (see Section 6.1) or the Contracting Officer's designee(s), via email (preferred) to RFP@osc.ny.gov or via hard copy mail to:

Director of Finance
Debriefing Request: RFP 24-06 Fiduciary and Conflict of Interest Review for the CRF
Office of the State Comptroller
110 State Street, Stop 13-2
Albany, NY 12236-0001

A Proposer will be accorded fair and equal treatment with respect to its opportunity for debriefing. The debriefing will be scheduled within a reasonable time after receipt of the Proposer's written request by the Bureau of Finance.

6.10. The Fund's Reserved Rights

The Fund reserves all rights including, but not limited to, the right to:

- A.** Cancel the procurement, reject any or all proposals received in response to this RFP, award more than one contract, or award no contract.
- B.** Prior to the deadline of submission of proposals, amend the RFP to correct errors or oversights, or to change any of the scheduled dates, or to supply additional information, as it becomes available. Modifications to the RFP will be made by issuance of amendments and/or addenda.
- C.** Prior to the deadline of submission of proposals, direct Proposers to submit proposal modifications addressing RFP amendments or addenda.
- D.** Waive any non-material deviation or defect in a proposal. A waiver of a non-material deviation or defect will in no way modify the RFP documents or excuse the Proposer from full compliance with the RFP requirements.
- E.** Waive any requirements that are not material, or eliminate any mandatory, non-material requirements that cannot be complied with by all prospective Proposers.
- F.** Reject any proposal that contains false or misleading statements, or that provides references that do not support an attribute, condition, or qualification claimed by the Proposer.
- G.** Correct any arithmetical errors in any proposal and, in the event that the fees or costs in two or more proposals are not comparable, to make appropriate adjustments to render the fees and costs comparable.
- H.** Require a Proposer to clarify its proposal to assure a full understanding of the proposal or to request revisions to all proposals from Proposers susceptible of award of the contract. Any request for clarification or revision is solely at the discretion of the Fund. No Proposer will be allowed to alter its proposal or add information after the Deadline for Submission of

Proposals.

- I. Rescind a preliminary contract award and proceed to the next highest-scoring Proposer if a signed contract does not result from good faith negotiations within a reasonable period of time as determined by the Fund.
- J. Proceed to the next highest-scoring Proposer in the event that the Proposer who had achieved best value prior to contract award cannot satisfy the requirements as stated in this RFP.

6.11. Freedom of Information Law

Proposals, or portions thereof, may be subject to disclosure in accordance with the requirements of the Freedom of Information Law, Public Officers Law § 84 et. seq (“FOIL”). Accordingly, upon submission of its proposal, Proposer is encouraged to clearly and specifically indicate any portion of its proposal it believes is exempt from disclosure, including any portion that constitutes, among other things, a trade secret, or the disclosure of which would cause substantial injury to the Proposer’s competitive position. Explain the rationale therefor. Blanket assertions are insufficient. Prior to releasing any documents so marked, the Fund will notify Proposer to afford Proposer an opportunity to seek a protective order or other remedy to protect such documents from disclosure.

7.0 PROPOSAL CONTENT

The following includes the format and information to be provided by each Proposer. Proposers responding to this RFP should satisfy all requirements stated in this RFP. Proposers should submit complete Administrative, Technical, and Cost proposals. A proposal that is incomplete in any material respect may be rejected.

To expedite review, Proposers are requested to submit proposals in separate Administrative, Technical, and Cost packages and submit attachments in the order as shown in Attachment B (Proposal Documents Submitted). No information beyond that specifically requested is required, and Proposers are requested to keep their submissions to the shortest length consistent with making a complete presentation of qualifications. Additional information, if submitted, should be in a separate package. Proposals must contain sufficient information to assure the Fund of their accuracy.

Evaluations of the Administrative, Technical, and Cost proposals received in response to this RFP will be conducted separately. **Proposers are therefore cautioned not to include any Cost information in the Administrative or Technical proposal documents.**

7.1. Administrative Proposal

The Administrative proposal should contain all requirements listed below. Information and forms requested should be provided in the prescribed format and in the same order in which they are requested. Responses that are incomplete or that do not follow the prescribed format may be eliminated from consideration. All responses to the RFP will be subject to verification for accuracy.

Do not include cost information in the Administrative proposal.

A. CRF Vendor Responsibility and Conflict of Interest Disclosure Form

Submit a completed and signed Attachment J (CRF Vendor Responsibility and Conflict of Interest Disclosure Form).

B. Contractor’s Certifications/Acknowledgements

Submit a completed and signed Appendix E (Contractor’s Certifications/Acknowledgements), which includes the Proposer’s acknowledgement of (i) receipt of the OSC Policy Statement on Discrimination and Harassment, Including Sexual Harassment (Appendix B), and (ii) the Non-Collusive Bidding Certification.

C. Material Conflicts of Interest Statement

Submit a completed, signed, and notarized Appendix G (Material Conflicts of Interest Statement).

D. CRF Proposer’s Disclosure of Prior Non-Responsibility Determinations

Submit a completed and signed Appendix F (CRF Proposer’s Disclosure of Prior Non-Responsibility Determinations).

E. Freedom of Information Law – Proposal Redactions

Where applicable, Proposers are encouraged to clearly and specifically identify any portion of their proposal that a Proposer believes is entitled to an exception from disclosure pursuant to FOIL. See Section 6.11 (Freedom of Information Law).

F. Proposed Modifications to the Draft Contract (if any)

The Proposer should submit proposed modifications to the Draft Contract, if any, in MSWord format with redlined (tracked) changes. Identify the section of the Draft Contract that Proposer proposes to modify, and explain why the change is in the best interest of the Fund. As noted above in Section 2.2, the Fund has no obligation to accept any such proposed modifications and reserves all rights to reject any proposed changes.

7.2. Technical Proposal

The purpose of the Technical proposal is to demonstrate the qualifications, competence, and capacity of the Proposer and its Staff to undertake the relevant responsibilities set forth herein while complying with applicable laws, regulations, fiduciary standards, and the requirements of the RFP.

The following outlines the information to be provided by Proposers. Information should be provided in the order listed below, and in the prescribed format. Responses that do not conform to these instructions may be eliminated from consideration. In addition, a Technical proposal that is incomplete, inaccurate, or otherwise non-responsive in any material respect may be eliminated from consideration.

All responses to the RFP will be subject to verification for accuracy.

Do not include cost information in the Technical proposal.

A. Title Page

Submit a Title Page providing the RFP subject and number, the Proposer’s name, the date of the proposal, and marked as Original or Copy.

B. Table of Contents

The Table of Contents should clearly identify all material (by section and page number) included in the proposal.

Each proposal should contain an index that cites each tab number in the proposal where the requested information can be found using the tab numbers found in Attachment B (Proposal Documents Submitted) for the corresponding RFP section.

C. Proposer's Certified Statements

Submit Attachment A (Proposer's Certified Statements), which includes information regarding the Proposer. Attachment A should be signed by an individual authorized to bind the Proposer contractually and should indicate the title or position that the signer holds with the Proposer. The Fund reserves the right to reject a proposal that contains an incomplete or unsigned Attachment A or no Attachment A.

D. Proof of Compliance with Minimum Qualifications

Complete Attachment D (Proof of Compliance with Minimum Qualifications) demonstrating that the Proposer satisfies each of the Minimum Qualifications stated in Section 3.0.

E. Technical Submissions

1. Proposer's Relevant Experience

Submit a completed Attachment F (Proposer's Relevant Experience, Part 1), highlighting areas of expertise (if any) and listing all pension funds or other institutional investors for which the Proposer has performed services of the type contemplated by this RFP. The information should include, as applicable, the name of the client, size of the client at the time of the engagement (in assets under management ("AUM")), type of engagement, the date the services were performed, and the staff assigned to the engagement and their role. If any of the entities listed has terminated its relationship with Proposer, describe their reason for doing so in an attachment.

Submit a completed Attachment F (Proposer's Relevant Experience, Part 2), for no more than five pension funds or other institutional investors listed in Part 1 (**EXCLUDING THE FUND**), provide a brief description of the services rendered, list all asset classes covered under the engagement, and indicate whether the scope of the engagement included a review of asset allocation.

The Proposer should limit its narrative response to those engagements which it considers to be its most significant and relevant to this engagement. For one relevant engagement, provide a copy of the final report. If such engagement did not result in a public report, the final report may be redacted as necessary. Do not include more than one report.

2. Project Team

Describe the key individuals, including the attorney and Project Manager, who will be dedicated to this project ("Project Team"). Attach a resume for each member of the Project Team that provides the following information:

- i.** Name and title.
- ii.** Role/responsibility on Project Team.
- iii.** Relevant professional experience, including number of years.
- iv.** Key skill areas.

- v. Role/responsibility in the engagements identified on Attachment F, Part 2. If Project Team member did not participate in such reviews, so state. Preference will be given to a Project Team that has completed at least one engagement with the Proposer as a team.
- vi. For the attorney, include a description of the attorney's experience in institutional investment transactions and fiduciary law.

Identify on Attachment G (Listing of Proposed Subcontractors) all subcontractors that will be utilized during this engagement. If the Proposer does not intend to utilize subcontractors to provide any of the Services, indicate such on Attachment G. Also attach resumes for all individuals listed on Attachment G. Resumes should include:

- i. The number of years the subcontracted person has worked with the Proposer.
- ii. The number of engagements the subcontracted person has completed with the Proposer.
- iii. A listing of all engagements the subcontracted person has worked on with the Proposer, including the subcontracted person's role in such engagements.
- iv. The subcontracted person's relevant professional experience.

Note: The use of subcontractors is subject to the Fund's approval.

3. Project Plan

Proposer should complete Attachment H (Project Plan and Resources) and provide a detailed Project Plan for accomplishing each task area described in Section 5.0 (Required Services), together with a timeline for each task area and the project as a whole.

The Proposer's detailed methodology should address the following:

- v. the proposed execution of the specific tasks to be performed, including relevant activities to accomplish such tasks;
- vi. the expected duration in days necessary for each task area;
- vii. the Project Team member assigned to each task area; and
- viii. the expected portion of the proposed Project Manager's and each Project Team member's business time that will be devoted to the project.

4. Summary Timeline Chart

The Proposer should provide the Fund with a summary timeline for completing the review, **preferably not to exceed four months from the date of the Opening Conference to the date of the Closing Conference, using Attachment E.** If the Proposer anticipates that more time will be required, the timeline may exceed four months if accompanied by a justification demonstrating that such additional time is in the best interests of completing a quality review.

F. References

Submit a minimum of three references for the Proposer from public pension or other institutional investor entities using Attachment I (References). Two references must be from the pension fund or institutional investor clients listed on Attachment D (Proof of Compliance with Minimum Qualifications) for Minimum Qualification #1. One reference must be specific to the proposed Project Manager. References may be checked at any point during the evaluation process.

7.3. Cost Proposal

Cost proposals must be submitted on Attachment C (Cost Proposal). Cost proposals must be submitted in a separate sealed envelope, not included with the Administrative or Technical proposals.

Failure to comply with the format and content requirements may result in disqualification.

8.0 PROPOSAL SUBMISSION

Proposals must be received by the date and time indicated for the Deadline for Submission of Proposals as specified in Section 1.0 (Calendar of Events). Proposals received after the Deadline for Submission of Proposals may be rejected.

Administrative, Technical, and Cost proposals must be clearly labeled and submitted by U.S. Mail, by courier or, or delivery service (e.g., FedEx, UPS) in separately sealed packages to:

Attn: Director of Finance
Office of the State Comptroller (RFP24-06)
110 State Street, Mail Stop 13-2
Albany, NY 12236-0001

IMPORTANT: OSC **strongly encourages** the use of package tracking so as to provide evidence of timely bid submittal in the event of mail delivery issues.

Submission of proposals in a manner other than as described in these instructions (e.g., fax, electronic transmission) will not be accepted. OSC will not accept hand delivery of proposals at 110 State Street.

A Proposer may withdraw a Proposal at any time before the Deadline for Submission of Proposals by written notification to OSC (see Section 6.1). An authorized agent of the Proposer must sign the notice of withdrawal. The Proposal may thereafter be resubmitted, but not after the Deadline for Submission of Proposals specified in Section 1.0. Modification offered in any other manner, oral or written, will not be considered.

8.1. Submission of Proposal Components

Proposer must submit SEPARATE Administrative, Technical, and Cost proposals, via one of the submittal options identified below.

Note: Documents requiring signature should be signed with an ink pen (i.e., wet signature). Proposals submitted with e-signatures or scanned signatures may be accepted by OSC, at OSC's discretion, subject to the requirements set forth herein.⁷

⁷ If wet ink signatures cannot be provided, OSC may [will] accept proposals submitted with e-signatures or scanned

A. Option #1: USB Flash Drive (Preferred)

The Proposer may submit each of the complete Administrative, Technical, and Cost proposals **as separate files** on a **single** USB flash drive. An acceptable format for the files is unlocked Adobe PDF. OSC prefers that such files be searchable. The files must be representative copies of the original documents, **including signatures**.

Clearly mark the envelope and the USB flash drive as “RFP 24-06 [Proposer’s name].”

The Proposer must retain the original Proposal documents in its records. If the Proposer is selected for award, the Proposer must submit wet ink signed documents to OSC prior to contract execution (if so requested).

It is the Proposer’s responsibility to ensure that the USB drive is free from malicious software and that the files are accessible and uncorrupted. The Proposer should scan the USB flash drive before submission to ensure there is no malicious software (i.e., malware) on the drive and that all files are accessible and uncorrupted. OSC will perform a security scan on the USB flash drive before accessing the stored files. If the security scan identifies malicious software, or the files are inaccessible or corrupted, OSC will reject the submission and disqualify the Proposer from further consideration.

Proposers may mitigate the risk associated with submitting via USB flash drive by providing one paper copy of each of the Administrative, Technical, and Cost proposals along with its USB flash drive submission.

- If a Proposer submits a paper copy with its USB submission and OSC is unable to access the proposal files on the USB flash drive, OSC will request a replacement USB drive from the Proposer and use the paper copies to verify the Proposer did not make any revisions to its proposal past the proposal due date.
- In the absence of a paper copy, if OSC is unable to access the proposal files on the USB flash drive, OSC will reject the submission and disqualify the Proposer as stated above.

NOTE: SUBMISSION OF OTHER TYPES OF DATA STORAGE DEVICES WILL NOT BE ACCEPTED.

B. Option #2: Paper

The Proposer may submit paper documents of each of the complete Administrative, Technical, and Cost proposals as follows:

Administrative Proposal	Submit ONE paper original (labeled as original on the cover page), and TWO paper copies.
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signatures, but OSC retains the right to require submission of documentation verifying the identity of the signer and the signer’s intent to sign on behalf of the Proposer, and [may] will require submission of wet ink signatures upon notice of award. Failure to provide appropriately signed original documents [upon request by OSC/after notice of award] may result in disqualification.

Technical Proposal	Submit ONE paper original (labeled as original on the cover page) and FOUR paper copies.
Cost Proposal	Submit ONE paper original (labeled as original on the cover page) and TWO paper copies.

Submit each of the complete Administrative, Technical, and Cost proposals in a separate sealed package, all of which may be submitted within one complete proposal package.

If the Proposer elects to submit paper proposals, OSC requests that the Proposer also submit a USB flash drive with electronic copies of the proposals.

Clearly mark the outside envelope of the sealed proposals, the original, each copy, and USB flash drive (if applicable) as “RFP 24-06 [Proposer’s name].”

9.0 EVALUATION PROCESS/CRITERIA

9.1. Submission Review

A. Preliminary Review

The Fund will examine all Proposals that are received in a proper and timely manner to determine if they meet the submission requirements, as described in Section 7.0 (Proposal Content) and Section 8.0 (Proposal Submission), and include the proper documentation as stated in this RFP. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of the Fund, may be rejected.

B. Minimum Qualification Review

All responsive proposals will be reviewed to ensure the Minimum Qualifications as stated in Section 3.0 (Minimum Qualifications to Propose) have been met. Proposals failing to meet the Minimum Qualifications will not be evaluated any further.

C. Registered Investment Adviser Review

All proposals meeting the Minimum Qualifications will undergo a registered investment adviser review based on information provided on Attachment J (CRF Vendor Responsibility and Conflict of Interest Disclosure Form). Proposals that fail to satisfy the registered investment adviser review, which review may include requests for clarifying information from a Proposer, may be eliminated from further evaluation.

9.2. Technical Evaluation

Qualified OSC staff (the “Evaluation Committee”) will evaluate and score all responsive proposals evaluated and scored for technical qualifications, subject to the terms of this RFP. The evaluation process will include separate technical and cost evaluations, and the result of each evaluation will remain confidential until both evaluations have been completed and a selection of the winning proposal is made. The technical proposal will be weighted 80% of a proposal’s total score and the cost proposal will be weighted 20% of a proposal’s total score.

