

THOMAS P. DINAPOLI
COMPTROLLER OF THE STATE OF NEW YORK



REQUEST FOR PROPOSALS
RFP24-17

FINANCIAL STATEMENT AUDITING SERVICES
FOR THE
NEW YORK STATE AND LOCAL RETIREMENT SYSTEM

ISSUED: JUNE 11, 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 11, 2024
Deadline for Submission of Written Questions	July 3, 2024 4:00 p.m. ET
Responses to Written Questions Posted (on or about)	July 18, 2024
Deadline for Submission of Proposals	August 1, 2024 4:00 p.m. ET
Anticipated Start of Interviews (if determined to be necessary)	August 27, 2024
Anticipated Notification of Award	September 16, 2024
Anticipated Approval of Contract	October 1, 2024
Anticipated Commencement of Contract	October 1, 2024

2.0 GENERAL INFORMATION

Through this Request for Proposals (“RFP”), Thomas P. DiNapoli, Comptroller of the State of New York (the “Comptroller”), as Administrative Head of the New York State and Local Retirement System (“NYSLRS” or “the System”) and Trustee of the Common Retirement Fund (the “CRF” or the “Fund”), seeks proposals from qualified, independent certified public accounting firms (“Proposers” or “Firms”) to conduct annual audits of the combined financial statements of the constituent entities of NYSLRS (the New York State and Local Employees’ Retirement System [“ERS”] and the New York State and Local Police and Fire Retirement System [“PFRS”]), and additional related services (e.g., audit standards and guidance. At the conclusion of this procurement process, NYSLRS will contract with a qualified Proposer to provide the services as further detailed in Section 5.0 (Services).

Employees of the Fund and the System are employees of the New York State Office of the State Comptroller (“OSC”). References herein to OSC will be deemed to include NYSLRS and the Fund, however, at times, for clarity, OSC, NYSLRS and the Fund may be referenced separately.

2.1. The Common Retirement Fund

The Fund, as established by Article 9 of the New York Retirement and Social Security Law (“RSSL”), holds and invests the assets of the System. The major purpose of the Fund is to provide a combined overall investment program for the System. As of December 31, 2023 the plan net position of the System was \$259.9 billion.

With the support of the Executive Deputy Comptroller for NYSLRS, the Chief Investment Officer/Deputy Comptroller for the Division of Pension Investment and Cash Management (“PICM”) within OSC, the Counsel to the State Comptroller and their professional staffs, and the Fund’s outside counsels, consultants, and advisory committees, the Comptroller determines policies and manages the investment operations of the Fund. PICM manages the assets of the Fund on a day-to-day basis.

As a governmental pension plan, the provisions of Part 4 of Title I of Employment Retirement Social Security

Act of 1974 (“ERISA”) do not apply to the Fund and the System however, the Fund may, in its discretion, use the Fiduciary Responsibility provisions contained in Part 4 as one source of principles of fiduciary conduct, responsibilities and obligations that may provide guidance for the Fund.

As an independently elected statewide officer and the Trustee of the Fund, the Comptroller is directly accountable to the members, retirees, and beneficiaries of the System. To access additional information on the Fund, follow the link to the OSC’s website: <https://www.osc.ny.gov/common-retirement-fund>

2.2. Accounting Bureau

NYSLRS’ Accounting Bureau (“Accounting Bureau”) is responsible for preparing and maintaining accurate financial records and reports pertaining to the System, including the book of record for investments of the Fund. The Accounting Bureau maintains the general ledger control accounts and subsidiary accounts, processes transfers among these funds, and prepares journal vouchers and adjustment transactions. The Accounting Bureau applies all moneys received for the System and maintains the accounting records of System disbursements.

The Accounting Bureau uses various online real-time accounting systems, as follows:

- Microsoft Dynamics GP ledger software;
- FIS Investment Accounting Manager multi-currency accounting software that supports the fixed-income, public and private equity, real estate, opportunistic and absolute return strategies, real assets, credit, and money market portfolios;
- Peoplesoft, integrated ERP software package used for receipts, disbursements, benefit calculations and pension payroll; and
- The Mortgage Office Loan Management software.

2.3. Background to Issuance of RFP

The Comptroller serves as Administrative Head of NYSLRS and Trustee of the Fund. The Comptroller is responsible for the management of the System, including the investment of funds, the calculation of actuarial liabilities and contributions, the adjudication and payment of benefits and the collection and crediting of contributions to individual member and employer accounts.

The OSC Division of Retirement Services is responsible to account for the operations of the following four entities:

- New York State and Local Employees' Retirement System
- New York State and Local Police and Fire Retirement System
- Public Employees' Group Life Insurance Plan ("GLIP")
- New York State Common Retirement Fund

The invested assets of the System are held in the Fund. A copy of the “Annual Comprehensive Financial Report” for the fiscal year ended March 31, 2023 can be found online at <https://www.osc.ny.gov/retirement/resources/2023-nyslrs-annual-comprehensive-financial-report>.

Total additions from all sources for the fiscal year ended March 31, 2023 were approximately \$8.4 billion. These included employer and employee contributions, investment maturities, interest, and dividends. Disbursements were approximately \$12.3 billion and included benefit payments and administrative expenses.

As of March 31, 2023, the System had 3,547 participating employers, 695,504 active members, and 514,629 pensioners and beneficiaries. Disbursements to pensioners and beneficiaries exceed \$1.4 billion monthly. The System is a qualified plan under the Internal Revenue Code, § 401(a).

More detailed information concerning membership and benefits of the System, and the System's March 31, 2023 Annual Comprehensive Financial Report may be found online at: <https://www.osc.ny.gov/files/retirement/resources/pdf/annual-comprehensive-financial-report-2023.pdf>.

2.4. Investments

The assets of the System are held in the Fund and invested as determined at the discretion of the Comptroller, as Trustee, subject to the provisions of the RSSL. The Comptroller is assisted in this role by advisory committees, PICM, and independent investment managers.

As set forth in Section 2.1, above, PICM is managed by a Chief Investment Officer/Deputy Comptroller and is responsible for managing all of the investments of the Fund. The Office of Corporate Governance (within PICM) is responsible for voting the Fund's domestic proxies as well as maintaining a database and reporting system to execute and record proxy votes.

Multiple advisory committees provide expert support to the Comptroller in connection with the investments of the Fund and the administration of the System. They are the Investment Advisory Committee, the Real Estate Advisory Committee, the Actuarial Advisory Committee, the Audit Advisory Committee, and the Advisory Council for the Retirement Systems (collectively, the "Advisory Committees").

2.5. Securities Documents

Equity and fixed income investments owned directly by the Fund, which trade in the United States ("US") markets, are held by the Fund's custodian, in separate accounts, in the name of the Comptroller of the State of New York in Trust for the Fund. These securities are typically held in electronic form through the Federal Book Entry System and by the Depository Trust Company ("DTC") and its subsidiaries acting as an agent of the Fund's custodian bank. Securities held directly by the Fund that trade in markets outside the US are held by a subsidiary of the Fund's custodian bank in the local market.

2.6. 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 OSC Procurement Integrity Procedures) impacts the entire procurement and potential Proposers are strongly encouraged to read and understand these procedures before drafting their proposals as they will govern this RFP and any resulting contract awards. Proposers are also encouraged to review Attachment E (Draft Contract), including all appendices, as each Proposer must be willing to enter into an agreement consistent with the terms of Attachment E should the Proposer be selected for contract award.

Proposers are encouraged to notify NYSLRS of requirements that would prohibit the Proposer from submitting a proposal (see Section 6.2 below).

2.7. Term

The term of the contract to be entered into as a result of this RFP (“Agreement” or “Contract”) will commence on October 1, 2024 and will be for a period of six years, effective as of final execution of the Agreement by NYSLRS.

2.8. Interchangeable Designations

The terms Proposer, Firm, selected Proposer, Consultant, and Contractor may be referenced throughout this RFP. Generally, references to the “Proposer” and “Firm” are used in conjunction with the proposing firm 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.

3.0 MINIMUM QUALIFICATIONS TO PROPOSE

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

Proposers must:

- A.** Submit a statement, signed by an authorized signatory, that the Firm is independent of the System in accordance with the American Institute of Certified Public Accountants (“AICPA”) and government auditing standards and is able to conduct the proposed audit;
- B.** Submit a list of client(s) and dates that demonstrates that it has audited the generally accepted accounting principles (“GAAP”) basis financial statements of a minimum of one state government defined benefit plan within the last five years; and
- C.** Submit proof that the Proposer is a Certified Public Accounting (“CPA”) firm that is in good standing with the New York State Board for Accountancy and provide a copy of the Firm’s current registration.

4.0 POST-AWARD SECURITY AND CONFIDENTIALITY VERIFICATION

The selected Proposer must ensure the confidentiality of 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 commercially-appropriate security standards and compliant with applicable laws and regulations.

Upon notification of conditional award (see Section 10.0), the conditionally-awarded Proposer will be required to demonstrate to NYSLRS 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, FedRamp) 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 NYSLRS with a third-party assessment and/or certification that its systems and applications are in compliance with the above-identified industry- or government-accepted security framework. If the conditionally-awarded Proposer cannot or declines to provide such assessment and/or certification, it must identify how it will verify, to NYSLRS’ 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 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 OSC/NYSLRS confidential information (referenced as NYSLRS confidential information below) and what limits will be placed on access to and ability to download such information.
- C. The conditionally-awarded Proposer must be able to provide all of the Services from within the contiguous United States (“CONUS”). OSC information must remain at all times within the CONUS. Any data processing, storage, or other actions and Services that directly or indirectly access, interact with, or process OSC information must do so from within the CONUS, whether those actions and Services are performed by the conditionally-awarded Proposer, or by its affiliates, contractors or third-party service providers. No support staff or other back office operations personnel shall be allowed to access OSC information directly or indirectly from locations outside the CONUS (“OCONUS”).
- D. The conditionally-awarded Proposer must describe its incident response procedures for security incidents, including unauthorized access, disclosure, modification, or use of OSC information.
 1. The conditionally-awarded Proposer must explain the extent to which it will, if commercially possible, provide NYSLRS with notice within 24 hours in the event of a security incident that has impacted or is reasonably expected to impact NYSLRS information. If the conditionally-awarded Proposer cannot meet the NYSLRS notice preference, the Proposer must identify the notice period (e.g., 48 hours or 72 hours) to which it will commit.
 2. The conditionally-awarded Proposer must identify what assistance it will provide to NYSLRS in responding to a security incident, including any required notification.
- E. The conditionally-awarded Proposer must describe its practices, policies, and procedures regarding the destruction or return of NYSLRS confidential information, including the sanitization method the conditionally-awarded Proposer will apply to NYSLRS confidential information.
 1. The conditionally-awarded Proposer must confirm whether an officer or principal of the conditionally-awarded Proposer will certify to NYSLRS 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 found at:

https://its.ny.gov/system/files?file=documents/2022/10/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 NYSLRS confidential information, and how the conditionally-awarded Proposer intends to ensure the confidentiality of such information, and for how long such information must be retained.

NYSLRS expressly reserves its right to decline to make a final award to any conditionally-awarded Proposer that NYSLRS 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, NYSLRS may elect to grant the award to the next-highest scoring Proposer. NYSLRS may simultaneously engage in discussions with multiple Proposers regarding their security practices.

5.0 SERVICES

Independent certified public accounting firms are invited to submit proposals to conduct an audit of the combined financial statements of the System for each of the six fiscal years ending March 31, 2025, 2026, 2027, 2028, 2029, and 2030. A formal audit plan detailing the scope of the audit is to be submitted by the selected Proposer after the award of a contract and will be reviewed and approved by the Comptroller.

5.1. Mandatory Services

PLEASE NOTE: Proposers will be required to provide responses that address all of the requirements of this Section as part of its Technical Proposal.

This Section describes the auditing services (“Services”) that are required to be provided by the selected Proposer. Proposer must be able to provide these Services throughout the contract term.

- A.** Perform an examination of the combined financial statements of the System for the fiscal year ending March 31, 2025, and each of the next five fiscal years, in accordance with GAAP and will render an opinion as to whether such financial statements present fairly the financial position of the System in conformity with GAAP. **The final report must be delivered no later than July 21st for each respective year.**
- B.** Issue a letter to the Comptroller, as Trustee, reporting on Internal Control over Financial Reporting and on Compliance and Other Matters Based on the Audit of the Financial Statements Performed in Accordance with Government Auditing Standards for the fiscal year ending March 31, 2025, and each of the next five fiscal years, based on the examination of the financial statements. **The final letter must be delivered no later than July 21st for each respective year.**
- C.** Perform an examination of the System’s supporting schedules as required by GASB 67 and GASB 68 for the fiscal year ending March 31, 2025, and each of the next five fiscal years, in accordance with GAAP and render an opinion as to whether such schedules fairly present the total pension liability, fiduciary plan position, net plan position, employer proportionate share, and associated deferred inflows and outflows of resources. **The final report must be delivered no later than July 31st for each respective year.**
- D.** Submit a detailed audit work plan, work schedule, staffing assignments, staff budget and list of all client-prepared work schedules required. **These schedules are due no later than February 1 of each year of the audit period,** except for the initial year of the Contract, when the audit plan will be due on a date mutually agreed upon between NYSLRS and the selected Proposer. In addition, once fieldwork on the audit has begun, written weekly reports to NYSLRS are required, explaining the audit progress to date and any delays in the schedule.
- E.** Attend weekly meetings with staff of the System during the period of the fieldwork to discuss progress of the audit. All meetings, including required entrance and exit conferences, will be held at OSC offices, at 110 State Street, Albany, New York during normal business hours (Monday through Friday, 8:30 a.m. - 5:00 p.m.) unless otherwise agreed to by NYSLRS.
- F.** Perform other additional audit services and functions that are reasonably related or incidental to the above-described Services, as requested by NYSLRS from time to time, and only as authorized in advance and in writing by NYSLRS staff.

All Services must be submitted in a comprehensive and professional manner, address all deliverables and requirements, and be thoroughly edited. Submission of deliverables and requirements must occur within the timeframe indicated in the formal audit work plan submitted (Section 5.1.D). Upon completion, the selected Proposer must submit the deliverables and requirements to the System's Director of Accounting.

In the event that a submission is not satisfactory, the System's Director of Accounting will notify the selected Proposer of the list of deficiencies. The selected Proposer will be required to address all cited deficiencies and resubmit within a mutually agreed upon timeframe. Failure to correct a deficiency within the timeframe(s) indicated in the System's written notice(s) may result in NYSLRS enforcing its termination rights under the Agreement (See Attachment E, Draft Contract).

Inability to provide the Mandatory Services as set forth in this Section 5.1 will result in a proposal being found non-responsive and eliminated from consideration.

5.2. Assistance Available During Audit

A. Office of Internal Audit

OSC's Office of Internal Audit ("Internal Audit") provides audit oversight for all Division of Retirement and PICM activities. These audits are conducted according to generally accepted auditing standards and the standards for the professional practice of internal auditing. The Charter for the Office of Internal Audit specifies that Internal Audit will coordinate audit plans and activities with external auditors. In accordance with this responsibility, Internal Audit will provide the selected Proposer with documentation of completed audits, planned audit activities, and existing flowcharts of Division functions.

B. Accounting Staff Assistance

NYSLRS will provide assistance to the Proposer as reasonably necessary and requested, including the preparation and/or completion of worksheets relating to the scope of Services.

C. CIO Staff Assistance

Staff from OSC's Division of the Chief Information Office ("CIO") will be available to provide information regarding computer system documentation and explanations. The proposal must indicate the amount of computer support expected from the System in providing information from the automated systems maintained to support the various aspects of the System's operations.

D. Assistance Available from the Current Independent Auditor

The audit of financial statements will be performed for the fiscal year ending March 31, 2024, by NYSLRS' current auditor. NYSLRS will authorize its current auditor to fully respond to all inquiries from the selected Proposer and to allow for a review of audit work papers relating to the audit.

Work areas, desks, chairs, fax machine and photocopying equipment will be made available to the selected Proposer within reasonable limits.

E. Computer Time

OSC will make computer time available to the selected Proposer. The selected Proposer should have computer equipment compatible with that of OSC and should provide all necessary audit software.

The selected Proposer is prohibited from connecting any non-OSC computer or other equipment to the OSC network without the express written permission of OSC; personal and corporate laptop computers are included in this prohibition.

The selected Proposer must comply with all applicable OSC facility and information security policies and procedures in performing the Services.

6.0 ADMINISTRATIVE INFORMATION

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

6.1. RFP Modification

It is the Proposers' responsibility to become aware of any amendments and/or addenda to this RFP prior to submitting a proposal. All amendments and/or addenda to this RFP will be posted to the OSC website at <https://www.osc.state.ny.us/procurement>. Proposers should review the website prior to submission of a proposal to ensure that they have all information required to submit a complete and responsive proposal.

6.2. Restrictions on Communication

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

Director of Finance
Questions for RFP 24-17 Financial Statement Auditing Services for NYSLRS
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 official is 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 bids, or any other method for soliciting a response from Proposers intending to result in a procurement contract with NYSLRS and ending with the final contract award by NYSLRS or termination of the procurement.

6.3. Questions

There will be an opportunity for submission of written questions and requests for clarification with regard to this RFP. All questions and requests for clarification must be submitted via email to the Contracting Officer as indicated in Section 6.2 (Restrictions on Communication), no later than the Deadline for Submission of Written Questions as specified in Section 1.0. Questions received after the deadline may not be answered.

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

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 NYSLRS who have received electronic access to this RFP on the date specified in Section 1.0. This listing will not include the identities of the vendors submitting the questions; those vendors will remain anonymous to the extent allowed by law.

6.4. Pre-deadline NYSLRS Right to Modify RFP

NYSLRS 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 NYSLRS, at any time prior to the Deadline for Submission of Proposals listed in Section 1.0. Modifications to this RFP will be made by issuance of amendments or addenda.

Any amendments or addenda issued by NYSLRS will be posted to the OSC website and subsequent email notification will be provided to all potential Proposers known to NYSLRS to have received access to this RFP. NYSLRS also reserves the right to cancel this RFP, in whole or in part, and to reject any and all proposals.

If the Proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the Proposer must immediately notify the Contracting Officer (see Section 6.2) 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.

6.5. Equal Employment Opportunity, Minority- and Women-Owned Business Enterprise (“M/WBE”), and Other Requirements

A. Equal Employment Opportunity (“EEO”)

The Comptroller, as Trustee of the CRF and Administrative Head of NYSLRS, recognizes the value of affording minority group members and women the opportunity to participate in the performance of contracts of the System and 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 NYSLRS.

B. M/WBE Asset Management and Financial Institution Strategy

The Comptroller, acting 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). 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 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 Comptroller may determine to certify or choose to report, such as firms that are owned (or substantially owned and/or operated) by service-disabled veterans (“Service-Disabled Veteran-Owned Businesses” or “SDVOBs”).

6.6. State Ethics Law Provision

Officers and employees of OSC 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 §§ 73¹ and 74², 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 their 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 they were directly concerned during State service and in which they personally participated, or which was under their active consideration during State service.
- B.** If the proposal is selected for award, the Proposer, its officers, directors, employees, subsidiaries, affiliates, partners, subcontractors, and agents who will be assigned to perform services shall not: (i) offer or make any gift or hospitality to a State employee, (ii) hire any former State employee to appear before OSC to perform services in violation of the two-year bar or the lifetime bar, or (iii) assign any current Proposer employee, officer, director, subsidiary, affiliate, partner or agent to appear before OSC to perform services in violation of the two-year bar or the lifetime bar.

This certification is material to the proposal and NYSLRS intends to rely on it. The Proposer must promptly report to OSC 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 to:

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

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

¹ <http://codes.findlaw.com/ny/public-officers-law/pbo-sect-73.html>

² <http://codes.findlaw.com/ny/public-officers-law/pbo-sect-74.html>

6.7. Compliance with Other Laws

The Proposer must comply with the legal restrictions, statutory and regulatory requirements, including but not limited to 11 NYCRR § 136 and RSSL § 177, included as Appendix D, and policy guidelines of the Fund, and render advice within these guidelines to ensure that no services are provided that are in conflict with applicable laws.

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 affiliate or subcontractor, to influence the outcome of this procurement.

6.9. OSC Executive Order Relating to Auditor Independence (Appendix I)

The Comptroller has issued an Executive Order relating to Independence of Auditors, a copy of which is attached as Appendix I to this RFP. Any Proposer wishing to submit a proposal in response to this RFP must be in compliance with the terms of the Executive Order. In addition, in accordance with the terms of the Executive Order, before a contract between the selected Proposer and NYSLRS is executed, the proposed contract must be reviewed and approved by the OSC Audit Oversight Board. See Section 7.1.D for submission requirements.

6.10. Debrief

Any Proposer not selected for award may, within 15 calendar days of release of NYSLRS' 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 6.2) 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: RFP24-17
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 shall be scheduled within a reasonable time after receipt of the Proposer's written request by the Bureau of Finance.