To ensure that a qualified Proposer is selected for award, the Fund will eliminate from consideration of award all proposals whose technical proposal score is less than 80% of the top scoring technical proposal

received in response to this RFP. For example, if the top technical proposal score received in response to this RFP is 60, all proposals with a technical score of 47 points or less will be removed from consideration of award. The cost proposals of Proposers eliminated from consideration of award for this reason will not be scored and scores will not be used to determine the proportionate scores of other proposals, as described in Section 9.3 below.

Following the evaluation of proposals as provided herein, the Evaluation Committee will determine if interviews will be conducted.

9.3. Cost Evaluation

The maximum cost score will be allocated to the responsive proposal with the lowest all-inclusive not-to-exceed cost. All other responsive Proposals will receive a proportionate score based on the relation of their cost proposal to the proposal offered at the lowest cost, using this formula:

Cost points awarded *equals* number of potential points *times* (the lowest cost proposal *divided by* cost of proposal being evaluated).

9.4. Finalists

The cost score will be added to the technical score to arrive at a preliminary composite score. The proposals with the three highest preliminary composite scores will be deemed finalists. Any proposal scoring within 10 percent of the third highest preliminary composite scoring proposal will also be deemed a finalist.

9.5. Interviews

The Fund may, in its discretion, interview finalists at 110 State Street, Albany or in New York City, NY or, at the discretion of the Technical Evaluation Committee, by telephone or videoconference. Interviews are anticipated to start the week of the date listed in Section 1.0.

Each interviewee will be notified of the date, place, and time of their interview. Key members of the Project Team who will be responsible for providing the Services to the Fund should be present and participate in the interview.

The purpose of the interview is to allow evaluators to obtain clarification, if needed, and to substantiate the characteristics and attributes claimed in the proposal. The discussions will only cover topics covered in the RFP and proposal. The technical scores of interviewees may be rescored and adjusted up or down based on the interview.

9.6. Reference Checks

The Proposer should submit references using Attachment I (References). At the discretion of the Evaluation Committee, references may be checked at any point during the process.

9.7. Final Composite Score

Following the interviews and reference checks (if conducted), and review of any requested clarifications to a proposal, the Technical Evaluation Committee may re-score each finalist. Any re-scoring will reflect the results of the interview process, based upon the likelihood of success of the Proposers in performing the services required.

A final score for each responsive Proposal will be calculated by adding the final technical proposal points and the cost proposal points.

10.0 AWARD AND CONTRACT

Following the evaluation process, the Evaluation Committee may make a recommendation to the Fund that a contract be awarded. If the Fund accepts the recommendation of the Evaluation Committee, the Director of Finance will notify the Selected Proposer(s) and Proposers not selected. Award is conditioned upon successful completion of a responsibility review conducted by OSC Finance, Fund approval of the legal vendor responsibility and conflict of interest questionnaire (if applicable; see Section 6.6.B) and a conflict of interest review and background investigation (see Section 6.6), conducted by the Fund's Director of Compliance.

Note: As stated above, in the event the attorney assigned to the Project Team is subcontracted, the Fund does not intend to conduct a background investigation of the attorney, or on the law firm that employs the attorney.

ATTACHMENT A

PROPOSER'S CERTIFIED STATEMENTS

(MANDATORY SUBMISSION: to be completed and included in the Technical proposal documents)

RFP24-06 – Fiduciary and Conflict of Interest Review for the CRF	
1. Proposer Information:	
A. Proposer's name, address, telephone number.	
Name:	
Address:	
City, State, ZIP Code:	
Telephone Number (including area code):	
B. Name, address, telephone number, and email address of the Proposer's primary contact for this proposal.	
Name:	
Address:	
City, State, ZIP Code:	
Telephone Number (including area code):	
Email Address:	
2. Minimum Qualifications to Propose (Section 3.0):	
A. The Proposer has conducted within the last 10 years at least two independent, in-depth reviews (substantially focused on policies, procedures, and practices) of investment-related decision-making processes, management, and/or operations of a pension fund or other institutional investor, each having assets at the time of the review of at least \$25 billion. Prior reviews for the Fund may not be used to meet this Minimum Qualification.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
B. The Proposer has proposed a Project Manager to serve as the primary point of contact, responsible for managing the contractual relationship with the Fund and overseeing delivery of all Services. Such Project Manager has provided project management services for a minimum of two reviews comparable to Minimum Qualification #1.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
C. The Proposer has on its team, as an employee or subcontractor (i.e., outside counsel), an attorney with a minimum of five years of experience in institutional investment transactions and fiduciary law to assist in the review.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
D. The Proposer and its subcontractors (if any) are an "unaffiliated person" as defined in Section 136-2.2(k) of the DFS Regulations.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
3. Proposer's Acknowledgement of Proposal Requirements:	
A. The proposal, including the Administrative, Technical, and Cost proposals, constitutes a firm and irrevocable offer for a period of 180 days from the date of submission to the Fund.	<input type="checkbox"/> Yes <input type="checkbox"/> No*

B. By submission of a proposal, the Proposer agrees not to make any claims for and waives any right to any damages based on misrepresentations or misunderstanding of the RFP specifications or because of any lack of information.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
C. The Proposer can and will provide the Services as described in this RFP and its proposal if selected for award.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
D. The Proposer certifies that all information provided in connection with its proposal is true and accurate.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
E. The Proposer has read Appendix A (Standard Clauses for Contracts Entered into by the Comptroller of the State of New York as Trustee of the New York State Common Retirement Fund) and understands that Appendix A will be incorporated into the contract entered into between the Fund and the Selected Proposer.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
F. The Proposer has reviewed the Draft Contract (Attachment K), and the Proposer is willing to enter into an agreement substantially in accord with the terms of the Draft Contract, should the Proposer be selected for contract award.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
G. The Proposer certifies that it has conducted or will conduct a background investigation on any Covered Employee prior to the Covered Employee commencing Services.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
*A "No" Response in Sections 2 and 3 may result in disqualification.	
4. For Draft Agreement Article V. Representations, Warranties, and Covenants:	
The Proposer is an entity duly organized, validly existing, and in good standing under the laws of the state of:	<input type="checkbox"/> Yes <input type="checkbox"/> No
State:	
The Proposer has authority to conduct business in the State of New York.	
5. Name, title, address, telephone number, and email address of the person authorized to receive notices with regard to the contract entered into as a result of this procurement. See Section XVII of the Draft Contract (Attachments K), Notices.	
Name:	
Title:	
Address:	
City, State, ZIP Code:	
Telephone Number (including area code):	
Email Address:	
6. Taxpayer Identification Number:	
The Taxpayer Identification Number of the Proposer is _____.	
By my signature I affirm under penalty of perjury that I am duly authorized to legally bind the Proposer referenced above and I sign this Attachment A (Proposer's Certified Statements) as the legally binding act of the Proposer.	

Typed or Printed Name of Authorized Representative of the Proposer

Title/Position of Authorized Representative of the Proposer

Signature of Authorized Representative of the Proposer

Date

**ATTACHMENT B
PROPOSAL DOCUMENTS SUBMITTED**

FOR THE ADMINISTRATIVE PROPOSAL			
TAB #	RFP §:	REQUIREMENT	INCLUDED
1.	§7.1.A	Attachment J – CRF Vendor Responsibility and Conflict of Interest Disclosure Form, completed and signed	<input type="checkbox"/>
2.	§7.1.B	Appendix E – Contractor’s Certifications/Acknowledgements, completed and signed	<input type="checkbox"/>
3.	§7.1.D	Appendix F – CRF Proposer’s Disclosure of Prior Non-Responsibility, completed and signed	<input type="checkbox"/>
4.	§7.1.C	Appendix G – Material Conflicts of Interest Statement, completed, notarized, and signed	<input type="checkbox"/>
5.	§7.1.E	Written statement regarding claimed Freedom of Information Law exceptions, if any (recommended)	<input type="checkbox"/>
6.	§7.1.F	Proposed modifications to the Draft Contract, if any, in MS Word format with redlined (tracked) changes. Identify the section of the Draft Contract that Proposer proposes to modify, and explain why the change is in the best interest of the Fund. As noted above in Section 2.2, the Fund has no obligation to accept any such proposed modifications and reserves all rights to reject any proposed changes.	<input type="checkbox"/>
FOR THE TECHNICAL PROPOSAL			
TAB	RFP §:	REQUIREMENT	INCLUDED
1.	§7.2.A-B	Title Page & Table of Contents	<input type="checkbox"/>
2.	§7.2.C	Attachment A – Proposer’s Certified Statements, completed and signed	<input type="checkbox"/>
3.	§7.2.D	Attachment D – Proof of Compliance with Minimum Qualifications	<input type="checkbox"/>
4	§7.2.E	Technical Submission – Proposal contents as described in the RFP, including:	<input type="checkbox"/>
		Attachment E – Summary Timeline Chart for Conduct Review	<input type="checkbox"/>
		Attachment F – Proposer’s Relevant Experience	<input type="checkbox"/>
		Attachment G – Listing of Proposed Subcontractors	<input type="checkbox"/>
		Attachment H – Project Plan and Resources	<input type="checkbox"/>
5.	§7.2.F	Attachment I – References (minimum of THREE)	<input type="checkbox"/>
FOR THE COST PROPOSAL			
TAB #	RFP §:	REQUIREMENT	INCLUDED
1.	§7.3	Attachment C – Cost Proposal, completed and signed	<input type="checkbox"/>
FOR ALL PROPOSALS			
	RFP §:	REQUIREMENT	INCLUDED

N/A	§8.1.A OPTION 1	Submit a single USB flash drive that has been scanned for malware and contains each of the complete Administrative, Technical, and Cost proposals <u>as separate files</u> as stated in Section 8.1.A. (preferred)	<input type="checkbox"/>
		Optional: Submit one paper copy of each complete Administrative, Technical, and Cost proposals (recommended)	<input type="checkbox"/>
N/A	§8.1.B OPTION 2	ONE Original and TWO Copies of the Administrative proposal	<input type="checkbox"/>
		ONE Original and FOUR Copies of the Technical proposal	<input type="checkbox"/>
		ONE Original and TWO Copies of the Cost proposal	<input type="checkbox"/>
		Submit a single USB flash drive that has been scanned for malware and contains each of the complete Administrative, Technical, and Cost proposals as separate files as stated in Section 8.1.B. (requested)	<input type="checkbox"/>

**ATTACHMENT C
COST PROPOSAL**

Complete this form AS WRITTEN.

Changes to this form, caveats, or exceptions may result in a rejection of your proposal.

PROPOSER:		
SUMMARY TIMELINE FOR PAYMENT		
Chart of Events	Percentage of Fees to be Paid for Completion of Deliverable	Dollar Amount*
Project Plan Review Session:	20%	\$ _____
Submission of Initial Draft Report:	40%	\$ _____
Submission of Final Report:	30%	\$ _____
Closing Conference:	10%	\$ _____
<u>TOTAL PROFESSIONAL FEE*:</u>		
*THE FEE MUST INCLUDE ALL OVERHEAD AND OTHER INDIRECT EXPENSES INCLUDING THE COSTS FOR ANY STAFF TRAVEL AND LODGING.		\$ _____

ATTACHMENT D

PROOF OF COMPLIANCE WITH MINIMUM QUALIFICATIONS

(Note: Fields will expand as you type)

Complete the tables below, demonstrating how the Proposer meets the following minimum qualifications (“MQ”):

Proposer:			
<p>MQ #1: The Proposer must have conducted within the last 10 years at least two independent, in-depth reviews (substantially focused on policies, procedures, and practices) of the investment-related decision-making processes, management, and/or operations of a pension fund or other institutional investor other than the Fund, each having assets at the time of the review of at least \$25 billion.</p> <p>Note: Prior reviews for the Fund may not be used to meet this minimum qualification.</p>			
Name of Pension Fund or Institutional Investor	Asset Value at the Time of the Review	Date of the Review	Review was of Investment-Related Decision-Making Processes, Management, and/or Operations of a Pension Fund or other Institutional Investor (other than the Fund)
	\$		<input type="checkbox"/> Yes <input type="checkbox"/> No
	\$		<input type="checkbox"/> Yes <input type="checkbox"/> No

MQ #2: The Proposer must provide a Project Manager to serve as the primary point of contact, responsible for managing the contractual relationship with the Fund and overseeing delivery of all Services. Such Project Manager must have provided project management services for a minimum of two reviews comparable to Minimum Qualification #1.

Name of Proposed Project Manager:			
Review #1			
Name of Pension Fund or Institutional Investor	Asset Value at the Time of the Review (at least \$25 billion)	Date of the Review	Review was of Investment-Related Decision-Making Processes, Management, and/or Operations of a Pension Fund or other Institutional Investor (Other than the Fund)
	\$		<input type="checkbox"/> Yes <input type="checkbox"/> No
Review #2			
Name of Pension Fund or Institutional Investor	Asset Value at the Time of the Review (at least \$25 billion)	Date of the Review	Review was of Investment-Related Decision-Making Processes, Management, and/or Operations of a Pension Fund or other Institutional Investor (Other than the Fund)
	\$		<input type="checkbox"/> Yes <input type="checkbox"/> No

MQ #3: The Proposer must have on its team, as an employee or subcontractor (i.e., outside counsel), an attorney with a minimum of five years of experience in institutional investment transactions and fiduciary law to assist in the review.	
Attorney Name:	
Has a Background in Institutional Investment Transactions and Fiduciary Law:	<input type="checkbox"/> Yes <input type="checkbox"/> No
Years of Experience:	

MQ #4: The Proposer and its subcontractors (if any) must be an “unaffiliated person” as defined in Section 136-2.2(k) of the DFS Regulations. Section 136-2.2(k) defines an “unaffiliated person” as any person other than:

1. the Comptroller or a family member of the Comptroller;
2. an officer or employee of OSC;
3. an individual or entity doing business with OSC or the Fund; or
4. an individual or entity that has a substantial financial interest in an entity doing business with OSC or the Fund.¹

¹ For the purpose of this paragraph, the term substantial financial interest shall mean the control of the entity, whereby control means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract (except a commercial contract for goods or non-management services) or otherwise; but no individual shall be deemed to control an entity solely by reason of his being an officer or director of such entity. Control shall be presumed to exist if any individual directly or indirectly owns, controls or holds with the power to vote 10 percent or more of the voting securities of such entity.

Affirmative Statement, Proposer and its subcontractors (if any) are an unaffiliated person as defined in Section 136-2.2(k) of the DFS Regulations (“Yes”): _____

ATTACHMENT E

SUMMARY TIMELINE CHART FOR CONDUCT OF REVIEW

PROPOSER:	
SUMMARY TIMELINE FOR CONDUCT OF REVIEW	
Chart of Events	<i>Anticipated Dates</i> *
Opening Conference	
Project Plan Review Session	
Interim Briefing	
Submission of Initial Draft Report	
Submission of Final Report	
Closing Conference (no later than 3/31/2025)	
*If Timeline exceeds four months, submit justification as required by Section 7.2.E(4).	

ATTACHMENT F

PROPOSER'S RELEVANT EXPERIENCE

(Note: fields will expand as you type)

PROPOSER:					
Proposer's Area of Expertise:					
PROPOSER'S RELEVANT EXPERIENCE (Part 1)					
Pension Fund/Institutional Investor Client Name	Client Size (at the time of the engagement) (AUM)	Type of Engagement	Date Services were Performed	Staff Assigned and Role	Relationship Terminated by Client? (Y or N) If yes, provide explanation in an attachment
					<input type="checkbox"/> Yes <input type="checkbox"/> No
					<input type="checkbox"/> Yes <input type="checkbox"/> No
					<input type="checkbox"/> Yes <input type="checkbox"/> No
					<input type="checkbox"/> Yes <input type="checkbox"/> No
					<input type="checkbox"/> Yes <input type="checkbox"/> No

					<input type="checkbox"/> Yes <input type="checkbox"/> No
					<input type="checkbox"/> Yes <input type="checkbox"/> No
					<input type="checkbox"/> Yes <input type="checkbox"/> No
					<input type="checkbox"/> Yes <input type="checkbox"/> No
					<input type="checkbox"/> Yes <input type="checkbox"/> No

PROPOSER'S RELEVANT EXPERIENCE – CONTINUED

(Note: fields will expand as you type)

PROPOSER:	
PROPOSER'S RELEVANT EXPERIENCE (Part 2)	
For no more than five of the pension funds or other institutional investors listed in Part 1 (EXCLUDING THE NYS COMMON RETIREMENT FUND), provide a brief description of the services rendered, list all asset classes covered, and indicate whether the scope of the engagement included a review of asset allocation. Response should be limited to engagements that are most significant and relevant to this engagement. For one relevant engagement, provide a copy of the final report. If such engagement did not result in a public report, the final report may be redacted as necessary. Do not include more than one report.	
Client #1 Name:	
Asset Classes Covered:	
Scope of the engagement included a review of asset allocation:	<input type="checkbox"/> Yes <input type="checkbox"/> No
Brief Description: 	
Client #2 Name:	
Asset Classes Covered:	
Scope of the engagement included a review of asset allocation:	<input type="checkbox"/> Yes <input type="checkbox"/> No

Brief Description:

PROPOSER'S RELEVANT EXPERIENCE – CONTINUED

(Note: fields will expand as you type)

Client #3 Name:	
Brief Description:	
Client #4 Name:	
Asset Classes Covered:	
Scope of the engagement included a review of asset allocation:	<input type="checkbox"/> Yes <input type="checkbox"/> No
Brief Description:	
Client #5 Name:	
Asset Classes Covered:	
Scope of the engagement included a review of asset allocation:	<input type="checkbox"/> Yes <input type="checkbox"/> No

Brief Description:

**ATTACHMENT G
LISTING OF PROPOSED SUBCONTRACTORS**

(Note: Fields will expand as you type)

If no subcontractors are expected to provide any of the Services, indicate.