6.11. NYSLRS' Reserved Rights

NYSLRS reserves all rights including, but not limited to:

- A.** Cancel the procurement, reject any and 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 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, if 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 NYSLRS. No Proposer will be allowed to alter its proposal or add information after the Deadline for Submission of Proposals (except as provided in Section 9.6, below).
- 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 NYSLRS.
- J. Proceed to the next highest-scoring Proposer if the Proposer who had achieved best value prior to contract award cannot satisfy the requirements as stated in this RFP, including those regarding security (Section 4.0).

6.12. 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. Proposer must explain its rationale for the claimed exemption. Blanket assertions are insufficient. Prior to releasing any documents so marked, NYSLRS will notify Proposer to afford Proposer an opportunity to obtain a protective order or other remedy to protect such documents from disclosure.

7.0 PROPOSAL CONTENT

The following describes the 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 of the proposals, Proposers are requested to submit proposals in separate Administrative, Technical, and Cost packages and submit attachments in the order shown in Attachment B (Proposal Documents Submitted). This separation of information will facilitate the review of the material requested. 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 separate from the Administrative, Technical, and Cost Proposals. Proposals must contain sufficient information to assure NYSLRS 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 Proposal information in the Technical or Administrative 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 Appendix E (CRF Vendor Responsibility and Conflict of Interest Disclosure).

B. Contractor's Certifications/Acknowledgements

Submit a completed and signed Appendix G (Contractor's Certifications/Acknowledgements).

Policies referenced in Appendix G can be found in Appendix B (OSC Policy Statement on Discrimination and Harassment, Including Sexual Harassment) and Appendix C (OSC Executive Order on Procurement Integrity and OSC Procurement Integrity Procedures).

C. Material Conflicts of Interest Statement

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

D. Requirements Concerning Compliance with the Comptroller's Executive Order on Independence of Auditors (Appendix I)

1. Proposers with Existing Audit Contracts with OSC

Each Proposer that has existing auditing contractual relationships with OSC, including NYSLRS, the Fund, Acquiport 110 State Street, Inc., or the Board of Managers of the 110 State Street Condominium ("OSC Entities"), must submit one original and two copies of a statement signed by an individual authorized to bind the Proposer (1) setting out the reasons why the Firm could perform these Services and services under those contracts without any impairment of independence under GAO standards, (2) attesting that the proposed Services are not services that, if the services were subject to the provisions of the Sarbanes-Oxley Act, would be precluded under the auditor independence provisions of section 201 of the Act, and (3) attesting that the engagements under those contracts and this proposed contract 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 more than one contract with the same firm.

2. Other Proposers

All other Proposers must submit one original and two copies of a statement signed by an individual authorized to bind the Proposer stating that either: (i) the Proposer has no

existing contractual relationship with OSC Entities; or (ii) the only existing contractual relationships with OSC Entities are for the rendition of non-auditing services. If the Proposer states that its only existing contractual relationship with OSC Entities relates to non-auditing services, it must also identify, with reasonable detail, the identity (including contract number), and nature of such contractual relationships.

E. Freedom of Information Law – Proposal Redactions

Where applicable, Proposers are encouraged to clearly and specifically identify any portion of the proposal that a Proposer believes is exempt from disclosure pursuant to FOIL (see Section 6.12 (Freedom of Information Law)).

7.2. Technical Proposal

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

The following outlines the information to be provided, in the following order and format, by Proposers. Responses that do not follow the prescribed order and 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 Technical Proposal.

A. Title Page

Submit a Title Page providing the RFP subject and number; the Proposer's name and address, the name, address, telephone number, and email address of the Proposer's contact person; and the date of the Proposal.

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 for the corresponding RFP Section. The proposal should provide satisfactory evidence of the Proposer's ability to meet, and expressly respond to, each requirement and information request in this RFP.

C. Proposer's Certified Statements

Submit Attachment A (Proposer's Certified Statements), which includes information regarding the Proposer. Attachment A must 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.

NYSLRS reserves the right to reject a proposal that contains an incomplete or unsigned Attachment A or no Attachment A.

D. Minimum Qualifications to Propose

1. Submit a statement, signed by an authorized signatory, that the Proposer is independent of the System in accordance with AICPA and government auditing standards and is able to conduct the proposed audit; and
2. Submit a list of client(s) and dates that demonstrates that it has audited the GAAP basis financial statements of a minimum of one state government defined benefit plan within the last five years; and

3. Submit proof that the Proposer is a Certified Public Accounting firm that is in good standing with the New York State Board for Accountancy and provide a copy of the Firm's current registration.

Failure to meet these minimum requirements will result in a proposal being found non-responsive and eliminated from consideration.

E. Qualifications of the Firm

Submit the following information:

1. State the size of the Firm, the size of the Firm's governmental audit staff, and the location of the office from which the work on this engagement is to be accomplished.
2. Submit copies of the Firm's two most recent peer review reports.
3. Provide information on the circumstances and status of any licensure or disciplinary action taken or pending against the Firm during the period of 2019 to present with New York State regulatory bodies or professional organizations.

F. Technical Experience of the Firm

Submit a statement supporting the qualitative reasons why the Firm should be considered for contract award. The statement should include:

1. Prior experience in performing governmental pension fund engagements within the last five years.
2. Comparable audits of invested asset categories.
3. Staffing capability and competency to complete the work within established deadlines. State the number and nature of the professional staff to be employed in this engagement on a full-time basis, and the number and nature of the staff to be employed on a part-time basis.
4. Provide a detailed narrative description of the Firm's experience with GASB, and experience with GASB 67 & 68 related activities.
5. Provide documentation of training offerings to clients, including areas of learning focus and CPE credit opportunities.
6. Additional available professional resources or subject matter experts not assigned to the engagement, but who have experience relevant to the RFP scope, particularly government auditing and information technology auditing. Preference will be given to Proposers who have access to subject matter experts who participated in task forces and advisory committees at the national level and who have experience in one or more of the following areas:
 - Governmental accounting;
 - Financial reporting related to GASB standards;
 - Financial reporting related to investments;
 - Financial reporting related to debt;
 - Financial reporting related to pension and other post-employment benefits ("OPEB");
 - Financial reporting related to actuarial science; and

- Financial reporting related to information technology.

G. Staff Qualifications and Experience

Submit the following information:

1. Identify the principal supervisory and management staff, including the specific engagement partners, managers, and other key personnel who will be assigned to the engagement, include the following:
 - i. Indicate the New York State CPA licensure status of each such person.
 - ii. Submit resumes or professional narratives of each such person.
 - iii. Provide as much information as possible regarding the number, qualifications, and experience of the staff to be employed in the audit of the System's financial statements.
 - iv. Indicate the quality of such staff's technical knowledge of public pension systems and their invested assets.
2. Describe how the Firm will engage with NYSLRS regarding the Services, including the anticipated number of hours to be provided annually and indicate how the staff competency level will be assured throughout the engagement.

H. Work Plan

Submit a preliminary work plan for performance of the Services. Such work plan should include a detailed audit approach; a description of analytical procedures and sampling techniques; and a listing of staff hours budgeted by staff level. Staff hours included in the work plan should equal consultant hours proposed in the Cost Proposal documents. **Do not include cost information in the work plan.**

In the preliminary work plan, indicate the amount of computer support expected from NYSLRS in providing information from the automated system maintained to support the various aspects of System operations. See Section 5.2.E (Computer Time).

I. References

Provide references using Attachment D (References) for three clients. Provide firm names, addresses, contact names, telephone numbers, and email addresses. At least one of the references submitted must substantiate that the Proposer has audited financial statements for a minimum of one government defined benefit plan within the last five years.

7.3. Cost Proposal

The Cost Proposal must be submitted on Attachment C (Cost Proposal), including Fee Schedules C-1, C-2, C-3, C-4, C-5, and C-6. Cost Proposals should 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.

Compensation for each Audited Contract Year will be based on actual hours worked per staff title provided, at the hourly rates proposed on Attachment C. If more hours are actually provided, compensation will be limited to the Contract Year Total Cost.

NYSLRS will not be responsible for expenses incurred in preparing and submitting the Administrative, Technical, and Cost Proposals. Such costs should not be included in the Proposal.

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. Proposals received after the Deadline for Submission of Proposals may be rejected.

Administrative, Technical, And Cost Proposals must be clearly labeled and submitted by US mail or by courier/delivery service (e.g., FedEx, UPS) in separately sealed packages to:

Attn: Director of Finance
Office of the State Comptroller (RFP24-17)
110 State Street, Mail Stop 13-2
Albany, NY 12236-0001

IMPORTANT: OSC **strongly encourages** the use of package tracking so as to provide an independent and verifiable record regarding the timeliness of Proposer's bid submittal if there are mail delivery issues.

OSC will not accept hand delivery of proposals at 110 State Street.

Submission of proposals in a manner other than as described in these instructions (e.g., fax, electronic transmission) will not be accepted.

A Proposer may withdraw a proposal at any time before the Deadline for Submission of Proposals by written notification to OSC (see Section 6.2). 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

Each 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). OSC will accept scanned copies of wet signed documents. If scanned copies are submitted, Proposers should retain the original proposal documents in their records.

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 "RFP24-17 [Proposer's name]."

It is the Proposer's responsibility to ensure that the USB drive is free from any and all 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.

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

B. Option #2: Paper

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

Administrative Proposal	Submit TWO paper copies.
Technical Proposal	Submit FOUR paper copies.
Cost Proposal	Submit TWO paper copies.

Submit the administrative, technical, and cost proposals in separate sealed envelopes, all of which may be submitted within one proposal package.

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

Clearly mark the outside envelope of your sealed proposals, each copy, and USB flash drive (if applicable) as “RFP24-17 [Proposer’s name].”

9.0 EVALUATION PROCESS

9.1. Submission Review

NYSLRS will examine all proposals that are received in a proper and timely manner to determine if they meet the proposal 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, in the sole opinion of NYSLRS, may be rejected.

Proposers may be requested to clarify the contents of their proposals. Other than to provide such information as may be requested, no Proposer will be allowed to alter its proposal or add information, except as provided in Section 6.11 above, after the Deadline for Submission of Proposals.

Qualified staff (the “Evaluation Committee”) will evaluate and score all responsive proposals. 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.

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

9.2. Technical Evaluation

All responsive proposals will be reviewed to ensure the Minimum Qualifications as stated in Section 3.0 have been met. Proposals failing to meet the Minimum Qualification will not be evaluated any further. All proposals meeting the Minimum Qualification will be evaluated and scored for technical qualifications.