PROPOSER:	
LISTING OF PROPOSED SUBCONTRACTORS	
Proposed Subcontractor (Including Entity Name and subcontracted employee name)	Services to be Performed

ATTACHMENT H

PROJECT PLAN AND RESOURCES

(Note: fields will expand as you type)

PROPOSER:		
PROJECT PLAN AND RESOURCES		
Task 1: Review of Investments; Compliance with CRF Investment Policies and Procedures and DFS Regulations		
Describe the proposed execution of the specific tasks to be performed, including relevant activities to accomplish such tasks:		
Anticipated number of days necessary to complete Task 1:	_____ calendar days	
List Project Team Member and Activities Assigned to Team Member to Accomplish Task 1	Percentage of Time Devoted to Task 1	
	%	
	%	
	%	
	%	
	%	

PROJECT PLAN AND RESOURCES – CONTINUED

(Note: fields will expand as you type)

PROPOSER:		
PROJECT PLAN AND RESOURCES		
Task 2: Review the Fund’s Asset Allocation Process		
Describe proposed execution of the specific tasks to be performed, including relevant activities to accomplish such tasks:		
Anticipated number of days necessary to complete Task 2:	_____ calendar days	
List Project Team Member and Activities Assigned to Team Member to Accomplish Task 2	Percentage of Time Devoted to Task 2	
	%	
	%	
	%	
	%	
	%	

PROJECT PLAN AND RESOURCES – CONTINUED

(Note: fields will expand as you type)

PROPOSER:		
PROJECT PLAN AND RESOURCES		
Task 3: Assess Compliance with Fiduciary Principles		
Describe proposed execution of the specific tasks to be performed, including relevant activities to accomplish such tasks:		
Anticipated number of days necessary to complete Task 3:	_____ calendar days	
List Project Team Member and Activities Assigned to Team Member to Accomplish Task 3	Percentage of Time Devoted to Task 3	
	%	
	%	
	%	
	%	
	%	

PROJECT PLAN AND RESOURCES – CONTINUED

(Note: fields will expand as you type)

PROPOSER:		
PROJECT PLAN AND RESOURCES		
Task 4: Identify Recommendations for Improvement		
Describe proposed execution of the specific tasks to be performed, including relevant activities to accomplish such tasks:		
Anticipated number of days necessary to complete Task 4:	_____ calendar days	
List Project Team Member and Activities Assigned to Team Member to Accomplish Task 4	Percentage of Time Devoted to Task 4	
	%	
	%	
	%	
	%	
	%	

ATTACHMENT I REFERENCES

Submit a minimum of **THREE** references for the Proposer from public pension or other institutional investor entities. Two references must be from the pension fund or institutional investor clients listed on Attachment D (Proof of Compliance with Minimum Qualifications) for Minimum Qualification #1. One reference must be specific to the proposed Project Manager.

PROPOSER:	
Provide the following information for each reference submitted. Fields will expand as you type. Make additional copies of this form as needed.	
Reference Company #1:	
Address:	
City, State, Zip:	
Contact Person:	
Telephone No.:	
Email Address:	
Has this reference terminated its relationship with the Proposer? If Yes, why?	
Specify whether this reference is for the proposed Project Manager	<input type="checkbox"/> Yes <input type="checkbox"/> No
Reference Company #2:	
Address:	
City, State, Zip:	
Contact Person:	
Telephone No.:	
Email Address:	
Has this reference terminated its relationship with the Proposer? If Yes, why?	
Specify whether this reference is for the proposed Project Manager	<input type="checkbox"/> Yes <input type="checkbox"/> No
Reference Company #3:	
Address:	
City, State, Zip:	
Contact Person:	
Telephone No.:	
Email Address:	

Has this reference terminated its relationship with the Proposer? If Yes, why?	
Specify whether this reference is for the proposed Project Manager	<input type="checkbox"/> Yes <input type="checkbox"/> No

ATTACHMENT J
CRF VENDOR RESPONSIBILITY AND CONFLICT OF INTEREST DISCLOSURE FORM

Answer all questions completely. Failure to respond to any question could lead to disqualification. As to Conflicts of Interest questions, responses should address current conflicts, if any, as asked for below, and potential conflicts generated by various business activities that may arise in connection with the provision of the Services. In each case, how those conflicts are mitigated must be described with specificity.

The person completing this form must be knowledgeable about the Vendor's business and operations. The person signing this form on Vendor's behalf must certify, under oath, all responses given are true to the best of the person's knowledge.

For each Yes response, Vendor must:

- Attach a separate sheet and describe the issue/provide the information requested. Identify the relevant date for each issue.
- Identify actions taken or currently being implemented to ensure that the issue will not occur again.
- State whether the staff and/or organizational component involved in the identified issue(s) will be assigned to provide services to the CRF.
- State whether the issue will affect Vendor's financial or organizational ability to provide services to the CRF.
- Provide copies of relevant documents or any other information that would assist the CRF in its vendor responsibility evaluation.

Vendor Information	
Vendor Name	Federal Vendor ID/EIN #/NYS ID
Vendor Address	
Vendor Email	Vendor Phone

I hereby certify that all of the attached responses to the CRF Vendor Responsibility and Conflict of Interest Disclosure Form are complete, true and accurate to the best of my knowledge after diligent inquiry.

_____ Date _____

 Name and Title of Authorized Signatory

Vendor includes any affiliate, any predecessor company or entity, owner, director, officer or key person		
Questions		
1. Is Vendor, or does Vendor employ any officers, directors or key persons, affiliated* with New York State, the New York State and Local Retirement System, or the Common Retirement Fund? <i>If yes, on a separate sheet list all affiliations <u>and</u> identify whether any of the officers, directors, or key persons directly own interest of 10% or more of Vendor's business.</i>	<input type="checkbox"/> YES	<input type="checkbox"/> NO
2. Have there been any major corporate changes at Vendor in the past year (e.g., legal status, equity ownership, business model, management)?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
3. Is Vendor currently in violation of any federal or state securities law or regulation?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
4. Does Vendor use, or has it used in the past 5 years, any other business name, FEIN, or d/b/a other than that provided to the Fund?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
5. Does Vendor have data breach/cyber liability insurance? <i>If yes, attach a certificate of coverage.</i>	<input type="checkbox"/> YES	<input type="checkbox"/> NO
6. Has Vendor been a victim of a cyber breach within the past 5 years?	<input type="checkbox"/> YES	<input type="checkbox"/> NO

* As used herein, affiliated means:

- (1) the Comptroller or a family member of the Comptroller;
- (2) an officer or employee of New York State Office of the State Comptroller (OSC);
- (3) an individual or entity doing business with OSC or the Common Retirement Fund (CRF); or
- (4) an individual or entity that has a substantial financial interest in an entity doing business with OSC, the CRF or the New York State Retirement System.⁹

Question		
7. Does Vendor have a process for determining compliance with gift and entertainment policies applicable to government contracts?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
8. Has Vendor, its affiliates, officers, directors, key persons or employees offered, made, or provided any gift or hospitality to a New York State employee in violation of the New York State gift restrictions?*	<input type="checkbox"/> YES	<input type="checkbox"/> NO
9. Does Vendor agree to notify the CRF in the event Vendor becomes aware of any violation of the gift restrictions?	<input type="checkbox"/> YES	<input type="checkbox"/> NO

** New York State Public Officers Law provides that:

- (1) No Statewide elected official, state officer or employee, individual whose name has been submitted by the Governor to the Senate for confirmation to become a State officer or employee, member of

⁹ For the purpose of this paragraph, the term substantial financial interest shall mean the control of the entity, whereby control means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract (except a commercial contract for goods or non-management services) or otherwise; but no individual shall be deemed to control an entity solely by reason of his being an officer or director of such entity. Control shall be presumed to exist if any individual directly or indirectly owns, controls or holds with the power to vote 10 percent or more of the voting securities of such entity.

the Legislature or Legislative employee shall, directly or indirectly solicit, accept or receive any gift having more than a nominal value, whether in the form of money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence the State Employee, or could reasonably be expected to influence the State Employee, in the performance of the State Employee's official duties or was intended as a reward for any official action on the State Employees part; and

- (2) No person shall, directly or indirectly, offer or make any such gift to a Statewide elected official, or any State officer or employee, member of the Legislature or Legislative employee under such circumstances.

Is Vendor or at any time within the past 5 years has Vendor been:		
10. the subject of or participated in litigation involving the New York State and Local Retirement System, the CRF, or the Comptroller?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
11. the subject of a criminal indictment, judgment, conviction or a grant of immunity, including pending actions?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
12. named in, been the subject of, or agreed to a settlement or judgment in a civil matter that (i) could substantially impact the financial integrity of the firm or its capacity to provide services to the CRF, or (ii) involves any of the same personnel the firm will assign to provide services to the CRF?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
13. the subject of an enforcement action, sanction, fine, citation, or other disciplinary action or proceeding by the SEC, FINRA, NASD, or bar association, stock exchange, regulatory or professional oversight entity where such was not dismissed with prejudice or did not result in a finding of no responsibility?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
14. the subject of a material finding; had fines or penalties assessed; been censured; had an unsatisfied judgment, injunction, or lien (including judgments for taxes owed) obtained by; or agreed to a settlement with any federal, state or local governmental or regulatory entity?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
15. the subject of or party to any charge, claim, investigation, suit, or proceeding pending, threatened or ongoing, before or by any court or regulatory agency (or represented a party to such) that would have a material adverse effect upon Vendor's services to the CRF or on Vendor's firm?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
16. the subject of a civil suit alleging breach of fiduciary duty, fraud, etc?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
17. required to pay penalties or compensate any of its clients upon termination of services?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
18. the subject of a government suspension, debarment or rejection of any bid or disapproval of any contract, including pending actions, for (i) lack of responsibility, (ii) impermissible contacts or other violations of New York State law, (iii) denial or revocation of prequalification, (iv) a voluntary exclusion agreement, or (v) intentional provision of false or incomplete information to a governmental entity?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
19. the subject of a federal, state, or local government contract suspension or termination for cause prior to the completion of the term of a contract or been the subject of an administrative proceeding or civil action seeking specific performance or restitution in connection with any federal, state, or local government contract?	<input type="checkbox"/> YES	<input type="checkbox"/> NO

20. List the regulatory bodies having oversight of Vendor.

NA

Questions		
21. Is Vendor or its affiliate(s) an SEC-registered investment adviser?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
22. Does Vendor and/or its affiliate(s) provide both (i) investment management or advisory services and (ii) fiduciary review services (regardless of whether such services are provided to the CRF)? <i>If yes...</i> <ul style="list-style-type: none"> • Answer Questions 22(a) – 22(b) below. • 	<input type="checkbox"/> YES	<input type="checkbox"/> NO

22(a). LINES OF BUSINESS:

List all business lines from which Vendor has derived revenue during the past 5 years and the approximate percentage of total revenue represented by each line (e.g., consulting, asset management, broker dealer). Add rows as necessary.

Business Line	Percentage of Total Revenue

22(b). Describe Vendor’s process to identify potential conflicts of interest (or attach documentation of such).

22(c). Describe whether clients of the investment management/investment advisory business

include institutional investors or whether clients strictly limited to retail investors.

22(d). State whether any members of the Project Team provide services for the Vendor's investment management/investment advisory business. If applicable, provide details such as the name of the Project Team member that provides such services, the investment management/investment advisory services the Project Team member performs, and the amount of time spent providing investment management/investment advisory services.

22(e). Describe measures (if any) the Vendor and its affiliate(s) undertake to separate its investment management/investment advisory business from its fiduciary review business.



Conflicts of Interest		
<p>23. Has Vendor identified any potential conflicts of interest with the New York State and Local Retirement System, the CRF or the Comptroller?</p> <p>Potential conflicts may relate to: economic or financial interests; fee or other compensation arrangements with sponsors (or affiliates) of private investment funds, other investment advisors, investment companies, broker dealers, municipal securities dealers, and any other person or entity that could, or could be reasonably perceived to, conflict with the Vendor's ability to provide unbiased and objective advice to the CRF.</p> <p>For example:</p> <ul style="list-style-type: none"> • Vendor currently represents or provides services to a client whose interests have been, are, or may be adverse to the interests of the CRF; • Vendor has interests that conflict with or may be perceived to conflict with Vendor's ability to provide unbiased and objective advice to the CRF; • Vendor has within the previous 5 years, represented or provided services to a client whose interests were, or may have been, adverse to CRF interests. 	<input type="checkbox"/> YES	<input type="checkbox"/> NO

24. List and describe Vendor's business relationships involving New York State including its agencies, the New York State and Local Retirement System, the CRF, and the Comptroller during the past 5 years.

NA

New York State Entity	Relationship

25. Identify persons with substantial ownership interests in the Vendor; its key principals; its key personnel to be assigned to provide the Services; and its Chief Compliance Officer (or person serving in a similar capacity) ("Covered Persons").

Name	Email address	Title and Capacity

**ATTACHMENT K
DRAFT CONTRACT**



**AGREEMENT
BY AND BETWEEN
THE COMPTROLLER OF THE STATE OF NEW YORK, AS TRUSTEE
OF THE COMMON RETIREMENT FUND
AND
[CONSULTANT]
CONTRACT NUMBER: #ICM XXX**

This Agreement (“Agreement”) is by and between the Comptroller of the State of New York (the “Comptroller”), as Trustee of the Common Retirement Fund (the “CRF” or the “Fund”) whose principal office is located at 110 State Street, Albany, New York 12236, and [REDACTED], a [entity type], organized and existing under the laws of [STATE] (the “Consultant”) located at [ADDRESS].

W I T N E S S E T H

WHEREAS, the Fund holds and invests the assets of the New York State and Local Retirement System (the “System”);

WHEREAS, the Fund is subject to oversight by the New York Department of Financial Services (“DFS,” formerly the Insurance Department) and DFS has issued regulations applicable to the Fund (“DFS Regulations”);

WHEREAS, Section 136-2.5(g)(5) of the DFS Regulations require performance of “fiduciary and conflict of interest reviews of the Fund every three years by a qualified unaffiliated person”

WHEREAS, to comply with the DFS Regulations, the Fund issued a Request for Proposals dated [DATE] (“RFP”), attached hereto as Exhibit A, soliciting proposals from vendors to provide a fiduciary and conflict of interest review of the Fund (“Services”);

WHEREAS, Consultant, among others, responded to the RFP with a proposal dated [DATE] (“Proposal”), attached hereto as Exhibit B, confirming its capability to perform the necessary Services;

WHEREAS, Consultant is a “qualified unaffiliated person” as defined in Section 136-2.2(k) of the DFS Regulations; and

WHEREAS, based on the evaluation of the various proposals submitted in response to the RFP, the Comptroller deems it to be in the best interest of the Fund to retain Consultant to perform the Services in accordance with the RFP, Consultant’s Proposal, and the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Comptroller and the Consultant agree as follows:

I. ENGAGEMENT OF THE CONSULTANT

In reliance on the Consultant’s representations, warranties, and covenants set forth in the Proposal and as set forth herein, the Fund hereby engages the Consultant to perform the Services. The Consultant hereby accepts such engagement and agrees to perform the Services and fulfill its duties and obligations with respect thereto upon the terms, and subject to the conditions, set forth herein.

II. TERM

The term of this Agreement commences upon the date of execution by the Fund and continues for a period of 12 months (“Term”).

III. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

This Agreement includes the following documents; only documents expressly mentioned below are deemed a part of this Agreement. Conflicts between these documents will be resolved in the following order of precedence:

- A.** Appendix A – Standard Clauses for Contracts Entered Into by the Comptroller of the State of New York as Trustee of the New York State Common Retirement Fund;

- B.** The Agreement – this document, including:
- Appendix B – OSC Policy Statement on Discrimination and Harassment, Including Sexual Harassment;
 - Appendix C – OSC Executive Order on Procurement Integrity and OSC Procurement Integrity Procedures;
 - Appendix D – Insurance Regulations;
 - Appendix H – Executive Order on the Independence of Auditors Performing Services for the Office of the State Comptroller and the Common Retirement Fund;
- C.** Exhibit A – the RFP 24-06, including the Official Responses to Questions, and any and all amendments and addenda to RFP 24-06; and
- D.** Exhibit B – the Proposal (Exhibits B1 – Technical Proposal, B2 – Cost Proposal, and B3 – Administrative Proposal), as modified by any clarifications thereto, and including all Attachments, including completed:
- Appendix E – Contractor’s Certifications/Acknowledgements;
 - Appendix F – CRF Proposer’s Disclosure of Prior Non-Responsibility Determinations; and
 - Appendix G – Material Conflicts of Interest Statement.