To ensure that a qualified proposer is selected for award, NYSLRS will eliminate from consideration 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. A proposal that is eliminated from consideration will not be scored on cost and will not be used to determine the proportionate scores of other proposals, as described in Section 9.3 below.

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 = 20 potential points x (Lowest Cost Proposal / Cost of Proposal Being Evaluated).

9.4. Preliminary Composite Score

A preliminary composite score will be calculated by adding the preliminary Technical Proposal points and the Cost Proposal points. Finalists will be determined based on preliminary composite scores.

9.5. Finalists

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.

If the finalists do not include the proposal with the maximum cost score, the cost scores for the finalists will be re-calculated by awarding the maximum cost score to the finalist with the lowest total cost. The remaining finalists will receive a proportionate score based on the relation of their cost proposal to the proposal of the finalist with the lowest cost, using the formula in Section 9.3 (Cost Evaluation). The composite scores will be adjusted accordingly.

9.6. Interviews

NYSLRS may, in its discretion, interview finalists at 110 State Street, Albany, NY or, at the discretion of the Technical Evaluation Committee, by telephone or videoconference. The purpose of the interview is to allow evaluators to obtain clarification, if needed, and to substantiate the responses contained in the Technical Proposal. No new material will be permitted to be introduced during the interview. The technical scores of interviewees may be rescored and adjusted up or down based on the interview.

Each interviewee will be notified of the date, place, and time of the interview. Interviews are anticipated to start the week of the date listed in Section 1.0. The Proposer's interviewees should not exceed four people.

9.7. Reference Checks

The Proposer must submit references using Attachment D. At least one of the references submitted (see Section 7.2.D) must substantiate that the Proposer has audited financial statements for a minimum of one government defined benefit plan within the last five years.. References may be checked at any point during the evaluation process.

9.8. Final Composite Score

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

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

10.0 CONDITIONAL AWARD AND CONTRACT

Following the evaluation process, the Evaluation Committee may make a recommendation to the Comptroller that a contract be awarded to the Proposer with the highest final composite score. If the Comptroller accepts the recommendation, the Director of Finance will issue a contract award to the selected Proposer conditioned upon satisfactory results of (i) a vendor responsibility review, (ii) a background investigation completed by the Fund's Compliance Officer on the Proposer (including any affiliate and subcontractor), its principals, and key personnel to be assigned to provide Services; and (ii) a verification of security and confidentiality requirements as stated in Section 4.0. Proposers not awarded will also be notified.

NYSLRS reserves the right to rescind an award if:

- i. a signed contract, in substantial compliance with the language contained in RFP Attachment E, the Draft Contract, does not result within a reasonable period of time as determined by NYSLRS; or
- ii. background investigations determine any of the following are non-responsible:
 - a. any persons with substantial ownership interests in the Proposer;
 - b. affiliates and subcontractors (if any);
 - c. key personnel assigned to provide services to NYSLRS; or
 - d. the Proposer.
- iii. the Proposer's security and confidentiality requirements cannot be verified.

The Contract will be final upon execution by the selected Proposer and NYSLRS.

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ATTACHMENT A

PROPOSER’S CERTIFIED STATEMENTS

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

RFP24-17 – FINANCIAL STATEMENT AUDITING SERVICES FOR THE NEW YORK STATE AND LOCAL RETIREMENT SYSTEM	
1. Information with regard to the Proposer:	
A. Provide the Firm’s name, address, telephone number, and fax number.	
Name:	
Address:	
City, State, ZIP Code:	
Telephone Number (including area code):	
Fax Number (including area code):	
B. Provide the name, address, telephone number, and email address of the Firm’s Primary Contact for this proposal.	
Name:	
Address:	
City, State, ZIP Code:	
Telephone Number (including area code):	
Email Address:	
C. Provide the name, address, telephone number, and email address of the person authorized to bind the Proposer contractually, if different from (B).	
Name:	
Address:	
City, State, ZIP Code:	
Telephone Number (including area code):	
Email Address:	
2. Minimum Qualification to Propose (Section 3.0):	
The Proposer has submitted a statement, signed by an authorized signatory, that the Firm is independent of the System in accordance with the American Institute of Certified Public Accountants (“AICPA”) and government auditing standards and is able to conduct the proposed audit.	<input type="checkbox"/> Yes <input type="checkbox"/> No*

RFP24-17 – FINANCIAL STATEMENT AUDITING SERVICES FOR THE NEW YORK STATE AND LOCAL RETIREMENT SYSTEM

<p>The Proposer has submitted a list of client(s) and dates that demonstrates that it has audited the generally accepted accounting principles (“GAAP”) basis financial statements of a minimum of one state government defined benefit plan within the last five years.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No*</p>
<p>The Proposer has submitted proof that the Proposer is a Certified Public Accounting (CPA) firm that is in good standing with the New York State Board for Accountancy and has provided a copy of the Firm’s current registration.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No*</p>
<p>3. Post-Award Security and Confidentiality Verification (Section 4.0)</p>	
<p>The Proposer certifies that it can meet the security requirements as set forth in Section 4.0 and understands that this certification is subject to verification prior to execution of a contract.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No*</p>
<p>4. Proposer’s Acknowledgement of Proposal Requirements:</p>	
<p>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 NYSLRS.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No*</p>
<p>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.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No*</p>
<p>C. The Proposer can and will provide the Services as described in the RFP and its Proposal if selected for award.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No*</p>
<p>D. The Proposer certifies that all information provided in connection with its proposal is true and accurate.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No*</p>
<p>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, without change, into the contract entered into between NYSLRS and the selected Proposer.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No*</p>
<p>F. The Proposer has reviewed the Draft Contract (Attachment E), and the Proposer is willing to enter into an agreement consistent with the terms of the Draft Contract, should the Proposer be selected for contract award.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No*</p>
<p align="center">* A “No” Response in Sections 2, 3, and 4 may result in disqualification.</p>	
<p>5. Provide the 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 XIV of the Draft Contract (Attachment E), Notices.</p>	
<p>Name:</p>	
<p>Title:</p>	
<p>Address:</p>	
<p>City, State, ZIP Code:</p>	

RFP24-17 – FINANCIAL STATEMENT AUDITING SERVICES FOR THE NEW YORK STATE AND LOCAL RETIREMENT SYSTEM

Telephone Number (including area code):

Email Address:

6. The Proposer is an entity duly organized, validly existing, and in good standing under the laws of the state below, and has authority to conduct business in the State of New York.

State: _____

7. 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

RFP24-17 Financial Statement Auditing Services for the New York State and Local Retirement System			
FOR THE ADMINISTRATIVE PROPOSAL			
TAB	RFP §	REQUIREMENT	INCLUDED
1	§ 7.1.A	Appendix E – CRF Vendor Responsibility and Conflict of Interest Disclosure Form, completed and signed	<input type="checkbox"/>
2	§ 7.1.B	Appendix G – Contractor’s Certification/Acknowledgements, completed and signed	<input type="checkbox"/>
3	§ 7.1.C	Appendix H – Material Conflicts of Interest Statement, completed, notarized, and signed	<input type="checkbox"/>
4	§ 7.1.D	Appendix I – Requirements Concerning Compliance with the Comptroller’s Executive Order on Independence of Auditors	<input type="checkbox"/>
5	§ 7.1.E	Written statement regarding claimed Freedom of Information Law exceptions, if any (recommended)	<input type="checkbox"/>
FOR THE TECHNICAL PROPOSAL			
TAB	RFP §	REQUIREMENT	INCLUDED
1	§ 7.2.A - B	Title Page and 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.E	Qualifications of the Firm, submit as described	<input type="checkbox"/>
4	§ 7.2.F	Technical Experience of the Firm, submit as described	<input type="checkbox"/>
5	§ 7.2.G	Staff Qualifications and Experience, submit as described	<input type="checkbox"/>
6	§ 7.2.H	Work Plan, submit as described	<input type="checkbox"/>
7	§ 7.2.I	Attachment D (References), completed	<input type="checkbox"/>
FOR THE COST PROPOSAL			
TAB	RFP §	REQUIREMENT	INCLUDED
1	§7.3	Attachment C (Cost Proposal), completed	<input type="checkbox"/>
FOR ALL PROPOSALS			
TAB	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	TWO Copies of the Administrative Proposal	<input type="checkbox"/>
		FOUR Copies of the Technical Proposal	<input type="checkbox"/>
		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

(Including Fee Schedules C-1, C-2, C-3, C-4, C-5, and C-6)

RFP24-17		
Professional Auditing Services for New York State and Local Retirement System		
(To be submitted separately from the Technical and Administrative Proposals)		
Name of Proposer:		
Cost of all Services as described in Section 5.0 of the RFP.		
A	For the contract year October 1, 2024 through September 30, 2025 (Total Cost for All Services) from Attachment C-1:	\$
B	For the contract year October 1, 2025 through September 30, 2026 (Total Cost for All Services) from Attachment C-2:	\$
C	For the contract year October 1, 2026 through September 30, 2027 (Total Cost for All Services) from Attachment C-3:	\$
D	For the contract year October 1, 2027 through September 30, 2028 (Total Cost for All Services) from Attachment C-4:	\$
E	For the contract year October 1, 2028 through September 30, 2029 (Total Cost for All Services) from Attachment C-5:	\$
F	For contract year October 1, 2029 through September 30, 2030 (Total Cost for All Services) from Attachment C-6:	\$
G = A+B+C+D+E+F	Total Cost for all Services for all six years:	\$

FEE SCHEDULE C-1

Hourly Rates for Contract Year October 1, 2024 through September 30, 2025

(YEAR ONE)

RFP24-17 Professional Auditing Services for New York State and Local Retirement System Cost of all Services as described in Section 5.0 of the RFP.			
Staff Level (Must agree with titles submitted in Technical Proposal 7.2.H).	Hours	Discounted Hourly Rate	Total
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
TOTAL COST FOR ALL SERVICES (YEAR ONE):	\$ _____		

Note: Any discount offered should be presented as a discounted hourly billing rate. Do not present the discount as a general percentage or as a gross deduction from the Not to Exceed Dollar Cost.

FEE SCHEDULE C-2

Hourly Rates for Contract Year October 1, 2025 through September 30, 2026

(YEAR TWO)

RFP24-17 Professional Auditing Services for New York State and Local Retirement System Cost of all Services as described in Section 5.0 of the RFP.			
Staff Level (should agree with titles submitted in Technical Proposal 7.2.H).	Hours	Discounted Hourly Rate	Total
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
TOTAL COST FOR ALL SERVICES (YEAR TWO):	\$ _____		

Note: Any discount offered should be presented as a discounted hourly billing rate. Do not present the discount as a general percentage or as a gross deduction from the Not to Exceed Dollar Cost.