IV. SERVICES

In reliance on Consultant’s representations, warranties, and covenants set forth herein, the Comptroller hereby engages Consultant. Consultant agrees to provide all Services and comply with all requirements as set forth herein and as required by the RFP, which are incorporated herein by reference. Consultant shall not change or otherwise modify such Services without the prior written consent of the Comptroller (which consent may be granted or withheld by the Comptroller in his sole discretion).

V. REPRESENTATIONS, WARRANTIES, AND COVENANTS

The Consultant hereby represents, warrants, covenants, and acknowledges that:

- A. Organization.** The Consultant is an entity duly organized, validly existing, and in good standing under the laws of the State of [STATE] and has authority to conduct business in the State of New York.
- B. Authority.** The Consultant has full power and authority to enter into this Agreement and to perform its duties and obligations hereunder. This Agreement has been duly authorized by all requisite action on the part of the Consultant and constitutes the valid, legal, and binding obligation of the Consultant, enforceable against it in accordance with its terms.
- C. Not Affiliated.** The Consultant, its partners, officers, directors, shareholders, and each of its staff performing Services hereunder are not affiliated (as defined in Appendix D, the DFS Regulations) with the Comptroller, the New York State Office of the State Comptroller (“OSC”), the System, or the Fund.
- D. Skill and Expertise.** The Consultant and its Staff (as defined herein) possess a high degree of skill and expertise with respect to the Services, and the Consultant maintains, and will maintain throughout the Term of this Agreement, a professional Staff and facilities to perform the Services in a timely and professional manner.

- E. Compliance with Applicable Law.** The Consultant and its Staff shall comply with the standards in effect under federal and state law as they may be amended from time to time or any successor provisions that apply to persons and entities serving in a similar capacity with respect to the Comptroller or the Fund, to the extent any such standard is applicable to the Consultant in the discharge of its duties under this Agreement.
- F. No Material Adverse Effect.** Neither the Consultant nor its Staff is in violation of any federal or state laws or regulations and no charge, claim, investigation, suit, or proceeding before or by any court or regulatory agency is pending against any such person or, to the best knowledge of the Consultant, threatened, that could have a material adverse effect upon the performance of the Services.
- G. No Compensation.** The Consultant represents and warrants that neither the Consultant nor its Staff has received or paid, or entered into an agreement to receive or pay, any compensation, fees, or any other benefit from or to any third party, to influence the outcome of this procurement.
- H. Information Continues to be True.** All of the information contained in Consultant's Proposal was true in all material respects at the time of submission and continues to be true as of the date hereof.
- I. Retention of Authority by the Comptroller.** The Comptroller retains all decision-making authority with respect to the management and administration of the Fund (including, but not limited to, the power to appoint and terminate the investment managers thereof and final decision-making authority with respect to the investment policies thereof). The Consultant shall not have any (i) discretionary control over the Fund or the assets thereof; (ii) discretionary authority to negotiate the terms of any investment by the Fund or enter into any contract or other agreement with respect to an investment on behalf of the Fund; or (iii) responsibility for the actions of (including any advice given by) any Fund investment advisor or other service provider to the Comptroller or the Fund.
- J. Maintain Policies and Procedures.** The Consultant must maintain policies and procedures designed to ensure compliance with:
1. the confidentiality provisions set forth in Section XIII of this Agreement; and
 2. applicable laws and regulations.
- K. Reporting.** The Consultant must promptly report in writing to the Fund whenever the Consultant becomes aware of (i) the occurrence of any activity that constitutes a breach of this Agreement, or (ii) a violation by the Consultant of any applicable law or regulation in connection with this Agreement. Such report must specify the activity(ies), the measures taken to resolve or rectify the effect of such activity(ies), and the expected timeframe for undertaking such resolution.

The Consultant must promptly notify the Fund of the commencement of any governmental investigation, enforcement action (or settlement action in lieu thereof), prosecution, proceeding, or governmental (criminal or civil) litigation against the Consultant or any Staff assigned to provide the Services to the Fund (excluding, in the case of a staff member, any family court matters or non-felony traffic offenses). In addition, the Consultant must notify the Fund of the commencement of any civil action reasonably likely to have a material adverse effect on the Consultant or the Services.

VI. STANDARDS OF CONDUCT

The following sets forth Consultant's Standards of Conduct.

- A. Contractor Obligations.** Consultant agrees to act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims. Consultant shall comply with:
1. 11 NYCRR Subpart 136-2 in the discharge of its duties under this Agreement, as it may be amended from time to time or any successor provisions; and
 2. any other federal or state law affecting the Comptroller or the Fund that may impose standards governing the services provided herein.
- B. Fund Rights.** Except as may have been expressly provided herein, nothing in this Section VI Standards of Conduct shall limit or waive any rights the Fund may have pursuant to this Agreement. Nothing herein limits the Fund's rights to pursue any remedy under applicable law.

VII. CONFLICTS OF INTEREST AND COMPLIANCE

- A. Conflicts of Interest.** Consultant covenants and represents that the Consultant and its Staff currently have no material conflict of interest, and shall make reasonable efforts to ensure that there shall be no conflict with respect to the Services and Consultant's obligations and duties: (i) under any other agreement to which it is a party or by which it is otherwise bound; or (ii) with respect to any other engagement of the Consultant or activity in which Consultant is involved.

During the Term of this Agreement, Consultant shall immediately notify the Fund, in writing, whenever it becomes aware of any situation that involves or appears to involve such a conflict of interest, or potential conflict, including any conflict that may affect Consultant's ability to render unbiased and objective advice.

Consultant must immediately recuse itself from its duties hereunder that give rise to such conflict of interest unless the Fund specifically waives such conflict in writing. The Fund may, in its sole discretion, dismiss the Consultant from any or all of its duties hereunder upon the occurrence of an actual or perceived conflict of interest and may also terminate the Agreement.

VIII. ETHICS OBLIGATIONS

The Consultant certifies that:

- A. Gifts Restriction.** The Consultant and its Staff have read and understand the provisions of Public Officers Law § 73 and § 74 including without limitation:
1. the provisions of §73 (subd 5) which provides that (i) no Statewide elected official, State officer or employee, individual whose name has been submitted by the Governor to the Senate for confirmation to become a State officer or employee, member of the Legislature, or legislative employee (for the purposes of this Section VIII. "State employee") shall, directly or indirectly solicit, accept or receive any gift having more than a nominal value, whether in the form of money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance, or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence the State employee, or could reasonably be expected to influence the State employee, in the performance of the State employee's official duties or was intended as a reward for any official action

on the State employee's part; and (ii) no person shall, directly or indirectly, offer or make any such gift to a Statewide elected official, or any State officer or employee, member of the Legislature, or legislative employee under such circumstances (clauses (i) and (ii) collectively, the "Gift Restrictions").

2. the provisions of §73 (subd 8), which sets out (i) a two-year bar on a State employee from appearing before the State employee's former agency after leaving State service, and (ii) a life-time bar on a State employee from rendering services on any matters with respect to which the State employee was directly concerned during State service and in which the State employee personally participated, or which was under the State employee's active consideration during State service.

B. Gift Restriction Certification. The Consultant, and its Staff shall not: (i) offer or provide any gift or hospitality to a State official or employee in violation of said Gift Restrictions, (ii) assign any former State employee to appear before OSC, the System, or the Fund to perform services in violation of the two-year bar, or (iii) assign any former State employee to render services in violation of the lifetime bar. This certification is material to the Agreement and the Fund intends to rely on it.

C. Gift Restriction Notification. The Consultant must promptly report to the Fund any non-compliance with the above requirements to:

Office of the State Comptroller
110 State Street – 14th Floor
Albany, New York 12236
Attn: Special Counsel for Ethics

and

Office of the State Comptroller
110 State Street – 14th Floor
Albany, New York 12236
Attn: Fund Director of Compliance

IX. RELATIONSHIP BETWEEN THE PARTIES

The relationship of the Consultant to the Comptroller and the Fund pursuant to this Agreement is that of an independent contractor. In accordance with the Consultant's status as an independent contractor, the Consultant covenants and agrees that it shall ensure that its Staff will: (i) act in a manner consistent therewith; (ii) neither hold themselves out as, nor claim to be, officers or employees of the Fund, System, or the State, and (iii) not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the State including, but not limited to, worker's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership credit.

X. SUBCONTRACTING

The Consultant may use subcontractors or other entities to perform any of the Services ("subcontractors"), provided that:

A. Disclosure and Fund Approval. Consultant must disclose any such subcontractors to the Fund prior to the performance of any Services. The Fund has the right to approve or disapprove, after review and/or interview(s), any and all subcontractors of the Consultant prior to their performance of Services. Such approval is solely in discretion of the Fund. Failure to disclose the identity of any and all subcontractors used by the Consultant together with a detailed description of their responsibilities may, at the sole discretion of

the Fund, result in a disqualification of the subcontractor or termination of this Agreement.

B. Subcontractor Compliance. Consultant shall ensure that each subcontractor complies with the terms of this Agreement, and performs the Services as required, and that each subcontractor maintains all records with respect to the Services in the same manner as required of the Consultant. Additionally, without limiting the foregoing:

1. Consultant shall require all proposed subcontractors to complete such Schedules, Appendices, or other documents included in this Agreement as are deemed necessary by the Fund prior to any such proposed subcontractor's performance of Services.
2. Consultant shall include in all subcontractor agreements binding provisions that are at least as restrictive as those found in this Agreement, including, but not limited to:
 - That nothing contained in such subcontract will impair the rights of the Comptroller or the Fund;
 - That nothing contained in such subcontract will create any contractual relation between any subcontractor and Comptroller or the Fund; and
 - That the subcontractor must maintain all records with respect to Services performed in the same manner as required of the Consultant.

The Consultant acknowledges that these requirements are ongoing for the Term of this Agreement.

C. Consultant Responsibility. Consultant shall be fully responsible to the Fund for the acts and omissions of Consultant (and its Staff) in connection with the performance of Services and adherence to all Agreement terms and conditions.

D. No Fund Liability or Duty. The Consultant agrees that nothing set forth in this Agreement shall impose any liability or duty upon the Comptroller or the Fund to persons, firms, corporations, employees, or others engaged by the Consultant in any capacity or shall make the Comptroller or the Fund liable to any person, corporation, association, or any government for the acts, omissions, liabilities, obligations, and/or taxes of whatever nature, including, but not limited to, worker's compensation coverage, unemployment insurance benefits, social security coverage, retirement membership credit, disability benefits, and social security taxes. The Consultant will maintain workers' compensation coverage and disability benefits in amounts equal to all statutory requirements during the Term of this Agreement for the benefit of its employees.

XI. STAFF

A. Staff Definition. For the purposes of this Agreement, Consultant's staff means Consultant's employees and its subcontractor's employees providing Services. "Staff" includes staff, and also owners, officers, directors, employees, subsidiaries, affiliates, partners, and agents of the Consultant; and Consultant's contractors (including third-party services providers) and their employees providing Services hereunder or who have access to the Fund's confidential information.

B. Assignment of Project Manager. The Consultant shall assign [NAME] as a Project Manager to oversee the Services. The Fund expects the Project Manager to perform Services for the entire Term of the Agreement. Substitutions of any key individuals, including the attorney and Project Manager, who will be dedicated to this Project ("Project Team," each individual on the Project Team is a "Project Team Member") shall not be made

without prior Fund approval. The Consultant must provide notice to the Fund as soon as practicable, but in any case, with no less than 14 days' notice prior to any such substitution. Consultant must, within seven days of such notice, provide resumes of the potential replacements for the member of the Project Team. Such replacements' skill level and experience must be equivalent to or exceed the qualifications of the Project Team Member. The Consultant must ensure that there is no gap in the Services and that any replacement Project Team Member receives appropriate transition information.

- C. Fund Approval.** The Fund has final approval of any Staff assigned to provide Services and may refuse to approve any Staff based on its review of the Staff's responsibility to perform the required Services. The Fund reserves the right to disallow Consultant's Staff from providing Services to the Fund or require Consultant to remove a staff person from performing Services if such Staff is not performing in accordance with this Agreement, or for any reasonable work-related cause.
- D. Staff Integrity and Professional Capacity.** The Consultant certifies that Staff assigned to perform Services possess the necessary integrity and professional capacity to meet the Fund's reasonable expectations. Subsequent to the commencement of Services, or whenever the Consultant becomes aware, or reasonably should have become aware, that any Staff providing Services to the Fund no longer possesses the necessary integrity or professional capacity, the Consultant shall immediately discontinue the use of such Staff and notify the Fund.
- E. FIRCA.** The Federal Immigration Reform and Control Act, as amended (8 USC §1324a et al.), obligates employers, such as the Consultant and its subcontractors, if any, to verify that their United States-based employees are legally entitled to work in the United States ("US"). The Consultant warrants to the Fund that it has verified that such employees are eligible for employment in the US. The Consultant is responsible for ensuring that such employees retain the authorization to legally work in the US throughout the period for which they provide Services in the US. The Fund does not discriminate against individuals on the basis of national origin or citizenship. The Fund does not provide sponsorship.

XII. COMPENSATION AND PAYMENT

- A. Fees.** The Consultant will be compensated in accordance with the Consultant's Proposal, Exhibit B, attached hereto. Total compensation for the Services must not exceed the sum of \$[XXX].
- B. Invoices**
 - 1. Compensation for Services provided pursuant to this Agreement will be payable by the Fund in the ordinary course of business following the Fund's receipt of the Consultant's approved invoice.
 - 2. All invoices must include the following information:
 - a. The Fund's Agreement #ICM [XXX], and Consultant's taxpayer identification number;
 - b. A description of Services provided;
 - c. The beginning and ending dates of the time period covered by the invoice; and
 - d. The expiration date of this Agreement.

3. All invoices are subject to the Fund's acceptance of the Services for which billing is being made and must be submitted via email (preferred) to PICMOperationsMailbox@osc.ny.gov or via hard copy mail to:

Office of the State Comptroller
Division of Pension Investment and Cash Management
110 State Street, 14th Floor
Albany, NY 12236
Attention: PICM Operations

- C. **Billing Records.** The Consultant must maintain adequate records to substantiate all claims for payment and, if requested, must make those records available in New York State for examination and copying.
- D. **Withholding Payment and Final Payment.** The Fund reserves the right to withhold payment for the Consultant's failure to perform Services. The Consultant will not be entitled to final payment of its fees under this Agreement until it has satisfied all of its obligations hereunder.

XIII. CONFIDENTIALITY AND SECURITY

- A. **Fund Confidential Information.** The Consultant shall treat as confidential all information concerning the Fund and its investments disclosed to the Consultant in the course of providing Services, either verbally, electronically, visually, or in written or other tangible form, which is either identified or should be reasonably understood to be confidential. Fund confidential information includes, but is not limited to, Fund trade data, bank account information, investments, investment strategies, investment guidelines, investment performance, proposed transactions, forecasts, financial information, documentation in respect of any of the foregoing, including legal agreements and terms of such agreements, and any investment manager information or data as may be collected by the Consultant in connection with the Services or received from the Fund and provided to the Consultant on behalf of the Fund. "Fund Data" means any electronic data or other information pertaining to or related to the Fund that is maintained, processed, or transmitted by the Consultant, and includes Fund confidential information.
- B. **Use and Retention of Fund Data.** The Consultant shall not reveal or use Fund Data without the prior written consent of the Fund and agrees that:
 1. The Consultant shall use Fund Data solely for the purpose of carrying out its obligations to, or on behalf of, the Fund as set forth in this Agreement, and for no other purpose.
 2. Promptly after the termination or conclusion of the Agreement, the Consultant must sanitize Fund Data so as to protect Fund Data, except where Consultant is required to retain Fund Data pursuant to applicable law. After the destruction of the Fund Data, an officer or principal of the Consultant must certify to the Fund, in writing and under penalty of perjury, that such destruction has been completed in accordance with the Office of Information Technology Services Policy for Sanitization/Secure Disposal in NYS-S13-003 or successor policy. If the Consultant is subject to legal or regulatory requirements or professional standards that require it to retain any Fund Data, the Consultant must notify the Fund and continue to ensure the confidentiality of Fund Data in accordance with the requirements set forth in Exhibit A and this Agreement.
- C. **Compliance with Laws.** In performing the Services, the Consultant must comply with: (i) all applicable international, federal, state, and local laws, rules, regulations, and

governmental requirements now or hereafter in effect relating to the confidentiality or security of confidential information; (ii) applicable industry standards concerning data protection, confidentiality and information security; (iii) security policies, procedures, statutes, regulations, and directives set forth in RFP 24-06; and (iv) applicable OSC facility security policies and procedures provided to Consultant.

D. Data Security. The Consultant represents and warrants that it has developed, implemented, and shall maintain throughout the Term, comprehensive data security, disaster recovery, and business continuity programs (together, the “Security Programs”) reasonably designed to protect information and conduct its business in accordance with current industry standards and applicable law. The Consultant further represents and warrants that it will monitor its Security Programs and audit such Security Programs at least annually. The Consultant agrees to adjust its Security Programs as necessary in accordance with the results of such audits [and to make its audit reports available to the Fund upon request].

E. Disclosure of Fund Data.

1. **Mandatory.** In the event of a receipt by Consultant of a valid order or mandatory request for disclosure of Fund Data from a judicial, administrative, or governmental agency having jurisdiction over it, the Consultant, must unless prohibited by applicable law, promptly notify the Fund thereof. The Consultant must, to the extent practicable, meet with the Fund for purposes of discussing such order or request prior to the submission of a response thereto, and shall, except to the extent prohibited as a matter of law, cooperate and assist the Fund in responding to any such order or request.
2. **Unauthorized.** “Security Incident” means any exploited vulnerability or unauthorized or unlawful access to Fund Data, including any destruction, damage, loss, unauthorized use, unauthorized or unlawful disclosure of Fund Data, any breach or compromise of the Consultant’s computer data, applications, networks or devices (including the applications, networks, or devices of Consultant’s contractors or service providers that access, store, process, or otherwise interact with Fund Data), including, in the absence of direct evidence of a Security Incident, any occurrence where it can be reasonably assumed under the circumstances that Fund Data was exposed, accessed or disclosed without the Fund’s prior written authorization.
3. **Notice Requirements.** Consultant acknowledges that any unauthorized use or disclosure of Fund Data may cause irreparable damage to the Fund. If a Security Incident occurs, the Consultant shall notify the Fund promptly in writing in the most expedient time possible and without unreasonable delay, but in any event no later than within [48 hours] of such occurrence.

Any notice to the Fund under this Section E. will be made by:

- a. Contacting OSC’s Information Security Office by telephone at 518-474-9487 and by email to: iso@osc.ny.gov; and
- b. Contacting the Fund’s Director of Operations, Michael Kelly, by telephone at 518-375-8151 and by email at mkelly@osc.ny.gov (or such other contact which the CRF may provide in writing).

Such notice shall include a description of:

- a. the scope of the Security Incident; identification of the vulnerability in the affected system and the amount of time that such vulnerability existed; identification of potentially compromised Fund Data; the last

time that the attacker (if applicable) had access to the affected systems or Fund Data; the identity of any third parties or otherwise unauthorized entity that may have accessed or obtained Fund Data as a result of the Security Incident; and identification of any misuse of any Fund Data involved in the Security Incident; and

- b. the efforts taken to contain and mitigate the impact of the Security Incident, including any retention of an outside law firm or cyber firm to assist in the effort, the involvement of law enforcement, and a reasonably detailed summary of the results of the investigation of the Security Incident. The Consultant shall provide prompt updates to the Fund with additional information discovered in the course of its investigation.
- c. It is expressly agreed that the Consultant shall be obligated to receive authorization from the Fund prior to making notifications hereunder to the New York State Attorney General's Office or any regulating or reporting agencies of a Security Incident, or making any determination to delay notifications due to law enforcement investigations, except as required to comply with the Consultant's legal obligations. The Consultant agrees that the Fund will have final approval over the form, content, mode of transmission, and timing of any notice to be provided concerning a Security Incident. Approval of notices and/or public disclosures required by law or other regulations will not be unreasonably withheld or delayed. This prior approval applies to any determination to delay notifications due to law enforcement investigations.

Nothing contained herein reduces or alters the Consultant's obligations under applicable law.

- F. Connection Restrictions.** The Consultant is prohibited from connecting any non-State computer, electronic storage device, or telecommunications equipment to the OSC network; e.g., personal and corporate laptop computers, personal and corporate USB devices, smartphones, and tablets are included in this prohibition.
- G. Remedies.** The Consultant acknowledges and agrees that the Fund would not have an adequate remedy at law and would be irreparably harmed in the event that the provisions of this Section XIII Confidentiality and Security were not performed by the Consultant in accordance with the specific terms or were otherwise breached. Accordingly, the Fund shall be entitled to injunctive relief to prevent a breach of this Agreement and to specifically enforce the terms and provisions hereof, in addition to any other remedy that the Fund may be entitled at law or in equity. It is further understood and agreed that no failure to exercise or delay in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, and no single or partial exercise of any right, power, or privilege hereunder shall preclude any other or further exercise of any right, power, or privilege. If any action is initiated by the Fund to enforce this Section XIII Confidentiality and Security, the Fund shall be entitled to reimbursement of all fees, costs and expenses, including reasonable attorney's fees, incurred by it in connection therewith.

XIV. BACKGROUND INVESTIGATIONS

- A. Consultant/[Subcontractor] Investigation of Staff.** Background investigations must be conducted by Consultant on its employees [and by the Consultant's affiliates and subcontractors on their employees] who will have (i) access to OSC's IT systems, (ii) access to Fund confidential information or handle Fund assets, or (iii) access to any OSC facility for five consecutive business days or 10 days over the annual term of the

engagement (“Covered Employees”).

1. **Background Investigation Certification.** The Consultant [and subcontractors] certifies that it has or will conduct a background investigation on Covered Employees prior to the Covered Employees’ commencement of Services. The Consultant [and its subcontractors] must obtain, unless prohibited by applicable law, the consent of such Covered Employees to allow the Office of the State Comptroller Inspector General to audit the results of these background investigations, and (i) to review unredacted background investigation records, including supporting documentation, and (ii) to conduct its own background investigation. The Fund reserves the right to prohibit any Covered Employees from providing Services if they do not provide such consent when requested by the IG. The Consultant agrees to undertake a background investigation of any new/replacement Covered Employees during the Term of the Agreement.

Only Covered Employees who have passed the background investigation shall be assigned to provide Services.

2. **Records.** The Consultant must maintain records related to the background investigations performed during the Term of the Agreement and in accordance with Appendix A (Section 5, Records).
3. **Background Investigation Requirements.** At a minimum, background investigations shall include a review/evaluation of the following:
 - identity verification, including Social Security Number or national identity number search, as applicable;
 - employment eligibility, including verification of U.S. citizenship or legal immigration status, where appropriate;
 - watchlists and a National Sex Offender Registry search;
 - sanctions and OFAC search (including SEC information sheet);
 - criminal history/court records (Federal, state and local for the past five years), as permitted under applicable law;
 - work experience/history for the past five years;
 - bankruptcy matters;
 - financial Professional Registrations (IAPD, FINRA, NFA);
 - pertinent skills, qualifications, and education/professional credential verification; and
 - references.

- B. Fund Background Investigation.** At the Fund’s discretion, a background investigation may be conducted by the Fund on the Consultant, its key principals, its key personnel assigned to provide the Services, its Chief Compliance Officer (or person serving in a similar capacity), and persons with substantial ownership interests in the Consultant [business entity] (“Covered Persons” as identified in Attachment F, CRF Vendor Responsibility and Conflict of Interest Disclosure Form). At the discretion of the Fund, background investigations may also be conducted on subcontractors and their principals and key personnel. Such background investigation, at the Fund’s sole discretion, may be conducted prior to the Consultant’s execution of an agreement with such subcontractor. The Fund may conduct subsequent background investigations on the Consultant, Covered Persons, and its subcontractors where the Fund deems there has been a material change in circumstances or where an additional background investigation may be prudent.

Upon receipt of the Fund’s notice of its intent to conduct such background investigation,

the Consultant, Covered Persons, and subcontractor must provide to the Fund or its third-party vendor written consent of all individuals subject to the Fund's background investigation policy. Failure to obtain such consent is grounds for termination for cause of this Agreement.

The Fund does not intend to conduct a background investigation on the attorney assigned to provide the Services, nor on the law firm that employs the attorney.

- C. **[Subcontracts.** The Consultant agrees to incorporate into any subcontracts permitted by this Agreement, and require any subcontractor thereunder to incorporate into each of its subcontracts, the same obligations imposed herein upon Consultant with regard to the above background investigation obligations, and expressly accrue those obligations directly to the benefit of the Fund.]

XV. INDEMNIFICATION AND LIABILITY

- A. **Consultant Liability and Indemnification.** The Consultant shall be fully liable to and shall indemnify, defend, and hold harmless the Comptroller and the Fund, their officials, agents, and employees, from charges, claims, investigations, suits, or proceedings, damages, and costs (including reasonable attorneys' fees and expenses) without limitation, as a result of: (i) the negligence, willful misconduct, fraud, bad faith, breach of the Standards of Conduct set forth herein or violation of applicable law or regulation by the Consultant or any of its Staff; or (ii) the breach by the Consultant [or any of its affiliates or subcontractors] of any of the representations, warranties, or obligations set forth in this Agreement; provided however that the Consultant shall not be liable or obligated to indemnify for that portion of any claim, loss, or damage arising hereunder due to the negligence or willful misconduct of the Comptroller or the Fund.
- B. **Indemnification is in Addition to Rights.** The indemnification obligation contained in this Section XV (Indemnification and Liability): (i) is in addition to, and not in lieu of, any other right, power, or remedy that the Comptroller and the Fund, or the officers, agents, representatives, and staff of the Comptroller or the Fund, may have against the Consultant; and (ii) will not be construed to limit in any way the duties, responsibilities, and obligations of the Consultant set forth in this Agreement.
- C. **Consultant Assistance.** If any claim is made, or any action brought, against the Comptroller or the Fund relating to the activities of the Consultant (including its Staff) or relating to the Services provided by the Consultant, the Consultant shall diligently render to the Comptroller and the Fund (without additional compensation) any and all assistance that may be reasonably requested by the Comptroller with respect thereto.
- D. **Third-Party Claims.** For third-party claims for which the Fund is entitled to indemnification under this Agreement, the Fund will give the Consultant:
1. prompt written notice of any charge, claim, investigation, suit, or proceeding, or threat of such action relating to this Agreement;
 2. the opportunity to assume, settle, or defend any such action, claim, suit, or proceeding at Consultant's sole expense provided, however, that Fund may at any time retain its own counsel to monitor same and, moreover, may assume and defend its own legal interests to the extent that such are not aligned with the Consultant's legal interests or if Fund determines that there is an issue involving a significant public interest or such representation is in the Fund's best interest; and
 3. reasonable assistance in the defense of any such charge, claim, investigation, suit, or proceeding at the expense of Consultant.

E. Limitations of Liability

1. **No Consequential, Indirect, or Special Damages.** Notwithstanding the above, neither the Fund nor the Consultant will be liable to each other for any consequential, indirect, or special damages of any kind. The parties agree, however, that this limitation is not applicable to indemnity for third-party claims.
2. **Force Majeure Events.** None of the Consultant, the Comptroller, nor the Fund will be liable for any delay or failure in performance beyond their control resulting from acts of war, hostility or sabotage; act of nature; electrical, internet, or telecommunications outage that is not caused by the obligated party; or government restrictions, or other force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such force majeure events upon performance of their respective duties under this Agreement.
3. **No Personal Liability.** Neither the Comptroller nor the Fund, nor any officer, employee, or agent thereof, will have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into pursuant to the terms hereof.

F. Fund Right of Set-off. In the event that any claim is made, or any action is brought, against the Comptroller or the Fund arising out of any acts or omissions of the Consultant or any of its Staff for which Comptroller or the Fund would be entitled to indemnification, or by the Comptroller or the Fund against the Consultant or any of its Staff, the Comptroller and the Fund shall have the right to withhold further payments hereunder in sufficient sums for the purpose of set off (i.e., in order to cover said claim or action) or to seek reimbursement from the Consultant to the extent that said claim or action is determined by the Fund to arise from or relate to Consultant's negligence, gross negligence, willful misconduct, fraud, bad faith, breach of the Standards of Conduct, or violation of applicable laws or regulations; provided that the claim is a credible and realistic claim that the Comptroller or the Fund reasonably believes was caused by Consultant. The rights and remedies of the Comptroller and the Fund provided for in this clause are not exclusive and are in addition to, rather than in lieu of, any other rights and remedies provided by law or this Agreement.

XVI. INTELLECTUAL PROPERTY

A. Work for Hire. All work performed by Consultant and its Staff under this Agreement that is prepared solely for the Fund is intended as work for hire ("CRF Material"). Such work is specially ordered and commissioned for use as contributions to a collective work, or is other such work as specified by § 101(2) of the U.S. Copyright Act (17 U.S.C. 101[2]), and is intended to be a work for hire that is made for the use and ownership of the Fund. Furthermore, the Fund and the Consultant agree that the Fund is the owner of all copyrights regarding such work. The Consultant agrees to assign and hereby does assign to the Fund on behalf of the Consultant and its Staff, all rights, title, and interest in and to any intellectual property rights in the CRF Material and to the extent the CRF Material includes any Consultant intellectual property embedded in such works, the Consultant hereby grants the Fund a worldwide, royalty-free, fully paid-up right and license to use the embedded Consultant intellectual property solely to the extent necessary to use and disclose the CRF Material in the manner contemplated under this Agreement. The Consultant warrants to the Fund that it, and all of its Staff, who have been, or may be used in regard to the Agreement, forfeit all past or future claims of title or ownership to the aforementioned work produced under the Agreement, all past or future claims of title or ownership to the work produced under the Agreement.

B. Consultant Intellectual Property. Notwithstanding the above, in the course of performing

Services, Consultant may make available to the Fund Consultant's research and advisory reports prepared generally for Consultant's clients, including without limitation, processes, system and data models, templates, software systems, user interfaces and screen designs, general purpose consulting and software tools, websites, and benefit administrative systems ("Consultant Materials"). Consultant retains all intellectual property rights in the Consultant Materials and grants the Fund a perpetual license to such Consultant Materials for the Fund's internal business purposes, subject to the terms and conditions of this Agreement. Nothing herein shall be deemed to preclude the Consultant from otherwise using the Consultant Materials and the related or underlying general knowledge, skills, ideas, concepts, techniques, and experience developed in the course of Consultant's business.

- C. **Software/Intellectual Property and Other Licenses.** Consultant warrants and represents it has full ownership or has obtained all necessary rights to use or sublicense to the Fund, all proprietary or third-party software/intellectual property and related documentation required by Consultant to provide the Services.

XVII. NOTICES

Except as otherwise expressly set forth herein, or as otherwise required by applicable law with respect to any legal notices, demands, requests, or other communications in connection with any legal, judicial or quasi-judicial, action, claim, matter or proceeding, any notice required or which may be given hereunder must be in writing and delivered personally or sent by certified, registered, or express mail, postage prepaid, but in all cases will be deemed given when actually received at the following addresses:

TO THE FUND:

Attention: Michael Kelly
Title: Director of Operations
Address: Office of the State Comptroller
Division of Pension Investment and Cash Management
110 State Street, 14th Floor
Albany, NY 12236

TO THE COUNSEL TO THE COMPTROLLER:

Attention: Counsel to the Comptroller
Address: Office of the State Comptroller
Division of Legal Services
110 State Street, 14th Floor
Albany, NY 12236

TO THE CONSULTANT:

Attention:
Title:
Address:

The parties must notify each other, as soon as possible of any change to the above contact information. Either party may from time to time by notice in writing served upon the other as aforesaid, designate a different mailing address or a different or additional person to whom all such notices to that party hereafter are to be addressed.

XVIII. TERMINATION AND SUSPENSION

- A. Fund Termination or Suspension.** The Fund reserves the right to terminate or suspend this Agreement, or terminate or suspend the Services or a portion thereof, with or without cause, upon 30 days' prior written notice.
- B. Immediate Termination or Suspension.** The Fund reserves the right to terminate or suspend this Agreement or to terminate or suspend the Services or a portion thereof immediately upon written notice to the Consultant if the Fund deems the Consultant's performance unsatisfactory at any time during the Term of this Agreement, in its sole discretion.
- C. Event of Default.** The occurrence of an actual or perceived conflict of interest involving Consultant shall constitute an "event of default," and upon such occurrence, the Fund may, in its sole discretion and for cause, immediately terminate this Agreement. The occurrence of an event of default hereunder shall be deemed to be a default on every other contract Consultant and its affiliates have with the Fund, if any, and the Fund may immediately terminate those contracts for cause.
- D. Effect of Termination or Suspension.** If this Agreement is terminated or suspended for any reason prior to its stated Term, including other such contracts terminated pursuant to XVIII.C (Event of Default), the compensation to be paid to the Consultant will be prorated to the effective date of such termination or suspension based on the Services satisfactorily delivered to such termination or suspension date.