FEE SCHEDULE C-3

Hourly Rates for Contract Year October 1, 2026 through September 30, 2027

(YEAR THREE)

RFP24-17 Professional Auditing Services for New York State and Local Retirement System Cost of all Services as described in Section 5.0 of the RFP.			
Staff Level (should agree with titles submitted in Technical Proposal 7.2.H).	Hours	Discounted Hourly Rate	Total
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
TOTAL COST FOR ALL SERVICES (YEAR THREE):	\$ _____		

Note: Any discount offered should be presented as a discounted hourly billing rate. Do not present the discount as a general percentage or as a gross deduction from the Not to Exceed Dollar Cost.

FEE SCHEDULE C-4

Hourly Rates for the Contract Year October 1, 2027 through September 30, 2028

(YEAR FOUR)

RFP24-17 Professional Auditing Services for New York State and Local Retirement System Cost of all Services as described in Section 5.0 of the RFP.			
Staff Level (should agree with titles submitted in Technical Proposal 7.2.H).	Hours	Discounted Hourly Rate	Total
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
TOTAL COST FOR ALL SERVICES (YEAR FOUR):	\$ _____		

Note: Any discount offered should be presented as a discounted hourly billing rate. Do not present the discount as a general percentage or as a gross deduction from the Not to Exceed Dollar Cost.

FEE SCHEDULE C-5

Hourly Rates for Contract Year October 1, 2028 through September 30, 2029

(YEAR FIVE)

RFP24-17 Professional Auditing Services for New York State and Local Retirement System Cost of all Services as described in Section 5.0 of the RFP.			
Staff Level (should agree with titles submitted in Technical Proposal 7.2.H).	Hours	Discounted Hourly Rate	Total
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
TOTAL COST FOR ALL SERVICES (YEAR FIVE):	\$ _____		

Note: Any discount offered should be presented as a discounted hourly billing rate. Do not present the discount as a general percentage or as a gross deduction from the Not to Exceed Dollar Cost.

FEE SCHEDULE C-6

Hourly Rates for Contract Year October 1, 2029 through September 30, 2030

(YEAR SIX)

RFP24-17 Professional Auditing Services for New York State and Local Retirement System Cost of all Services as described in Section 5.0 of the RFP.			
Staff Level (should agree with titles submitted in Technical Proposal 7.2.H).	Hours	Discounted Hourly Rate	Total
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____
TOTAL COST FOR ALL SERVICES (YEAR SIX):	\$ _____		

Note: Any discount offered should be presented as a discounted hourly billing rate. Do not present the discount as a general percentage or as a gross deduction from the Not to Exceed Dollar Cost.

ATTACHMENT D

REFERENCES

Submit a total of **THREE** references (Section 7.2.D) using this form. At least one of the references submitted must substantiate that the Proposer has audited financial statements for a minimum of one government defined benefit plan within the last five years.

Expand fields and duplicate this page as necessary.

RFP24-17 – Professional Auditing Services for New York State and Local Retirement System	
PROPOSER:	
Provide the following information for each reference submitted. Fields will expand as you type.	
Reference Company #1:	
Contact Person:	
Address:	
City, State, Zip:	
Telephone Number:	
Email Address:	
Number of years Proposer provided services to this entity:	
Brief description of the services provided:	
Reference Company #2:	
Contact Person:	
Address:	
City, State, Zip:	
Telephone Number:	
Email Address:	
Number of years Proposer provided services to this entity:	
Brief description of the services provided:	
Reference Company #3:	
Contact Person:	
Address:	
City, State, Zip:	
Telephone Number:	
Email Address:	
Number of years Proposer provided services to this entity:	
Brief description of the services provided:	

**ATTACHMENT E
DRAFT CONTRACT**



**AGREEMENT
BY AND BETWEEN
THE COMPTROLLER OF THE STATE OF NEW YORK,
AS ADMINISTRATIVE HEAD
OF THE NEW YORK STATE AND LOCAL RETIREMENT SYSTEM
AND
AS TRUSTEE OF THE COMMON RETIREMENT FUND
AND
[CONTRACTOR]
CONTRACT NUMBER: #ERS XXX**

This Agreement (“Agreement”) is by and between the Comptroller of the State of New York (the “Comptroller”), as Administrative Head of the New York State and Local Retirement System (“NYSLRS” or the “System”) and 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 [REDACTED] (the “Contractor”) located at [REDACTED].

WITNESSETH

WHEREAS NYSLRS requires the services of a qualified accounting firm, experienced in performing services on behalf of large public employee retirement systems, to conduct annual audits of the combined financial statements of the constituent entities of NYSLRS, the assets of which are held in the Fund, and additional audit-related services as requested;

WHEREAS the Comptroller deems it to be in the best interest of NYSLRS to retain the Contractor to provide professional auditing services, in accordance with the Request for Proposals #24-17 (the “RFP”), and the Contractor’s response thereto (“Proposal”);

WHEREAS Contractor is willing to provide all the services outlined in the RFP and Contractor’s Proposal (collectively, the “Services”) upon the terms and subject to the conditions set forth herein; and

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

I. ENGAGEMENT OF THE CONTRACTOR

In reliance on Contractor’s representations, warranties, and covenants set forth herein, the Comptroller hereby engages Contractor. Contractor hereby accepts such engagement and agrees to perform its duties and fulfill its obligations with respect thereto upon the terms, and subject to the conditions, set forth herein.

II. TERM

The term of this Agreement will commence on October 1, 2024 and be for a period of six years, effective as of final execution of the Agreement by NYSLRS.

III. SERVICES

Contractor will perform the Services as set forth in Exhibits A and B at the request of authorized NYSLRS staff. Contractor will 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 the Comptroller’s sole discretion).

IV. REPRESENTATIONS, WARRANTIES, COVENANTS, AND ACKNOWLEDGMENTS

Contractor hereby represents, warrants, covenants, and acknowledges that:

- A. Authority.** Contractor 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 Contractor and constitutes the valid, legal, and binding obligation of the Contractor, enforceable against it in accordance with its terms.
- B. Skills and Expertise.** Contractor and its Staff (as defined herein) possess a high degree of skill and expertise with respect to the Services. Contractor maintains, and will maintain throughout the term, a professional staff and resources to perform the Services in a timely and professional manner. Contractor and each of its Staff are, in accordance with

applicable professional standards, fully experienced, properly qualified, and where required, licensed, to perform such Services.

- C. No Conflicts.** No conflict exists between the Services required of Contractor and the Contractor'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 employment of the Contractor or activity in which the Contractor is involved. Contractor shall immediately notify NYSLRS, in writing, of any perceived conflict of interest that arises during the term of this Agreement and shall immediately recuse itself from its duties hereunder that give rise to such conflict of interest. NYSLRS may, in its sole discretion, dismiss Contractor from any or all of its duties hereunder upon the occurrence of a perceived conflict of interest.
- D. Compliance with Insurance Regulations.** Contractor, and each of its partners, officers, directors, affiliates, shareholders, and Staff, will comply with the standards set forth in Appendix D (the "Insurance Regulations") applicable to Contractor. Contractor expressly agrees and warrants that in connection with Services provided under this Agreement it will not act in any manner which would violate 11 NYCRR § 136-2.5, New York State Department of Financial Services regulations, as amended.
- E. No Compensation.** Contractor represents and warrants that neither the Contractor nor any of its partners, officers, directors, affiliates, shareholders, or 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 procurement of this Agreement.
- F. Organization.** Contractor is an entity duly organized, validly existing, and in good standing under the laws of the State of , and has authority to conduct business in the State of New York.
- G. No Material Adverse Effect.** Contractor, its partners, officers, directors, affiliates, shareholders, and Staff are not in violation of any federal or state laws or regulations and no charge, investigation, action, suit, or proceeding before or by any court or regulatory agency is pending or threatened, that to the best knowledge of Contractor, could have a material adverse effect upon the performance of the Services.
- H. Not Affiliated.** Contractor, its partners, officers, directors, affiliates, shareholders, and each of its Staff performing Services hereunder are not affiliated (as defined in Appendix D) with the Comptroller, the New York State Office of the State Comptroller, NYSLRS, or the Fund (each may be referred to as an "OSC Entity," or collectively, "OSC Entities").
- I. Information Continues to be True.** All of the information contained in Contractor's response to the RFP was true in all material respects at the time of submission and continues to be true as of the date hereof.
- J. Retention of Authority by the Comptroller.** Contractor acknowledges that 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). Contractor shall not have any (i) discretionary control over the Fund or the assets thereof; (ii) discretionary authority to (a) negotiate the terms of any investment by the Fund, or (b) 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.

V. ETHICS AND COMPLIANCE

- A. Gift Restriction.** Contractor certifies that Contractor 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, New York State (“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 V. “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 such State 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 their 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.** Contractor and its Staff shall not: (i) offer or provide any gift or hospitality to a State Employee in violation of said Gift Restrictions, (ii) assign any former State Employee to appear before OSC to perform Services in violation of the two-year bar, or (iii) assign any former State Employee to the render Services in violation of the lifetime bar. These Gift Restriction Certifications are material to the Agreement and NYSLRS intends to rely on them.
- C. Gift Restriction Notification.** Contractor will provide copies of these Gift Restrictions to all persons assigned to perform Services. Contractor must promptly report to NYSLRS 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 to:

Office of the State Comptroller
110 State Street – 14th Floor
Albany, New York 12236
Attn: Director of Compliance
Compliance@osc.ny.gov

- D. Compliance with Applicable Law.** Contractor shall maintain risk management and oversight policies and procedures designed to ensure compliance with applicable laws and regulations. Contractor shall promptly report in writing to NYSLRS whenever Contractor becomes aware of the occurrence of any activity which constitutes a material breach of this Agreement, or a violation by Contractor of any applicable law or regulation in connection with this Agreement. Such report shall specify the event(s), the measures taken to resolve or rectify the effect of such event, and the timeframe for undertaking such resolution.
- E. Conflict of Interest Compliance.** Contractor agrees to file annually with NYSLRS a statement acknowledging that it is aware of and in compliance with its duty to disclose information about material conflicts of interest. Contractor agrees to complete a compliance questionnaire, if requested by the Director of Compliance, which must be submitted electronically. If Contractor fails to complete the compliance questionnaire in a timely manner, NYSLRS shall have the option, in its sole discretion and without liability to Contractor, or any third party, to terminate this Agreement. Such termination shall be deemed, for purposes of this Agreement, an automatic termination for cause.