XIX. MISCELLANEOUS PROVISIONS

- A. Amendments, Modifications.** The Agreement cannot be changed, modified, or altered in any manner except by an instrument in writing executed by the parties.
- B. Waiver.** The waiver by either party of any default or breach of this Agreement does not constitute a waiver of any other subsequent default or breach, and no such waiver will be valid or effective unless such waiver is in writing, expressly refers to this Agreement, and is signed by the party to be bound thereby.
- C. Severability.** If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will not be affected thereby and every other term and provision of this Agreement will be valid and enforced to the fullest extent permitted by law to effectuate the intent of the parties.
- D. Survival.** All representations, warranties, and covenants contained herein or made pursuant hereto including, but not limited to, the provisions of: Appendix A; Section V Representations, Warranties, Covenants; Section IX Relationship between the Parties; Section XIII Confidentiality and Security; Section XV Indemnification and Liability; Section XVI(A) Work for Hire; and Section XIX Miscellaneous Provisions, will survive the suspension, termination, or conclusion of this Agreement.
- E. Public Communication.** Neither the Consultant nor any of its Staff will, at any time, either during the Term of or after expiration or termination of this Agreement, make any statement to the press or issue any material for publication through any media of communication bearing on the Services performed or data collected under this Agreement, without prior written approval of the Fund, unless otherwise required by applicable law. Neither the Consultant nor any of its Staff will use the name or seal of the Comptroller, the Fund, the State of New York, or their officials or employees, in any manner, including but not limited to: (i) in any advertisement, publication, press release or promotion; or (ii) as an express or implied endorsement of any products or services, except as necessary to perform the Services.

- F. Counterparts.** This Agreement may be executed in counterparts, each of which when executed shall be deemed an original, and all of which taken together shall constitute one and the same agreement with the same effect as if such signatures were upon the same instrument. This Agreement and corresponding attachments may be executed by electronic signature process in accordance with State law.
- G. Incorporation of Amendments to Applicable Laws.** Any references to sections of federal or state statutes or regulations shall be deemed to include a reference to any amendments thereof and any successor provisions thereto.
- H. Titles/Section Headings.** The titles and headings of the sections of this Agreement are for convenience of reference only and do not affect the meaning or operation of this Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

This Agreement may be executed in counterparts, each of which constitute an original and all of which, when taken together, constitute one instrument. The use of electronic signatures made in accordance with applicable law shall be of the same legal effect, validity, and enforceability as a manually-executed signature.

CONTRACT NUMBER: ICM XXX

[CONSULTANT]

**COMPTROLLER OF THE STATE OF NEW YORK
AS TRUSTEE OF THE COMMON RETIREMENT FUND**

SIGNATURE

SIGNATURE

PRINTED NAME

ANASTASIA TITARCHUK

PRINTED NAME

TITLE

CIO AND DEPUTY COMPTROLLER, PENSION
INVESTMENT AND CASH MANAGEMENT

TITLE

DATE

DATE

APPENDIX A

STANDARD CLAUSES FOR CONTRACTS ENTERED INTO BY THE COMPTROLLER OF THE STATE OF NEW YORK AS TRUSTEE OF THE NEW YORK STATE COMMON RETIREMENT FUND

The parties to the attached contract, license, lease, amendment or other agreement of any kind (the "Contract") agree to be bound by the following clauses, which are hereby made a part of the Contract. As used in this Appendix A the term "Contracting Party" refers to any party to the Contract other than the Comptroller of the State of New York (the "Comptroller") as Trustee of the New York State Common Retirement Fund (the "Fund"), or the Fund itself.

1. **NON-ASSIGNMENT CLAUSE.** Neither the Contract nor any of the Contracting Party's right, title or interest herein may be assigned, transferred, subcontracted, conveyed, sublet or otherwise disposed of without the prior written consent of the Fund, and any attempts to assign the Contract without the Fund's written consent shall be null and void.
2. **NON-DISCRIMINATION REQUIREMENTS.** The Contracting Party will comply with all applicable State and Federal statutory and constitutional anti-discrimination provisions relating to employment.
3. **WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the New York State Labor Law, or a building service contract covered by Article 9 thereof, neither the Contracting Party's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contracting Party and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rate for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.
4. **INTERNATIONAL BOYCOTT PROVISIONS.** The Contracting Party agrees, if the Contract exceeds \$5,000, as a material condition of the Contract, that neither the Contracting Party nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the Federal Export Administration Act of 1979 (50 USC App. Sections 2401, et seq.) or regulations thereunder. If such Contracting Party, or any of the aforesaid affiliates of the Contracting Party, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the Contract's execution, the Contract shall be rendered forfeit and void. The Contracting Party shall so notify the Comptroller within five (5) business days of such conviction, determination or disposition of appeal.
5. **RECORDS.** The Contracting Party shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under the Contract (collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they are created and for six (6) additional calendar years thereafter. The Fund, or, at the sole discretion of the Comptroller, the Attorney General or any other person or entity authorized by the Comptroller to conduct an examination, shall have access to the Records during normal business hours at an office of the Contracting Party within the State of New York, or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The Fund shall take reasonable steps to protect from public disclosure any of the Records that are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (i) the Contracting Party timely informs an appropriate official, in writing, that the Records should not be disclosed; (ii) the Records are sufficiently identified; and (iii) designation of the Records as exempt under the Statute is appropriate as determined by the Comptroller. The Contracting Party hereby consents to: (i) submit to a review by the Superintendent of the New York State Department of Financial Services of fees paid by the Fund to the Contracting Party and services rendered by the Contracting Party to the Fund; and (ii) respond in writing to any inquiry or request for information by the Superintendent of the New York State

Department of Financial Services concerning fees paid by the Fund to the Contracting Party and services rendered by the Contracting Party to the Fund, in each case, pursuant to the terms of the Contract. Nothing contained herein shall diminish, or in any way adversely affect, the Fund's right to discovery in any pending or future litigation.

6. NON-DISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND. If the Contracting Party has business operations in Northern Ireland, it shall take lawful steps in good faith to conduct those business operations in accordance with the MacBride Fair Employment Principles relating to non-discrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland and, upon the request of the Comptroller, shall permit independent monitoring of the Contracting Party's compliance with such principles.

7. CONFLICTING TERMS. In the event of a conflict between the terms of the Contract (including any and all attachments thereof) and the terms of this Appendix A, the terms of Appendix A shall control.

8. GOVERNING LAW. Unless otherwise expressly agreed to by the Parties, the Contract shall be administered, construed and enforced according to the laws of the State of New York (without regard to any conflict of laws provisions) to the extent such laws have not been preempted by applicable federal law. Any action at law, suit in equity, or other judicial proceeding for the enforcement of the Contract or any provisions thereof shall be instituted only in the courts of the State of New York. Any suit for money damages against the Fund must comply with the New York State Court of Claims Act.

9. NO ARBITRATION. Disputes involving the Contract, including the breach or alleged breach thereof, shall not be submitted to binding arbitration.

10. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules, the Contracting Party hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon the Contracting Party's actual receipt of process or upon the Fund's receipt of the return thereof by the United States Postal Service as refused or undeliverable. The Contracting Party must promptly notify the Fund, in writing, of each and every change of address to which service of process can be made. Service by the Fund to the last known address shall be sufficient. The Contracting Party will have thirty (30) calendar days after service hereunder is completed in which to respond.

11. CONFLICTS DISCLOSURE. If this is a Contract for investment management services, investment advisory services, or any related service or product, the Contracting Party represents and covenants that it (i) does not have any conflict of interest not previously disclosed to the Fund in writing that could reasonably be expected to impair its ability to provide unbiased and objective investment advice or decisions, (ii) will promptly disclose in writing to the Fund any such conflict that it may have hereafter, and (iii) will annually file a statement with the Fund that it is in compliance with these requirements, which statement shall include the following language:

"[THE CONTRACTING PARTY] ACKNOWLEDGES THAT IT OWES THE COMPTROLLER A FIDUCIARY DUTY. THIS MEANS THAT, AMONG OTHER THINGS, [THE CONTRACTING PARTY] MUST DISCLOSE TO THE COMPTROLLER INFORMATION ABOUT MATERIAL CONFLICTS OF INTEREST. [THE CONTRACTING PARTY] ACKNOWLEDGES THAT FAILURE TO TRUTHFULLY COMPLETE THIS STATEMENT MAY RESULT IN CRIMINAL OR CIVIL LIABILITY."

12. POLITICAL CONTRIBUTIONS. If this is a Contract for investment management or investment advisory services, the Contracting Party represents that neither it nor any of its Covered Associates (as defined in the Investment Advisers Act of 1940, as amended (the "Advisers Act")) has made any political contributions that would be in violation of Rule 206(4)-5 or Rule 204-2 under the Advisers Act with respect to the Contract.

13. CERTAIN REQUIREMENTS. The Contracting Party will take no action (or fail to take a required

action) (a) in violation of any relevant anti-money laundering legislation, rule, regulation or order administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury, including Subtitle B, Chapter V of Title 31 of the U.S. Code of Federal Regulations, in each case as amended from time to time, or (b) enter into any transaction or activity with (i) any Person appearing on the Specially Designated Nationals and Blocked Persons List of the Office of Foreign Assets Control in the United States Department of the Treasury, (ii) any other Person with whom a transaction is prohibited by Executive Order 13224, the USA PATRIOT Act, the Trading with the Enemy Act or the foreign asset control regulations of the United States Treasury Department, in each case as amended from time to time, (iii) any Person known by the Contracting Party (after reasonable inquiry) to be controlled by any Person described in the foregoing items (i) or (ii), or (iv) any Person having its principal place of business, or the majority of its business operations (measured by revenues), located in any country described in the foregoing item (ii). The Contracting Party also agrees that it will not make any payment to any Person in violation of the U.S. Foreign Corrupt Practices Act (as amended from time to time), or any other applicable anti-money laundering or anti-terrorism statute or regulation. For the purposes of this provision, the term "Person" includes any individual, partnership, firm, corporation, limited-liability company, joint venture, association, trust, unincorporated organization, nation, government, territory or other political or governmental agency, authority or unit.

14. MWBE STRATEGY. Pursuant to Retirement and Social Security Law Section 423-C, the Comptroller has established a Minority- and Women-Owned Business Enterprise ("MWBE") asset management and financial institution strategy ("strategy") which includes tracking and reporting on the identity and participation of MWBE entities that do business with the Fund. In accordance with the strategy, the Contracting Party will cooperate with the Comptroller or his representatives who seek information needed to determine the minority and women composition of the Contracting Party's owners and managers.

15. NO INDEMNIFICATION. The Fund will not indemnify nor hold harmless the Contracting Party from suits, damages, costs or attorney fees in actions brought by third parties against the Contracting Party.

16. PRIOR NON-RESPONSIBILITY DETERMINATIONS. By signing the Contract, the Contracting Party certifies that within the past four years it has not been found to be non-responsible based on [i] impermissible Contacts or other violations of New York State law, or [ii] the intentional provision of false or incomplete information to a governmental entity. If this certification is intentionally false or intentionally incomplete, the Comptroller may exercise his right to terminate the Contract; in that event the Contract shall be deemed terminated and of no further force and effect within five (5) days from the date the Comptroller provides written notification to the Contracting Party of such termination. If the Contracting Party cannot certify as to the above, prior to signing the Contract it must disclose such finding(s) of non-responsibility and explain the circumstances that led to such findings. If such disclosure and/or explanation is/are intentionally false or intentionally incomplete, the Comptroller may exercise his right to terminate the Contract as stated above.

17. INFORMATION SECURITY BREACH AND NOTIFICATION ACT. To the extent applicable to the Contract, the Contracting Party shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208, as each such provision may hereafter be amended).

April 8, 2013

APPENDIX B

OSC POLICY STATEMENT ON DISCRIMINATION AND HARASSMENT, INCLUDING SEXUAL HARASSMENT

DISCRIMINATION AND HARASSMENT

It is the policy of the Office of the State Comptroller (“OSC”) to provide a workplace that is free of discrimination and harassment based on race, color, sex (including sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender), creed or religion, age, national origin, disability, marital status, military or veteran status, predisposing genetic characteristics, domestic violence victim status or any other classification protected by state or federal law, rule or regulation or executive order.

Discrimination is defined as the failure or refusal to hire, promote, or train an individual or treat that individual equally with respect to compensation, terms, conditions or privileges of employment because of that individual’s membership in any one of the above classes. Harassment based upon a person’s membership in any of the above classes is included within the definition of discrimination.

In keeping with its policies, OSC reaffirms that it will not tolerate such discrimination or harassment in its workplace and that it will take appropriate action to prevent and stop the occurrence of such conduct in its workplace. OSC employees and any third parties who interact with OSC employees in the workplace are expected to avoid any behavior or conduct that could be interpreted as discrimination/harassment based on membership in any of the above classes.

Examples of conduct that may constitute harassment based upon membership in one of the above classes include, but are not limited to:

- kidding or teasing related to membership in, or characteristic of one of the above classes, such as laughing at or mimicking someone’s physical or mental impairment, foreign accent, etc.;
- using ethnic or racial slurs;
- conduct that denigrates or shows hostility toward an individual because of protected class status, and that has the purpose or effect of creating an intimidating, hostile or offensive environment; and
- telling jokes that belittle a member or members of one of the above classes.

SEXUAL HARASSMENT

Sexual harassment, a form of discrimination, is defined as unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- such conduct is made either explicitly or implicitly a term or condition of employment;
- submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment; or
- such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment.

Examples of sexual harassment include, but are not limited to, sexual innuendo; suggestive comments; sexually-oriented kidding, teasing or practical jokes; jokes about gender-specific traits; jokes about sexual orientation, or perceived masculinity or femininity of individuals; foul or obscene language or gestures; display of foul, obscene or sexually suggestive printed or visual material; physical conduct such as touching or patting; sexually-oriented email or phone mail messages; suggestive or obscene letters, notes, or invitations; inappropriate discussions of a person’s physical appearance; or unwelcome gifts and attention.

A perpetrator of harassment can be a superior, subordinate, co-worker or anyone in the workplace, including an independent contractor, contract worker, vendor, client, customer or visitor.

Questions about what behavior constitutes discrimination or harassment, including sexual harassment, or requests for OSC Executive Orders and policies on such matters may be directed to the OSC Division of Diversity Management at (518) 473-1368.

August 31, 2021

APPENDIX C

OSC EXECUTIVE ORDER ON PROCUREMENT INTEGRITY

Whereas, it is the policy of the Office of the State Comptroller (OSC) and the New York State Common Retirement Fund (CRF) to procure goods and services in a fair, equitable and open manner and to protect the procurement process from improper influences; and

Whereas, procurement lobbying activities must be monitored and documented to assure the integrity of the procurement process;

Now, therefore, I, Thomas P. DiNapoli, Comptroller of the State of New York, in consideration of the foregoing, do hereby order as follows;

1. **Applicability.** This executive order applies to determinations by OSC or CRF to award a contract for the acquisition of any goods, services, or information technology. Decisions to invest or disinvest CRF assets in securities, properties, or other investment vehicles, and selections of investment advisors or managers whose services are integral to the administration of CRF investments, remain subject to the Comptroller's fiduciary responsibility to administer the CRF prudently to increase and preserve CRF assets on behalf of its beneficiaries. In addition, selection of counsel to represent the CRF in transactional, investment or litigation matters remain subject to the Comptroller's fiduciary responsibilities. Although such CRF investment decisions and selections are not subject to this executive order, they shall be made in a fair and equitable manner, in accordance with the Comptroller's fiduciary responsibilities.
2. **General Counsel.** The General Counsel shall have general responsibility for the prevention of improper influence relative to all procurement contracts awarded by OSC or CRF. The General Counsel shall form such committees or draw upon OSC staff as needed to fulfill this responsibility.
3. **Procedural Controls.** The General Counsel shall develop, in consultation with the executive staff of OSC, procedural controls in the form of written Procurement Integrity Procedures. Such procedures shall:
 - a. require that decisions made on the award of procurement contracts shall be made in accordance with Article 11 of the State Finance Law, free from any improper influence;
 - b. require that any OSC employee who has direct knowledge of any improper influence or attempted improper influence shall immediately make a record of the improper influence or attempted improper influence relating to a bid, proposal or a procurement contract and notify the General Counsel or appropriate Division of Legal Services staff designated by the General Counsel;
 - c. prohibit contact relating to a bid or proposal, during the procurement process, between all OSC personnel involved in the determination of the procurement contract award and any employee, agent, or consultant of a bidder or proposer competing for the contract, except for contacts authorized by the procedures established pursuant to this executive order;
 - d. establish procedures for appropriate contacts between OSC personnel involved in the determination of a procurement contract award and the employees, agents or consultants of a bidder or proposer for the purpose of clarifying a bid or proposal. Such authorized contacts shall only be for the purpose of providing information to OSC personnel to assist them in understanding and assessing the qualities, characteristics and anticipated performance of a product or service offered by a bidder or proposer, and shall occur only at such times and in such manner as have been authorized by the procedures established pursuant to this executive order;
 - e. provide for appropriate contacts between OSC personnel and the employees, agents or consultants of a proposer for the purpose of negotiating contract terms after the evaluation of bids or proposals and selection of a contractor have been completed;

- f. establish a process for the review by the General Counsel of any allegations of improper influence or attempted improper influence, and for the imposition of sanctions if such improper activity has been found to exist.
4. Incorporation of Procedural Controls in Contract Documents. The Procurement Integrity Procedures required by this executive order shall be incorporated into all OSC and CRF procurement solicitations and contracts.
5. Periodic Review. The General Counsel shall periodically review the Procurement Integrity Procedures with OSC personnel in order to ascertain potential areas of exposure to improper influence and to adopt desirable revisions for more effective avoidance of improper influences.
6. Sanctions. Any OSC employee who violates the Procurement Integrity Procedures may be subject to disciplinary action. Any vendor who violates the Procurement Integrity Procedures may be found to be a non-responsible vendor, and on the basis of such finding, may be ineligible to receive a contract award.