VI. RELATIONSHIP BETWEEN THE PARTIES

- A. Independent Contractor.** The relationship of Contractor to the Comptroller and OSC Entities under this Agreement is that of an independent contractor. In accordance with Contractor's status as an independent contractor, Contractor covenants and agrees 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 any OSC Entity or the State of New York, and (iii) not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of an OSC Entity or the State.
- B. No Obligation.** Contractor agrees that nothing in this Agreement shall impose any liability or duty upon the Comptroller or any OSC Entity to persons, firms or corporations, employees, or others engaged by Contractor in any capacity or shall make such OSC Entity 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 system benefits, disability benefits, and social security coverage. Contractor 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.
- C. Subcontractors.** If Contractor intends to use subcontractors or other entities including affiliates to perform any of the Services ("subcontractors"), Contractor shall disclose such subcontractors to NYSLRS prior to the performance of any Services. NYSLRS shall have the right to approve or disapprove, after appropriate review and/or interview(s), any and all prior to their performance of Services. Such approval shall be solely in discretion of NYSLRS. Contractor shall require all proposed subcontractors to complete such Schedules, Appendices, or other documents included in this Agreement as are deemed necessary by NYSLRS prior to any such proposed subcontractor's performance of Services. Contractor acknowledges that this requirement is ongoing for the term of this Agreement. Failure to disclose the identity of any and all subcontractors used by Contractor together with a detailed description of their responsibilities may, at the sole discretion of NYSLRS, result in a disqualification of the subcontractor or termination of this Agreement.

Contractor 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 OSC Entities;

- That nothing contained in such subcontract will create any contractual relation between any subcontractor and the OSC Entities;
- That the subcontractor shall maintain all records with respect to Services performed in the same manner as required of Contractor; and
- That the subcontractor shall comply the same obligations imposed herein upon Contractor with regard to the confidentiality, security and background investigation obligations, and expressly accrue those obligations directly to NYSLRS' benefit.

VII. STAFFING

Contractor shall be fully responsible to NYSLRS for the acts and omissions of Contractor and any of its Staff in connection with the performance of this Agreement and their adherence to all contract terms and conditions.

- A. Staff Definition.** For the purposes of this Agreement, Contractor's staff means Contractor's employees and its subcontractor's employees providing Services. "Staff" includes such employees, and also Contractor's owners, officers, directors, employees, subsidiaries, affiliates, partners, subcontractors, and agents (including third-party services providers) and their employees providing Services hereunder or who have access to OSC confidential information.
- B. Key Personnel.** NYSLRS expects the Contractor's key personnel assigned to staff the engagement will perform Services for the entire term of the Agreement. If a key person leaves or is to be replaced prior to the end of the Agreement term, Contractor shall provide notice to NYSLRS as soon as practicable, but in any case, with no less than 14 days' notice before such replacement. Contractor will, within seven days of such notice, provide resumes of the potential replacements for that key person. Such potential replacements' skill level and experience must be equivalent to or exceed the qualifications of the key person being replaced. Contractor will ensure that there is no gap in Services and that any replacement receives appropriate transition information.
- C. Dual Assignments Prohibited.** The Contractor shall not assign any personnel to the engagement team providing Services pursuant to this Agreement who are assigned or have been assigned to provide services pursuant to any other audit or services contract between the Contractor and any OSC Entity, except as may expressly be agreed to in advance and in a writing executed by the Contractor and the Executive Deputy Comptroller for the New York State and Local Retirement System.
- D. Integrity and Professional Capacity.** Contractor certifies that Staff possess the necessary integrity and professional capacity to meet NYSLRS' reasonable expectations. Subsequent to the commencement of Services, or whenever Contractor becomes aware, or reasonably should have become aware, that any Staff providing Services to NYSLRS no longer possess the necessary integrity or professional capacity, Contractor shall immediately discontinue the use of such Staff and notify NYSLRS. NYSLRS reserves the right to disallow Contractor's Staff from providing Services if, in NYSLRS' discretion, Contractor's Staff is not performing in accordance with this Agreement, or for any reasonable work-related cause. Contractor shall be fully responsible for performance of work by Contractor's Staff.
- E. FIRCA.** The Federal Immigration Reform and Control Act, as amended (8 USC § 1324a et al.), obligates employers, such as Contractor and any US-based subcontractors, to verify that their employees are legally entitled to work in the US. In order to confirm that the employees are legally entitled to work in the US, NYSLRS reserves the right to request documentation attesting to such for any Contractor or subcontractor US-based employee assigned work under the Agreement. NYSLRS does not provide sponsorship. Contractor

warrants to NYSLRS that the personnel assigned to provide Services in the US are eligible for employment in the US. Contractor is responsible for ensuring that such personnel retain the authorization to legally work in the US throughout the term of the Agreement. NYSLRS does not discriminate against individuals on the basis of national origin or citizenship.

VIII. COMPENSATION AND PAYMENT

- A. Fees.** Contractor will be compensated in accordance with Contractor's Cost Proposal, Exhibit B2. Compensation for additional audit-related services, if any, will be paid in accordance with the relevant cost schedule upon the completion and satisfaction of the acceptance criteria set forth in a relevant and properly executed Statement of Work ("SOW"). Total compensation under this Agreement will not exceed \$XXX.
- B. Invoices.**
1. Compensation for Services will be payable by NYSLRS in the ordinary course of business following NYSLRS' receipt of Contractor's invoice and upon the satisfactory completion of the Services.
 2. All invoices must include the following information:
 - a. NYSLRS' Agreement #ERS[XXX], and Contractor's name, title, and taxpayer identification number; and
 - b. A detailed description of Services provided, including the SOW name or description, where applicable.
 - c. The beginning and ending dates of the time period covered by the invoice, and the expiration date of this Agreement.
 3. All invoices are subject to NYSLRS' acceptance of the Services for which billing is being made and must be submitted via email (preferred) to pdempsey@osc.ny.gov and kokula@osc.ny.gov or via hard copy mail to:

Office of the State Comptroller
Retirement Services – Accounting Bureau
110 State Street, 14th Floor
Albany, NY 12236
Attention: Kelley O'Kula, Accounting Bureau
- C. Billing Records.** Contractor must maintain adequate records to substantiate all claims for payment and must make those records available in New York State for examination and copying.
- D. Withholding Payment and Final Payment.** NYSLRS reserves the right to withhold payment for Contractor's failure to perform Services. Contractor shall not be entitled to final payment of its fees under this Agreement until it has satisfied all of its obligations hereunder.

IX. INSURANCE

- A. Contractor Insurance Requirements.** Contractor shall maintain insurance coverage consistent with industry best practices for the nature and scope of Services to be provided throughout the term of this Agreement, including the following insurance:
- Errors & Omissions;
 - Blanket Bond Coverage plus Computer Crime (covering Employee Dishonesty);

- Commercial General Liability;
- Data Breach and Privacy/Cyber Liability, including coverage for failure to protect confidential information and failure of the security of Contractor's computer systems, which coverage must be without geographic or territorial limitation;
- Umbrella; and
- Any other insurance required by law.

B. Additional Insureds/Loss Payee. The Comptroller and NYSLRS must be additional insureds as to Commercial General Liability, Privacy/Cyber Liability, and Umbrella insurance. Contractor must provide NYSLRS with certificates of insurance showing its respective coverages and applicable limits (including applicable deductibles and self-insured retention amounts) prior to the commencement of any work or performance of Services hereunder. If Contractor is self-insured for any portion of its insurance program, a letter indicating the coverage and limits of such self-insurance, signed by Contractor's authorized representative with direct knowledge of and responsibility for Contractor's insurance/risk management program, must be submitted. By requiring insurance, NYSLRS does not represent that Contractor's coverage and limits will be adequate to respond to any loss or claim arising from or relating to the Services or to satisfy Contractor's liability in relation thereto. Contractor's availability of insurance coverage limits (whether through a third-party insurer or self-insured) or lack thereof will not be deemed a limitation on Contractor's liability to the Comptroller or to OSC Entities under this Agreement.

X. CONFIDENTIALITY AND SECURITY

A. NYSLRS Confidential Information. Contractor and its Staff will receive and have access to NYSLRS confidential information. NYSLRS confidential information includes all non-public NYSLRS, Fund, and OSC information (herein referred to as "NYSLRS confidential information") which Contractor receives 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. NYSLRS confidential information includes, but is not limited to, trade data; bank account information; investments, investment strategies, transactions, and other investment-related data; financial information; information about OSC information technology systems and infrastructure; and any personnel information or data as may be collected or accessed by the Contractor in connection with the Services, or that may be provided to the Contractor on behalf of NYSLRS. Contractor must ensure that any subcontractors and their agents, representatives, and staff understand and agree to be bound to these confidentiality restrictions and obligations.

B. Use and Retention of NYSLRS Confidential Information. Contractor shall not reveal or use NYSLRS confidential information without the prior written consent of NYSLRS, and Contractor agrees that:

1. Contractor shall use NYSLRS confidential information solely for the purpose of carrying out its obligations to or on behalf of NYSLRS as set forth in this Agreement, and for no other purpose.
2. All investment-related information of the Fund is confidential, regardless of whether such information is marked as such. All Fund investment-related information must be destroyed in accordance with the provisions set forth herein.
3. Contractor shall have robust compartmentalization of job duties, and all persons that input, store, process, output, transmit, and/or otherwise interact with or act upon NYSLRS confidential information shall be properly informed and trained regarding applicable security standards. Contractor shall only disclose NYSLRS

confidential information to a person who has a need to know such information to provide the Services, and who is operating under non-disclosure provisions at least as restrictive as those in this Agreement.

4. Promptly after the termination or expiration of this Agreement, Contractor shall sanitize all records, data, information, and other files containing NYSLRS confidential information, except, and only to the extent Contractor is required to retain such confidential pursuant to professional accounting standards, subject to a continuing duty of nondisclosure hereunder.

Subsequent to the sanitization of NYSLRS confidential information, an officer or principal of Contractor shall certify to NYSLRS in writing that such sanitization has been completed in accordance with the Office of Information Technology Services Policy for Sanitization/Secure Disposal in NYS-S13-003.

C. Disclosure of NYSLRS Confidential Information.

1. In the event of the receipt by Contractor of a valid order or mandatory request for NYSLRS confidential information from a judicial, administrative, or governmental agency having jurisdiction over it, Contractor will promptly notify NYSLRS thereof. Contractor will, to the extent practicable, meet with NYSLRS for purposes of discussing such order or request prior to the submission of a response thereto, and will, except to the extent prohibited as a matter of law, cooperate and assist NYSLRS in responding to any orders, subpoenas, or similar directives, including but not limited to the preparation and request of protective orders.
2. Contractor acknowledges that any unauthorized use or disclosure of NYSLRS confidential information may cause irreparable damage to NYSLRS. If an unauthorized use or disclosure occurs by Contractor or through Contractor's negligence, Contractor shall, at its expense, take such commercially reasonable steps that are necessary to recover confidential information and to prevent its subsequent unauthorized use or dissemination, including availing itself of actions for seizure and injunctive relief. If Contractor fails to take these steps in a timely and adequate manner, NYSLRS may take them at the expense of Contractor.

- D. Compliance with Laws.** In performing the Services, the Contractor 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 the RFP and (iv) applicable OSC facility security policies and procedures provided to Contractor.

- E. Security.** The Contractor represents and warrants that it has developed, implemented and shall maintain 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 Contractor further represents and warrants that it will monitor its Security Programs and audit such Security Programs at least annually. The Contractor agrees to adjust its Security Programs as necessary in accordance with the results of such audits [and to make its audit reports available to NYSLRS upon request].

1. The parties agree to use a secure method of and/or product for transmission and sharing of confidential NYSLRS information and documents to facilitate the Services. Such method and/or product and appropriate security requirements, including without limitation encryption requirements, limits on access to confidential information and ability to download confidential information and

restrictions on storage and retention of NYSLRS confidential information are subject to the prior written approval of NYSLRS. Costs associated with such transmission and sharing are the responsibility of Contractor.

2. "Security Incident" means any theft; loss of; unauthorized or unlawful disclosure, use, alteration or destruction of; unauthorized or unlawful access to; or other actual or potential compromise of, NYSLRS confidential information, breach of Contractor systems, including, in the absence of direct evidence of a breach, any occurrence where it can be reasonably assumed under the circumstances that NYSLRS confidential information was exposed, accessed, or disclosed without NYSLRS' prior, written authorization.
3. Security Incident Response
 - a. In the event of a Security Incident, to the extent not prohibited by applicable law, Contractor shall notify NYSLRS promptly in writing of the Security Incident, in the most expedient time possible and without unreasonable delay, but no later than within [24 hours] of such occurrence. Such notice to NYSLRS will be made by contacting OSC's Information Security Office by telephone at 518-473-1374 and by email to: iso@osc.ny.gov (or such other contact which NYSLRS may provide).

Such notice shall include a description of:

- i. 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 NYSLRS confidential information; the last time that the attacker (if applicable) had access to the affected systems or NYSLRS confidential information; the identity of any third parties or otherwise unauthorized entity that may have accessed or obtained NYSLRS confidential information as a result of the Security Incident; and identification of any misuse of any NYSLRS confidential information involved in the Security Incident; and
 - ii. 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 Contractor shall provide prompt updates to NYSLRS with additional information discovered in the course of its investigation.
- b. At its sole cost and expense, Contractor shall immediately commence an investigation to determine the scope of the Security Incident and to restore the security of its systems and prevent further, unauthorized access to or disclosure of such confidential information. Contractor shall inform NYSLRS about the results of its investigation and the efforts taken to secure the information and prevent further Security Incidents. Contractor shall take commercially reasonable efforts to recover NYSLRS data and identify any third parties that received or obtained any NYSLRS data as a result of such Security Incident.
 - c. To the extent NYSLRS determines that any further notifications are required to be sent out pursuant to applicable law, Contractor shall be responsible for providing such notifications to all required recipients and for the costs of such notifications.
 - d. It is expressly agreed that Contractor shall be obligated to receive authorization from NYSLRS prior to making additional notifications to any

regulating or reporting agencies of a Security Incident, or making any determination to delay notifications due to law enforcement investigations, except as set forth below. Contractor agrees that NYSLRS 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.

- e. Nothing contained herein will be interpreted as reducing or altering Contractor's own obligations under applicable law, including those set forth in DFS regulations and General Business Law §§ 899-aa and 899-bb.
4. Contractor shall not remove NYSLRS data from OSC-owned or licensed systems, computer disks or other electronic storage devices without the prior written approval from an authorized NYSLRS representative. NYSLRS may require Contractor staff to expressly accept notice of this limitation (see example):

"By accessing documents in this folder, you agree that (i) such access is solely for the purpose of facilitating [Contractor's] services to the New York State and Local Retirement System, and (ii) you are not permitted to print, download, or forward any of the documents in this folder without NYSLRS' express written permission."

XI. BACKGROUND INVESTIGATIONS

A. Contractor/Subcontractor Investigation of Staff. Background investigations must be conducted by Contractor on its employees, and by the Contractor's subcontractors, if any, on their employees, who will provide any of the Services or who will have (i) access to OSC's IT systems, (ii) access to NYSLRS confidential information, or (iii) routine access to any OSC facility. For purposes of this Section, "routine access" is defined as access to an OSC facility for five consecutive business days or 10 business days over the annual term of the engagement (any such staff in (i) – (iii) "Covered Staff"). Contractor/subcontractor agrees to undertake a background investigation of any new/replacement Covered Staff during the term of the Agreement.

1. **Background Investigation Certification.** Accordingly, Contractor/subcontractor certifies that it has or will conduct a background investigation on Covered Staff prior to the Covered Staff commencing Services. Contractor/subcontractor must obtain, the consent of such Covered Staff to allow the OSC Inspector General ("IG") 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. NYSLRS reserves the right to prohibit any Covered Employees from providing Services if they do not provide such consent. Only Covered Employees who have passed the background investigation shall be assigned to provide Services.
2. **Background Investigation Requirements.** At a minimum, background investigations shall include a review/evaluation of the following, unless prohibited by law:
 - identity verification, including Social Security Number or relevant national identity number search;
 - employment eligibility, including verification of US citizenship or legal immigration status where appropriate;

- where permissible, criminal history/court records (e.g., Federal, state and local for the past five years);
- work history for the past five years;
- pertinent skills, qualifications, education, and professional credentials; and
- references.

3. **Records.** Contractor and its subcontractors must maintain records related to the background investigations performed during the term of the Agreement and in accordance with Appendix A (Section 5, Records).

B. NYSLRS Background Investigation. A background investigation will be conducted by the Fund's Director of Compliance on the Contractor, 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 Contractor ("Covered Persons" as identified in Attachment F, CRF Vendor Responsibility and Conflict of Interest Disclosure Form). At NYSLRS' discretion, background investigations may also be conducted on subcontractors and their principals and key personnel. Such background investigation, at NYSLRS' sole discretion, may be conducted prior to the Contractor's execution of an agreement with such subcontractor. NYSLRS may conduct subsequent background investigations on the Contractor and Covered Persons and its subcontractors where NYSLRS deems there has been a material change in circumstances or where an additional background investigation may be prudent.

Upon receipt of the Director's notice of intent to conduct such background investigation, the Contractor and Covered Persons and any subcontractor(s) must provide written consent of all Covered Persons. Failure to obtain such consent is grounds for termination for cause of this Agreement.

XII. INDEMNIFICATION AND LIABILITY

A. Liability. Contractor shall be fully liable to NYSLRS for damages, losses, and other harm caused by Contractor's or its Staff's fault, negligence, gross negligence, willful misconduct, fraud, violation of applicable law, or breach of contract.

B. Indemnification. Contractor shall fully indemnify and hold harmless NYSLRS, the Comptroller and the Fund, without limitation, from suits, actions, damages, and costs of every name and description relating to the unauthorized disclosure, access to, or use of confidential information; personal injury and/or damage to real or tangible personal property or intellectual property caused by fault or negligence of Contractor or its Staff; the negligence, willful misconduct, fraud, bad faith, breach of any of the representations, warranties, or obligations set forth herein or violation of applicable law or regulation by Contractor or any of its Staff; provided, however, that Contractor shall not be obligated to indemnify NYSLRS for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of NYSLRS.

C. Indemnification is in Addition to Rights. The indemnification terms contained in this Section are in addition to and not in lieu of any other rights or remedies that NYSLRS, the Comptroller or the Fund may have against Contractor, and shall not be construed to limit in any way the duties and obligations of Contractor set forth in this Agreement.

D. Limitations of Liability.

1. **No Consequential, Indirect, or Special Damages.** Subject to and without waiver of any liabilities set forth herein, neither party shall be liable for lost profits, lost

revenue or lost institutional operating savings, or for consequential, indirect, or special damages that may result indirectly from the performance of the Services and obligations under this Agreement.

2. **Force Majeure Events.** Neither party will be liable for any delay or failure in performance beyond its reasonable control resulting from acts of war, hostility or sabotage; act of nature; or other force majeure event. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under this Agreement.
3. **No Personal Liability.** None of the Comptroller, NYSLRS, the Fund, nor any their officers, agents, representatives, or staff 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.

XIII. INTELLECTUAL PROPERTY RIGHTS

- A. **NYSLRS Data and Information.** All NYSLRS data and information supplied to Contractor in connection with the Services shall remain NYSLRS' property. All tax returns, reports, and other documents prepared for NYSLRS using NYSLRS data and information will be NYSLRS' property and NYSLRS will be solely responsible for the retention of such documents.
- B. **Work for Hire.** Work prepared by Contractor and its Staff pursuant to the Agreement is intended as work for hire. 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 US 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 NYSLRS. Furthermore, NYSLRS and Contractor agree that NYSLRS is the owner of all copyrights regarding such work. Contractor warrants to NYSLRS 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 work produced under the Agreement. Any and all such works, including reports and other materials (preliminary, final and otherwise), analyses and data (whether statistical or otherwise), Upon payment for Services become the sole and exclusive property of NYSLRS for such use as NYSLRS may deem appropriate.
- C. **Consultant Work Papers.** Contractor may retain its work papers pursuant to professional standards and the confidentiality obligations set forth herein.

XIV. 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 or other communication required or which may be given hereunder shall be in writing and shall be delivered personally or sent by certified, registered, or express mail, postage prepaid, but in all cases shall be deemed given when actually received at the following addresses:

TO NYSLRS:

Attention: Kelley O'Kula
Title: Director Accounting Bureau
Address: Office of the State Comptroller
110 State Street, 4th Floor, Maildrop 4-2
Albany, NY 12244

COPY 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 CONTRACTOR:

Attention:
Title:
Address:

The parties must notify each other, as soon as possible of any change. 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.

XV. DISPUTE RESOLUTION

In the event of a dispute, resolution may first be sought through direct negotiation between the parties. The party initiating the process will notify the other party in writing and set forth the issues for resolution and provide all necessary documentation. During the dispute resolution period all Services will be performed. If Contractor pursues any legal or equitable remedy outside this resolution process, Contractor shall continue to perform Services in accordance with the direction of NYSLRS until such proceedings may be concluded and will continue to be paid in accordance with the Agreement, less any amounts attributable to the dispute.