_____/s/_____

Thomas P. DiNapoli
Comptroller, State of New York

Last Revised Date: March 14, 2007
Original Date: February 14, 2002

OSC PROCUREMENT INTEGRITY PROCEDURES

In order to ensure that procurements of goods or services¹ by the Office of the State Comptroller (OSC) or the Common Retirement Fund (CRF) are conducted in a fair, equitable and open manner, the procedures set forth below shall apply to the procurement process.

The General Counsel to the Comptroller shall have general responsibility for the prevention of improper influence relative to all procurement contracts awarded by OSC or CRF.

A copy of these Procurement Integrity Procedures will be given to every OSC employee, consultant, or other person assigned to any task related to an OSC or CRF procurement. A copy of these procedures will be incorporated into every Request for Information (RFI), Request for Proposals (RFP) or Invitation for Bids (IFB) issued by OSC or CRF.

Any OSC employee who violates these procedures may be subject to disciplinary action, such as a reprimand, suspension, demotion, or dismissal. Any vendor who violates these procedures may, after notice and an opportunity to be heard, be determined to be a non-responsible vendor, and on the basis of such a determination may be ineligible to receive a contract award.

Every reasonable effort will be made to assure compliance with these procedures, but a minor deviation from these procedures that does not impair the fairness and integrity of the procurement process will not require the invalidation of a contract award.

1. OSC employees must provide every interested vendor² with an equal opportunity to compete. No information may be given to one vendor without being made available to all other interested vendors. Vendors should be asked to submit every substantive question³ concerning the procurement in writing not later than the date specified by OSC for such questions; and a copy of each question, together with OSC's written answer, should be supplied to all interested vendors and included in the procurement record.
2. Unless otherwise directed by the General Counsel to the Comptroller, OSC's Assistant Comptroller for Administration or a designee will serve as the coordinator for all procurement-related contacts between OSC personnel and vendor personnel. All telephone calls, correspondence, and meeting requests must be routed to: Assistant Comptroller for Administration, Office of the State Comptroller, 110 State Street – 13th Floor, Albany, NY 12236, telephone: (518) 474-7574, Fax: (518) 473-9377, Email: RFP@osc.state.ny.us. OSC's Assistant Comptroller for Administration, or a designee, will maintain a record of all such contacts.
3. A vendor may not exert or attempt to exert any improper influence⁴ relating to the vendor's bid or proposal. Any OSC employee who has direct knowledge of any improper influence or attempt to exert an improper influence concerning a procurement contract shall immediately make a record of the improper influence or attempted improper influence and notify the General Counsel to the

¹ These procedures apply to determinations by OSC or CRF to award a contract for the acquisition of any goods, services, or information technology, except that they do not apply to (i) decisions to invest or disinvest CRF assets in securities, properties, or other investment vehicles, (ii) selections of investment advisors or managers whose services are integral to the administration of CRF investments, and (iii) selection of counsel to represent the CRF in transactional, investment or litigation matters. Such CRF investment decisions and selections remain subject to the Comptroller's fiduciary responsibilities, and are to be made in a fair and equitable manner in accordance with those responsibilities.

² For the purposes of these procedures, the term "interested vendor" means a person or firm that has received or requested a Request for Information (RFI), an RFP, or an IFB issued by OSC or CRF.

³ For the purposes of these procedures, the term "substantive question" means an inquiry concerning a material requirement of the procurement process, such as a technical specification or a financial prerequisite. The term does not apply to ministerial matters, such as the time and place or manner of submitting a bid or proposal.

⁴ For the purposes of these procedures, the term "improper influence" means any attempt to achieve preferential, unequal, or favored consideration of a bid or proposal based on considerations other than the merits of the proposal, including but not limited to, any conduct prohibited by the Ethics in Government Act, as set forth in Public Officers Law sections 73 and 74.

Comptroller. The General Counsel to the Comptroller shall thereupon cause an investigation to be made and shall recommend such action, if any, as may be necessary.

4. Unless otherwise directed by the General Counsel to the Comptroller, OSC's Assistant Comptroller for Administration or a designee will be responsible for approving and scheduling all contacts between OSC employees and vendor personnel concerning procurements.
5. Vendors are expected to obtain information relating to an OSC or CRF procurement only from an OSC employee or other person designated by OSC. Vendors who seek information from other sources are cautioned that they rely on such information at their own risk.
6. Every IFB and RFP shall require vendors to identify in their bids or proposals the persons authorized to represent the vendor by name, address, telephone number, place of principal employment and occupation. This requirement applies not only to vendor employees involved in the submission of the vendor's bid or proposal but also to every individual or organization employed or designated by the vendor to attempt to influence the procurement process⁵. If, after submission of a bid or proposal, a vendor retains an individual or organization to attempt to influence the procurement process, then the name, address, telephone number, place of principal employment and occupation of such individual or organization shall be disclosed in writing to OSC or CRF prior to any contact with OSC or CRF and such disclosure shall be included in the procurement record. IFBs and RFPs shall require that vendors indicate in their bids or proposals or subsequent disclosures whether each contact individual or organization has a financial interest in the procurement.
7. All contacts between OSC personnel and vendor personnel during which a procurement-related matter is discussed in any way must be by telephone, in writing, or in person at the place of business of OSC or the vendor or at a place designated by OSC. Written documentation of all such discussions must be filed by the Assistant Comptroller for Administration or designee in the procurement record.
8. During the procurement process no lunch, dinner, or other meal shall be accepted by a member of the OSC staff from an interested vendor, except that a presentation, interview or similar session occurring at the place of business of OSC or a vendor or at a place designated by OSC may include a refreshment break.
9. The evaluations of competing bids or proposals and the recommendations and deliberations of OSC evaluation or selection committees shall be based solely on the merits of the bids or proposals, free from any improper influence.
10. Prior to the public release by OSC or CRF of an Invitation for Bids (IFB) or Request for Proposals (RFP), no OSC employee may disclose the contents of any portion of an IFB or RFP to any person not employed by OSC or any other person not authorized by the Assistant Comptroller for Administration or designee unless such disclosure is specifically authorized by the Assistant Comptroller for Administration, who shall only authorize such disclosure if he or she determines that such disclosure will not impair the fairness and integrity of the procurement process.
11. The evaluation of competing bids or proposals shall be conducted strictly in accordance with the detailed evaluation and selection procedures documented in the procurement record prior to the initial receipt and opening of the bids or proposals. The Assistant Comptroller for Administration or a designee shall issue the detailed evaluation and selection procedures to the members of the evaluation and selection committees prior to the distribution of the bids or proposals to the committee members for evaluation.

⁵ For the purposes of these procedures, the term "attempt to influence the procurement process" means any attempt to influence any determination by OSC or CRF by a person other than an OSC employee with respect to (i) the solicitation, evaluation or award of a procurement contract; or (ii) the preparation of specifications or request for submissions of bids or proposals for a procurement contract.

12. During the evaluation and selection phases of the procurement process, no OSC employee may disclose any part of a bid or proposal to any other person, except that (i) a member of an evaluation or selection committee may discuss a proposal with another member of the same committee, and (ii) a member of an evaluation or selection committee may disclose a proposal or a portion of a proposal to a person assigned to assist in the evaluation or selection process, as described below.
13. With the approval of the Assistant Comptroller for Administration or designee, evaluation or selection committees may appoint OSC employees or other experts to provide supporting services or information to assist in the evaluation of proposals and the selection of a contractor.
14. At the discretion of the Assistant Comptroller for Administration or a designee, any person to whom a bid or a proposal or a portion of a bid or a proposal is disclosed may be required to comply with a written non-disclosure or confidentiality agreement setting forth the terms and conditions under which such person is entrusted with the bid or proposal or portion thereof.

October 11, 2011

APPENDIX D

INSURANCE REGULATIONS

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 11. INSURANCE

CHAPTER IV. FINANCIAL CONDITION OF INSURER AND REPORTS TO SUPERINTENDENT

SUBCHAPTER F. PUBLIC RETIREMENT SYSTEMS

PART 136. PUBLIC RETIREMENT SYSTEMS

§136-2.1 Purpose

(a) Section 314(b) of the Insurance Law authorizes the Superintendent of Financial Services to promulgate certain standards with respect to the public retirement and pension systems of the State of New York or of a municipality thereof. Specifically, subsection (b) states as follows:

“(b) Notwithstanding any other provision of law to the contrary, the superintendent shall have, in addition to any other powers conferred upon him by law, the following authority with respect to any system: ***

(2) to promulgate and amend from time to time, after consultation with the administrative heads of systems and after a public hearing, standards with respect to actuarial assumptions, accounting practices, administrative efficiency, discharge of fiduciary responsibilities, investment policies and financial soundness...”

(b) This Subpart establishes standards for the management of the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System (hereinafter, collectively, “the Retirement System”), and the New York State Common Retirement Fund (hereinafter “the Fund”). These standards are intended to assure that the conduct of the business of the Retirement System and the Fund, and of the State Comptroller (as administrative head of the Retirement System and as sole trustee of the Fund) are consistent with the following principles:

- (1) the retirement system and the fund shall operate under a strong governance framework with a rigorous system of internal controls;
- (2) the retirement system and the fund shall maintain a high level of operational transparency;
- (3) the Comptroller shall adhere to and manage the retirement system and the fund with the highest ethical, professional and conflict of interest standards;
- (4) the Comptroller shall have a fiduciary responsibility to act for the sole benefit of the retirement system's members and beneficiaries; and
- (5) the retirement system and the fund shall be managed in the most efficient and effective manner possible.

§136-2.2 Definitions

The following words and phrases, as used in this Subpart, unless a different meaning is plainly required by the context, shall have the following meanings:

(a) Retirement system shall mean the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

(b) Fund shall mean the New York State Common Retirement Fund, a fund in the custody of the Comptroller as trustee, established pursuant to Section 422 of the Retirement and Social Security Law, which holds the assets of the retirement system.

(c) Comptroller shall mean the Comptroller of the State of New York in his capacity as administrative head of the Retirement System and the sole trustee of the fund.

(d) OSC shall mean the Office of the State Comptroller.

(e) Consultant or advisor shall mean any person (other than an OSC employee) or entity retained by the fund to provide technical or professional services to the fund relating to investments by the fund, including outside investment counsel and litigation counsel, custodians, administrators, broker dealers, and persons or entities that identify investment objectives and risks; assist in the selection of investment managers, securities, or other investments; or monitor investment performance.

(f) Investment manager shall have the meaning set forth in Retirement and Social Security Law section 424-a(2)(a).

(g) Placement agent or intermediary shall have the meaning set forth in Retirement and Social Security Law section 424-a(2)(b).

(h) Investment policy statement shall mean a written document that, consistent with law, sets forth a framework for the investment program of the fund.

(i) Third party administrator shall mean any person or entity that contractually provides administrative services to the retirement system, including receiving and recording employer and employee contributions, maintaining eligibility rosters, verifying eligibility for benefits or paying benefits and maintaining any other retirement system records. Administrative services do not include services provided to the fund relating to fund investments.

(j) Unaffiliated Person shall mean any person other than: (1) the Comptroller or a family member of the Comptroller, (2) an officer or employee of OSC, (3) an individual or entity doing business with OSC or the fund, or (4) an individual or entity that has a substantial financial interest in an entity doing business with OSC or the fund. For the purpose of this paragraph, the term "substantial financial interest" shall mean the control of the entity, whereby control means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract (except a commercial contract for goods or non-management services) or otherwise; but no individual shall be deemed to control an entity solely by reason of his being an officer or director of such entity. Control shall be presumed to exist if any individual directly or indirectly owns, controls or holds with the power to vote ten percent or more of the voting securities of such entity.

(k) Family member shall mean any person living in the same household as the Comptroller, and any person related to the Comptroller within the third degree of consanguinity or affinity.

§136-2.3 Fiduciary Responsibilities

(a) The Comptroller is a fiduciary and as such shall act solely in the interests of the members and beneficiaries of the retirement system. At all times the Comptroller shall perform his or her responsibilities with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(b) The fund shall at all times be under the control of the Comptroller, who shall adopt an investment policy statement and any amendments to such as needed. Key elements of an investment policy statement shall include, without limitation:

(1) investment purpose;

(2) investment objectives;

(3) roles and responsibilities of the Comptroller, and the Comptroller's staff and committees, with respect to investments of the assets of the fund;

(4) investment guidelines and limits encompassing all types of investments;

(5) asset allocation targets, including procedures for rebalancing;

(6) standards for measuring investment performance and evaluating investment risk; and

(7) any other guidelines adopted by the Comptroller with respect to specific investment related issues, including, but not limited to, securities lending, proxy voting, brokerage, and securities litigation.

(c) No investment or loan transaction shall be made by the fund unless the same has been approved in writing by the Comptroller. The Comptroller may delegate his or her powers of investment to a committee or agent of the Comptroller in accordance with the fund's investment policy statement. Such committee or agent shall render timely written reports of its activities to the Comptroller under a schedule to be established by the Comptroller, and shall render special reports whenever requested by the Comptroller. The Comptroller shall furnish any such reports promptly upon the request of the superintendent.

(d) In respect to the delegation of investment powers, the Comptroller shall regularly review:

(1) the present holdings in the investment account;

(2) any material changes in the account during the preceding period;

(3) the reasons for such changes and the results achieved thereby;

(4) the investment activity in the account including the rate of turnover; and

(5) any other factors that the Comptroller considers pertinent to an analysis of financial performance and planning, consistent with his or her obligation as a fiduciary.

(e) The Comptroller shall adopt, as shall be deemed necessary, such mortality, service and other tables recommended by the retirement system's actuary and certify the rates of deduction from compensation and ascertain contributions by the employers computed to be necessary to pay the benefits authorized under the provisions of law. The Comptroller shall also submit to the superintendent, in writing, the reasons for the decision not to adopt such recommendations presented by the retirement system's actuary.

(f) The Comptroller shall not reverse, reject, or unduly delay the adoption of the recommendations of the retirement system's medical board in the performance of its statutory duty, unless such rejection, reversal or delay is supported by objective reasons stated, in writing, by the Comptroller.

(g) The Comptroller shall ascertain when contributions to the retirement system are due and institute appropriate procedures to enforce prompt payment thereof. Contributions for a fiscal year that are more than three months overdue shall be reported to the superintendent by a schedule appended to the annual statement filed with the Department of Financial Services.

(h) Neither the Comptroller, nor any consultant or advisor, investment manager, agent or employee, shall:

(1) deal in the assets of the retirement system or the fund for his or her own account;

(2) act in any capacity in any transaction involving the retirement system or the fund on behalf of a party whose interests are adverse to the retirement system or the fund;

(3) receive any consideration from any party other than OSC, the retirement system or the fund in connection with a transaction involving the retirement system or the fund; or

(4) own or maintain any indicia of ownership or personal interest in any assets of the retirement system or the fund other than an interest in the retirement system as a member or beneficiary.

(i) The Comptroller shall require proper minutes of meetings of any committee established by law, regulation or the Comptroller. The Comptroller shall furnish such minutes promptly upon the request of the superintendent.

(j) The Comptroller shall be responsible for ensuring that all members of any committees established by law or regulation or by the Comptroller to assist in the management of the retirement system or in the investment of the assets of the fund have been, (1) provided with appropriate information pertaining to their duties and their fiduciary and ethical responsibilities and (2) provided training with respect to discharge of their fiduciary duties and responsibilities to the fund.

§136-2.4 Governance Responsibilities and Ethics Provisions

(a) Committees.

(1) The Comptroller shall appoint committees required by statute, regulation, or executive order of the Comptroller, including but not limited to, the Investment Advisory Committee and the Real Estate Advisory Committee (also known as the Mortgage Advisory Committee) required by Section 423 of the Retirement and Social Security Law. The Comptroller shall establish and administer written ethical standards applicable to the members of such committees. The ethical standards shall establish a financial disclosure and conflicts of interest process designed to ensure that decisions are made for the benefit of the retirement system members and beneficiaries. Such ethical standards shall be published on the OSC public website.

(2) The Comptroller shall authorize the investment advisory committee to review the investment policy statement and offer advice regarding amendments to the investment policy statement as needed.