XVI. TERMINATION AND SUSPENSION

- A. Termination or Suspension with Notice.** NYSLRS may terminate or suspend the Agreement or terminate or suspend the Services or a portion thereof, with or without cause, upon 30 days prior written notice.
- B. Immediate Termination of Suspension.** The Agreement or the Services may be terminated or suspended immediately upon written notice to Contractor if NYSLRS deems Contractor's performance unsatisfactory, including upon the occurrence of an actual or perceived conflict of interest.
- C. Effect of Termination or Suspension.** If the Agreement is terminated or suspended by NYSLRS for any reason prior to its stated term, the compensation to be paid to Contractor will be prorated to the effective date of such termination or suspension based on the Services satisfactorily delivered to such termination or suspension date.
- D. Transition.** Contractor shall, at NYSLRS' request, perform such transition services as NYSLRS may reasonably request in connection with the transfer of any pending Services to a successor contractor and make appropriate staff available during normal business hours to answer transition questions regarding such records and the Services. No compensation shall be paid to Contractor for this limited transition-related assistance.

XVII. 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 shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and every other term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law as reasonably necessary to enforce the intent of the parties.
- D. No Presumption Against Draftsperson.** Each of the undersigned parties hereby acknowledges that the parties fully negotiated the terms of this Agreement, that each such party had an equal opportunity to influence the drafting of the language contained in this Agreement, and that there shall be no presumption against any such party on the ground that such party was responsible for preparing this Agreement or any part hereof. All prior working drafts of this Agreement, and any notes and communications prepared in connection therewith, shall be disregarded for purposes of interpreting the meaning of any provision contained herein.
- E. Survival.** All representations, warranties, and covenants contained herein or made pursuant hereto including, but not limited to, the provisions of Sections IV (Representations, Warranties, Covenants, and Acknowledgements), X (Confidentiality and Security), XI (Background Investigations), and XII (Indemnification and Liability), will survive the expiration or termination of this Agreement.
- F. Public Communication.** Neither Contractor nor any of its Staff will, at any time, either during the term of or after completion 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 NYSLRS, unless otherwise required by law. Unless specifically authorized in writing by the Comptroller on a case-by-case basis, Contractor shall not use the name of the Comptroller, NYSLRS, the CRF, or the State of New York, its officials or employees, or the seal of the State of New York or seal of the New York State Office of the State Comptroller 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 such person or entity.
- G. Counterparts.** This Agreement may be executed in separate counterparts by the parties hereto, each of which when executed will be deemed to be an original, and all of which taken together will constitute one and the same agreement with the same effect as if such signatures were upon the same instrument.

XVIII. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

This Agreement is inclusive of the following documents. Only documents expressly mentioned below are 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 E – CRF Vendor Responsibility and Conflict of Interest Disclosure Form;
 - Appendix F – Contractor’s Certifications/Acknowledgements;
 - Appendix H – Material Conflicts of Interest Statement; and
 - Appendix I – Independence of Auditors Performing Services for the Office of the State Comptroller and the common Retirement Fund.
- C.** Exhibit A – RFP24-17, including the Official Responses to Questions, and any and all amendments and addenda to the RFP; and
- D.** Exhibit B – the Proposal (Exhibits B1 – Technical Proposal, B2 – Cost Proposal, and B3 – Administrative Proposal), as modified by any clarifications thereto, and all Attachments.

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

In addition to the acceptance of this Agreement, NYSLRS and Contractor signatures on this page also certify that originals of this signature page will be attached to all other originals of this Agreement.

CONTRACT NUMBER: ERS XXX

[CONTRACTOR]

**COMPTROLLER OF THE STATE OF NEW YORK AS
ADMINISTRATIVE HEAD OF THE NEW YORK STATE
RETIREMENT SYSTEM AND TRUSTEE OF THE COMMON
RETIREMENT FUND**

SIGNATURE

SIGNATURE

PRINTED NAME

COLLEEN C. GARDNER

PRINTED NAME

TITLE

EXECUTIVE DEPUTY COMPTROLLER

TITLE

DATE

DATE

CONTRACTOR'S ACKNOWLEDGEMENT

STATE OF _____ }

} **SS.:**

COUNTY OF _____ }

On the _____ day of _____ in the year 20_____, before me personally appeared _____, known to me to be the person who executed the foregoing instrument, who, acknowledged to me that he/she/they maintain(s) an office at _____, is the _____ of _____, the corporation described in foregoing instrument; and, by authority of the Board of Directors of the corporation, is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and, pursuant to that authority, has executed the foregoing instrument in the name of and on behalf of the corporation as the act and deed of the corporation.

Notary Public
Registration No.

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.

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

9. 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.

10. 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."

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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, Division of Legal Services.** 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 services³ 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.

OSC employees must provide every interested vendor⁴ 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 question⁵ 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.

1. 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.
2. A vendor may not exert or attempt to exert any improper influence⁶ 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

³ 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.

⁴ 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.

⁵ 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.

⁶ 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.

Counsel to the 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.

3. 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.
4. 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.
5. 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 process⁷. 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.
6. 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.
7. 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.
8. 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.
9. 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 they determine that such disclosure will not impair the fairness and integrity of the procurement process.
10. 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.

⁷ 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.

11. 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.
12. 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.
13. 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.

November 6, 2009

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

11 NYCRR 136-2.1

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.

11 NYCRR 136-2.1

11 NYCRR 136-2.2

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) 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.
- (b) 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.

- (c) 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.
- (d) 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 (“RSSL”), which holds the assets of the Retirement System.
- (e) Investment manager shall mean any person (other than an OSC employee) or entity engaged by the Fund in the management of part or all of an investment portfolio of the Fund. Management shall include, but is not limited to, analysis of portfolio holdings, and the purchase, sale, and lending thereof. For the purposes hereof, any investment made by the Fund pursuant to RSSL section 177(7) shall be deemed to be the investment of the Fund in such investment entity (rather than in the assets of such investment entity).
- (f) Investment policy statement shall mean a written document that, consistent with law, sets forth a framework for the investment program of the Fund.
- (g) OSC shall mean the Office of the State Comptroller.
- (h) Placement agent or intermediary shall mean any person or entity, including registered lobbyists, directly or indirectly engaged and compensated by an investment manager (other than a regular employee of the investment manager) to promote investments to or solicit investment by the Fund, whether compensated on a flat fee, a contingent fee, or any other basis. Regular employees of an investment manager are excluded from this definition unless they are employed principally for the purpose of securing or influencing the decision to secure a particular transaction or investment by the Fund. For purpose of this paragraph, the term “employee” shall include any person who would qualify as an employee under the Federal Internal Revenue Code of 1986, as amended, but shall not include a person hired, retained or engaged by an investment manager to secure or influence the decision to secure a particular transaction or investment by the Fund.
- (i) 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.
- (j) 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, paying benefits or maintaining any other Retirement System records. “Administrative services” do not include services provided to the Fund relating to Fund investments.
- (k) 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 10 percent or more of the voting securities of such entity.

11 NYCRR 136-2.2

11 NYCRR 136-2.3

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.

11 NYCRR 136-2.3

11 NYCRR 136-2.4

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 preclude 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 [engages, hires, invests with, or commits] engage, hire, invest with or commit to an outside investment manager who is using the services of a placement agent or intermediary to assist the 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.

11 NYCRR 136-2.4

11 NYCRR 136-2.5

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.

11 NYCRR 136-2.5

11 NYCRR 136-2.6

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.

11 NYCRR 136-2.6

11 NYCRR 136-2.7

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.

11 NYCRR 136-2.7

APPENDIX E

CRF VENDOR RESPONSIBILITY AND CONFLICT OF INTEREST DISCLOSURE FORM

Answer all questions.

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 NYSLRS, the CRF, or OSC.
- State whether the issue will affect Vendor's financial or organizational ability to provide services to NYSLRS.
- Provide copies of relevant documents or any other information that would assist the NYSLRS in its vendor responsibility evaluation.

VENDOR INFORMATION	
Vendor Name	Federal Vendor ID/EIN #/NYS ID
Vendor Address	
Vendor Email	Vendor Phone
Vendor Type <input type="checkbox"/> Prime Vendor <input type="checkbox"/> Subcontractor	

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.

Authorized Signature

Date

Name and Title of Authorized Signatory

<i>Vendor includes any affiliate, any predecessor company or entity, owner, director, officer or key person.</i>		
QUESTION		
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 material 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.

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 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 them, or could reasonably be expected to influence them, in the performance of their official duties or was intended as a reward for any official action on their 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, investigation, action, suit, arbitration, legal claim 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 related to the type of services to be provided to the CRF?	<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.

N/A

QUESTIONS		
21. Is Vendor an SEC-registered investment advisor? <i>If yes, on a separate sheet describe how Vendor allocates investment opportunities among its clients.</i>	<input type="checkbox"/> YES	<input type="checkbox"/> NO
22. Does Vendor provide consulting services <i>and</i> investment management or advice (regardless of whether such services are provided to the CRF)? <i>If yes...</i> <ul style="list-style-type: none"> • Fill out the Lines of Business chart below. Add rows as necessary. • Either describe below or attach Vendor's process to identify potential conflicts of interest. 	<input type="checkbox"/> YES	<input type="checkbox"/> NO

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).

Business Line	Percentage of Total Revenue

Vendor's process to identify potential conflicts of interest.

APPENDIX G

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 they have 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 their 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 they have 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 they understand 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 H

MATERIAL CONFLICTS OF INTEREST STATEMENT

As provided in Part 136-2.4(c) of Chapter IV of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York, investment managers, and consultants or advisors shall promptly disclose to the Common Retirement 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 consultants or advisor's ability to render unbiased and objective advice.

Investment managers, and consultants or advisors hereby acknowledge that they are aware of and in compliance with the above standard, and agree as follows:

ALL INVESTMENT MANAGERS, AND CONSULTANTS OR ADVISORS OWE THE COMPTROLLER AND THE COMMON RETIREMENT FUND 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.

Signature

Name

Title

Date

STATE OF _____)
) ss.:
 COUNTY OF _____)

On the _____ day of _____ in the year 20_____, before me personally appeared _____, known to me to be the person who executed the foregoing instrument, who, acknowledged to me that he/she maintains an office at _____, and further that he/she is the _____ of _____, the business described in the foregoing instrument; that he/she is authorized to execute the foregoing instrument on behalf of the business for the purposes set forth therein; and that, pursuant to that authority, he/she executed the foregoing instrument in the name of and on behalf of the business as the act and deed of the business.

Notary Public
Registration No.

Revised May 18, 2015

APPENDIX I
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 Act⁸.

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

⁸ 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.