(3) The Comptroller shall develop a process to receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse by a committee member. The process shall be set forth in written guidelines and such guidelines shall be published on the OSC public website.

(b) Employees.

(1) All employees of OSC who have responsibility for matters related to the fund are subject to the applicable provisions of the Public Officers Law.

(2) All employees of OSC who have responsibility for matters related to the fund shall be provided training with respect to discharge of their duties and responsibilities to the fund.

(3) The Comptroller shall develop a process to receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse in OSC by a State officer or employee relating to his or her office or employment. The process shall be set forth in written guidelines and such guidelines shall be published on the OSC public website.

(c) Investment managers, and consultants or advisors.

(1) The Comptroller shall require that investment managers, and consultants or advisors:

(i) promptly disclose to the fund in writing any conflict of interest the investment manager or consultant or advisor may have which could reasonably be expected to impair the investment manager's, or consultant or advisor's ability to render unbiased and objective advice; and

(ii) file annually with the fund a statement acknowledging that they are aware of and that they are in compliance with the above standard. Such statement shall contain the following language:

"ALL INVESTMENT MANAGERS, AND CONSULTANTS OR ADVISORS OWE THE COMPTROLLER A FIDUCIARY DUTY. THIS MEANS THAT INVESTMENT MANAGERS, OR CONSULTANTS OR ADVISORS MUST DISCLOSE TO THE COMPTROLLER INFORMATION ABOUT MATERIAL CONFLICTS OF INTEREST. FAILURE TO TRUTHFULLY COMPLETE THIS STATEMENT MAY RESULT IN CRIMINAL OR CIVIL LIABILITIES".

(2) The Comptroller shall establish transparent procurement guidelines and procedures with respect to procurement of all investment managers, and consultants or advisors. Such guidelines and procedures shall be published on the OSC public website. The method of selection of investment managers, and consultants or advisors shall be documented in writing, in a procurement record.

(3) The Comptroller shall develop a process to receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse by a person or entity having business dealings with the fund relating to such dealings. The process shall be set forth in written guidelines and such guidelines shall be published on the OSC public website.

(d) Placement agents or intermediaries. In order to preserve the independence and integrity of the fund, to prevent potential conflicts of interest, and to assist the Comptroller in fulfilling his or her duties as a fiduciary to the fund, the fund shall not engage, hire, invest with, or commit to an investment manager that is using the services of a placement agent or intermediary to assist such investment manager in obtaining investments by the fund, nor shall the fund engage, hire, invest with, or commit to an investment manager without obtaining from such investment manager a certification in the form and manner prescribed by the fund stating that such investment manager has not used the services of a placement agent or other intermediary to assist such investment manager in obtaining investments by the fund.

(e) Audit committee. Consistent with his or her obligations as a fiduciary, the Comptroller shall establish an audit committee for the retirement system and the fund comprised exclusively of unaffiliated persons, one of whom shall reflect the interests of public employees and one of whom shall reflect the interests of public employers. The Comptroller shall:

- (1) develop and audit committee charter for the committee;
- (2) establish written standards for the selection of audit committee members;
- (3) authorize the audit committee to review and report to the Comptroller on the internal audit plans and the internal audit and regulatory examination reports related to the retirement system and the fund;
- (4) authorize the audit committee to review and report to the Comptroller on the procurement of external auditor services by the retirement system and the fund;
- (5) authorize the audit committee to review and report to the Comptroller on the annual audit process related to the retirement system and the fund and the Comprehensive Annual Financial Report, which shall include meeting with external auditors to review the adequacy of internal controls and significant findings and recommendations; and
- (6) authorize the audit committee to develop quarterly progress reports to the Comptroller that, at a minimum, discuss:
 - (i) the audits of the retirement system and the fund scheduled to be conducted, along with the scope of the audits;
 - (ii) the audits of the retirement system and the fund completed; and
 - (iii) significant audit findings and recommendations related to the retirement system and the fund.

§136-2.5 Transparency and Financial Reporting

(a) All records, including work papers for the preparation of the annual statement filed with the superintendent, shall be available to the Department's examiners and be maintained in accordance with the requirements of 11 NYCRR Part 243 (Regulation No. 152).

(b) The comptroller shall require that all agreements with consultants or advisors, investment managers, or third party administrators include provisions that require the person or entity to:

- (1) submit to a review by the superintendent concerning fees paid by the fund and services rendered to the fund; and
- (2) respond in writing to any inquiry or request for information by the superintendent concerning fees paid by the fund and services rendered to the fund.

(c) Books of account and records of the retirement system and of the fund shall be maintained by fiscal year for which the retirement system files reports.

(d) The comptroller shall maintain a classification of its accounts, numbered and titled, together with an accurate description of the content of each account by debit and credit. The classification of accounts shall be consistent with the requirements of the accounting and financial reporting standards of the Governmental

Accounting Standards Board and of any other reporting requirement judged to be necessary by the superintendent.

(e) The comptroller shall maintain records that set forth the expenses incurred by the retirement system and the fund on their behalf in the course of operations.

(f) The comptroller shall have on his or her staff an internal auditor who shall report to the comptroller and shall submit regular reports of the audits of the retirement system's and fund's records, accounting procedures, and investment operations, including recommendations for improvement and correction. The comptroller shall require the internal auditor to conduct audits on an annual basis based on risk assessment criteria of the operations of the retirement system and the fund, including audits of business relationships with the retirement system and the fund. The comptroller shall share all internal and external audit reports related to the retirement system and the fund with the audit committee. The comptroller shall furnish any such reports promptly upon the request of the superintendent.

(g) The comptroller shall:

(1) file with the superintendent an annual statement in the format prescribed by section 307 of the Insurance Law, including the retirement system's financial statement, together with an opinion of an independent certified public accountant on the financial statement;

(2) file with the superintendent the Comprehensive Annual Financial Report within the time prescribed by law, but no later than the time it is published on the OSC public website;

(3) disclose on the OSC public website, on at least an annual basis, all fees paid by the fund to investment managers, consultants or advisors, and third party administrators;

(4) disclose on the OSC public website the fund's investment policies and procedures; and

(5) require fiduciary and conflict of interest reviews of the fund every three years by a qualified unaffiliated person.

§136-2.6 Financial Soundness and Actuarial Principles

(a) Consistent with his or her obligations as a fiduciary, the Comptroller shall establish an actuarial committee comprised exclusively of unaffiliated persons that have expertise and experience in actuarial science.

(b) The Comptroller shall:

(1) develop an actuarial committee charter for the committee;

(2) establish written standards for the selection of actuarial committee members;

(3) authorize the actuarial committee to make recommendations to the retirement system actuary regarding actuarial assumptions and methodologies; and

(4) authorize the actuarial committee to review and report to the Comptroller on the financial soundness of the retirement system.

§136-2.7 Implementation

(a) Failure to implement provisions of applicable law or regulation shall be regarded as a breach of fiduciary responsibility.

(b) The Comptroller, any officer or employee of OSC, or any other person or entity having a fiduciary responsibility to the fund, who willfully violates or knowingly participates in a violation of any fiduciary standard promulgated pursuant to Section 314 of the Insurance Law or other applicable law or regulation, shall be guilty of a breach of fiduciary responsibility.

(c) In the event the superintendent determines that there is reasonable cause to believe that the breach has occurred, the superintendent shall, after providing notice to the Comptroller or his or her designee, and to the subject officer or employee of OSC or such other person or entity having a fiduciary responsibility to the fund, transmit a notice of reasonable cause to: the Temporary President of the Senate and the Speaker of the Assembly, if the notice relates to the Comptroller; or to the Comptroller, if the notice relates to an officer or employee of OSC or to any other person or entity having a fiduciary responsibility to the fund.

(d) In any case where the superintendent determines that there is reasonable cause to believe that a breach by the Comptroller, an officer or employee of OSC, or any other person or entity having a fiduciary responsibility to the fund, has resulted in a depletion of the fund, the superintendent, after providing notice to the Comptroller or the Comptroller's designee, may transmit a copy of his or her determination to the Attorney General or any other appropriate civil or criminal law enforcement authorities for any appropriate further action.

(e) In any case where the superintendent's transmittal results in an adjudication that the fund has been depleted by reason of any breach, the adjudication will be published on the OSC public website.

(f) This Subpart shall take effect upon publication in the State Register, and will apply to all contracts related to the management of the Fund entered into or renewed by the Comptroller subsequent to that date.

Amended 6/09/21

APPENDIX E

CONTRACTOR'S CERTIFICATIONS/ACKNOWLEDGEMENTS

CONTRACTOR'S ACKNOWLEDGEMENT OF RECEIPT OF OSC POLICY STATEMENT ON DISCRIMINATION AND HARASSMENT, INCLUDING SEXUAL HARASSMENT
The Contractor and each person signing on behalf of the Contractor acknowledges that the signer has the authority to sign on behalf of the Contractor, has received a copy of the OSC Policy Statement on Discrimination and Harassment, Including Sexual Harassment (Appendix B), and agrees to abide by the terms of that Policy Statement.
CERTIFICATION OF COMPLIANCE WITH STATE FINANCE LAW § 139(L) REGARDING SEXUAL HARASSMENT POLICY AND ANNUAL TRAINING
"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of § 201-g of the NYS Labor Law." Note: Reference to bid includes proposals and other responses to solicitations. Reference to bidder includes proposers and Contractors.
NON-COLLUSIVE BIDDING CERTIFICATION
The Contractor and each person signing on behalf of the Contractor certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of the signer's knowledge and belief: 1. The prices in this Agreement have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other competitor; 2. Unless otherwise required by law, the prices which have been quoted in this Agreement have not been knowingly disclosed by the Contractor and will not knowingly be disclosed by the Contractor, directly or indirectly, to any other competitor; and 3. No attempt has been made or will be made by the Contractor to induce any other person, partnership, or corporation to submit or not to submit a bid for the purpose of restricting competition.
CONTRACTOR'S ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING OF OSC EXECUTIVE ORDER ON PROCUREMENT INTEGRITY
The Contractor and each person signing on behalf of the Contractor acknowledges that the signer has received a copy of the OSC Executive Order on Procurement Integrity and OSC Procurement Integrity Procedures (Appendix C) and affirms, under penalty of perjury, that the signer understands such Executive Order and Procedures and will comply with them.
THE SIGNATURE(S) BELOW INDICATES AGREEMENT WITH EACH OF THE ABOVE

_____ CONTRACTOR/PROPOSER NAME	_____ JOINT PROPOSER NAME (IF ANY)
_____ SIGNATURE	_____ SIGNATURE
_____ PRINTED OR TYPED NAME	_____ PRINTED OR TYPED NAME
_____ TITLE	_____ TITLE
_____ DATE	_____ DATE

Add additional signature lines below for additional Joint Proposers, as necessary

May 17, 2019

APPENDIX F

CRF PROPOSER'S DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS

1. Has the Proposer been found by any governmental entity to be non-responsible within the past four years from the date of this proposal due to either:
- a. impermissible contacts or other violations of New York State Law; or
 Yes No

 - b. intentional provision of false or incomplete information to a governmental entity?
 Yes No

If your answer to either of the above is "Yes," please attach a written explanation, indicating the date of such finding, the entity that found non-responsibility, and the circumstances surrounding such finding (including any written finding of non-responsibility issued by such entity).

Signature

Printed or Typed Name

Title

Procurement Number/Name

Date

February 29, 2012

APPENDIX H

EXECUTIVE ORDER

INDEPENDENCE OF AUDITORS PERFORMING SERVICES FOR THE OFFICE OF THE STATE COMPTROLLER AND THE COMMON RETIREMENT FUND

WHEREAS, improper and deceptive accounting practices by auditing firms and major corporations in recent years resulted in massive losses at a number of corporations, cost thousands of workers their jobs, as well as their retirement savings, and cost investors (both individuals and institutions) billions of dollars; and

WHEREAS, disclosures regarding these practices created a heightened concern over the ability of auditing firms to maintain audit independence when they are permitted to provide consulting services to the same client; and

WHEREAS, situations where the same audit partner is responsible for conducting or supervising the audit of a client in several successive years and situations where auditors are permitted to accept employment with audit clients were also identified as creating the risk of diminished audit independence; and

WHEREAS, the Comptroller General of the United States promulgated generally accepted government auditing standards expressly prohibiting auditors from providing certain non-audit services to an audit client; and

WHEREAS, Congress responded to these issues by enacting the Sarbanes-Oxley Act of 2002, which includes provisions creating an oversight board for accounting firms auditing publicly-traded companies, addressing auditor independence issues and expressly prohibiting an audit firm from performing certain non-audit services contemporaneously with an audit, and imposing certain governance requirements on publicly-traded companies; and

WHEREAS, it is impossible to specify all situations that could arise that would create a conflict of interest or the appearance of diminished audit independence in contracts between audit firms and the Office of the State Comptroller (OSC) or the New York State Common Retirement Fund (CRF);

NOW, THEREFORE, I, Thomas P. DiNapoli, as the administrative head of the OSC and Sole Trustee of the CRF, in order to: (i) prevent the potential conflict of interest presented when a firm providing audit services is in a position to gain financially from providing certain non-audit services to the same client; (ii) avoid the risk of a conflict of interest or the appearance of diminished audit independence where auditor-client relationships are longstanding or where auditors are permitted to accept employment with audit clients; (iii) preserve the independence necessary for sound and reliable financial review, and (iv) provide for an on-going process for review of proposed contracts with audit firms and provide the flexibility in a designated group of senior managers to promulgate additional audit independence standards for OSC and CRF, as appropriate, do hereby order and direct the following policy and procedures for OSC and CRF in connection with new procurements:

First, an Audit Oversight Board (the Board) is established for OSC and CRF, which will consist of the following members:

- First Deputy Comptroller;
- Executive Deputy Comptroller for State and Local Government Accountability;
- General Counsel;
- Executive Deputy Comptroller for Operations;
- Deputy Comptroller for Retirement Services.

Second, the Board shall oversee the procurement of all audit services and shall promulgate guidelines setting out auditor independence standards for OSC and CRF; the guidelines may impose auditor independence standards in addition to these set forth herein and may be amended from time to time.

Third, before any contract is entered into by OSC or CRF with an audit firm, the Board shall review the proposed contract in the context of any prior, current and pending contracts with such firm for compliance with legal and professional audit standards and with the terms of this Order and guidelines promulgated by the Board.

Fourth, no audit firm shall be hired to perform services for OSC or CRF unless the provision of such services is consistent with standards promulgated by the GAO.

Fifth, no audit firm shall be hired to perform services for OSC or CRF unless the provision of such services is consistent with the auditor independence provisions of section 201 of the Sarbanes-Oxley Act¹⁵.

Sixth, no audit firm shall be hired to perform services for OSC or CRF unless the provision of such services is consistent with any additional auditor independence standards that may be issued by the Board, as amended from time to time.

Seventh, where any firm performing audit services for OSC or CRF seeks to respond to a solicitation for services by OSC or CRF for non-audit services to be rendered during the term of the audit contract, and where any firm performing non-audit services for OSC or CRF seeks to respond to a solicitation for services by OSC or CRF for audit services to be rendered during the term of the contract for non-audit services, the firm shall submit with its response a statement (1) setting out the reasons that the firm could perform services under both contracts without any impairment of independence under GAO standards, (2) attesting that the proposed activity is not one which, if the services were subject to the provisions of the Sarbanes-Oxley Act, would be precluded under the auditor independence provisions set out in section 201 of the Act, and (3) attesting that the engagements would comply with any additional written standards promulgated by the Board in advance of the solicitation for services to prevent an impairment or the appearance of an impairment of independence from arising from two contracts with the same firm; all such statements on independence submitted by any firm shall be reviewed by the Board prior to consideration of a proposal submitted in response to a solicitation for services by OSC or CRF and the Board shall determine whether the firm can be considered for the contract consistent with the requisite independence standards.

Eighth, the lead or coordinating partner having primary responsibility for the audit, or the audit partner having responsibility for reviewing the audit shall, not serve in such capacity for more than five consecutive years.

Ninth, no appointment or promotion to an exempt, policy-making position in OSC shall be approved for any partner or other professional employed by a firm that provided audit services to OSC or CRF during the two-year period preceding the date of the appointment or promotion.

TPD/s/
Thomas P. DiNapoli
Comptroller, State of New York
Last Revised Date: February 19, 2009
Original Date: February 14, 2002

¹⁵ Section 201 expressly prohibits an audit firm from providing the following non-audit services contemporaneously with an audit:

- (1) Bookkeeping or other services related to the accounting records or financial statements of the audit client;
- (2) Financial information systems design and implementation;
- (3) Appraisal or valuation services, fairness opinions, or contribution-in-kind reports;
- (4) Actuarial services;
- (5) Internal audit outsourcing services;
- (6) Management functions or human resources;
- (7) Broker or dealer, investment adviser, or investment banking services;
- (8) Legal services and expert services unrelated to the audit; and
- (9) Any other service that the Public Company Accounting Oversight Board determines, by regulation, is impermissible.