

	<b>State of South Carolina</b>  <b>South Carolina Public Employee Benefit Authority</b>  <b>Request For Proposal</b> <b>Amendment 1</b>	Solicitation Number: PEBA0232018 Date Issued: 05/09/2019 Procurement Officer: Georgia Gillens, CPPO, CPPB Phone: 803.734.0010 E-mail Address: <a href="mailto:GGillens@peba.sc.gov">GGillens@peba.sc.gov</a>

**DESCRIPTION: Provide Recordkeeping/Administration, Communication/Education, Custodial Trustee Services and Investment Management Services for SC PEBA**

**SUBMIT OFFER BY (Opening Date/Time): 05/29/2019 3:00 PM**

*The Term "Offer" Means Your "Proposal". Your offer must be submitted in a sealed package. The Solicitation Number & Opening Date should appear on the package exterior. See the clause entitled "Submitting Your Offer or Modification."*

**SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:**

<b>MAILING ADDRESS:</b> South Carolina Public Employee Benefit Authority P.O. Box 11960 Columbia, S.C. 29211-1960 Attention: Georgia Gillens, CPPO, CPPB	<b>PHYSICAL ADDRESS:</b> South Carolina Public Employee Benefit Authority 202 Arbor Lake Drive Columbia, S.C. 29223 Attention: Georgia Gillens, CPPO, CPPB
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<b>AWARD &amp; AMENDMENTS</b>	Award will be posted on <b>06/11/2019</b> . The award, this solicitation, any amendments, and any related notices will be posted at the following web address: <a href="https://procurement.sc.gov/vendor/contract-ops/other-solicitations/peba">https://procurement.sc.gov/vendor/contract-ops/other-solicitations/peba</a>
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You must submit a signed copy of this form with Your Offer. By submitting a proposal, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of one hundred twenty (120) calendar days after the Opening Date. (See the clause entitled "Signing Your Offer.")

<b>NAME OF OFFEROR</b>  <small>(Full legal name of business submitting the offer)</small>		Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.
<b>AUTHORIZED SIGNATURE</b>  <small>(Person must be authorized to submit binding offer to contract on behalf of Offeror.)</small>		
<b>TITLE</b>  <small>(Business title of person signing above)</small>		<b>STATE VENDOR NO.</b>  <small>(Register to obtain S.C. Vendor No. at <a href="http://www.procurement.sc.gov">www.procurement.sc.gov</a>)</small>
<b>PRINTED NAME</b>  <small>(Printed name of person signing above)</small>	<b>DATE SIGNED</b>	<b>STATE OF INCORPORATION</b>  <small>(If you are a corporation, identify the state of incorporation.)</small>

<b>OFFEROR'S TYPE OF ENTITY: (Check one)</b> <span style="float: right;"><small>(See "Signing Your Offer" provision.)</small></span>		
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Other _____
<input type="checkbox"/> Corporate entity (not tax-exempt)	<input type="checkbox"/> Corporation (tax-exempt)	<input type="checkbox"/> Government entity (federal, state, or local)

**PAGE TWO**  
**(Return Page Two with Your Offer)**

<b>HOME OFFICE ADDRESS</b> (Address for offeror's home office / principal place of business)	<b>NOTICE ADDRESS</b> (Address to which all procurement and contract related notices should be sent.)
	<hr/> Area Code - Number - Extension                      Facsimile
	<hr/> E-mail Address

<b>PAYMENT ADDRESS</b> (Address to which payments will be sent.)	<b>ORDER ADDRESS</b> (Address to which purchase orders will be sent)
<hr/> Payment Address same as Home Office Address	<hr/> Order Address same as Home Office Address
<hr/> Payment Address same as Notice Address <b>(check only one)</b>	<hr/> Order Address same as Notice Address <b>(check only one)</b>

**ACKNOWLEDGMENT OF AMENDMENTS**  
 Offerors acknowledges receipt of amendments by indicating amendment number and its date of issue. (See the clause entitled "Amendments to Solicitation")

Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date

<b>DISCOUNT FOR PROMPT PAYMENT</b> (See the clause entitled "Discount for Prompt Payment")	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	_____ Calendar Days (%)
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**AMENDMENT #1**  
**REQUEST FOR PROPOSAL – PEBA0232018**  
**Provide Recordkeeping/Administration, Communication/Education,**  
**Custodial Trustee Services and Investment Management Services for SC PEBA**

**PLEASE NOTE:** The original Request for Proposal document is superseded and is being replaced in its entirety by Amendment 1. It is recommended that Offerors, discard all superseded documents as described above and refer and respond only to the solicitation as described in Amendment 1. Attachment 7 includes responses to questions submitted in writing by the deadline. Any changes agreed to as a result of Attachment 7, Q&A have been incorporated into Amendment 1. Changes are highlighted in yellow. However, Offerors are responsible for reading the entire document in the event the State inadvertently failed to highlight a change. The questions and answers submitted in writing by the deadline are included as an attachment for information only. Only the changes incorporated in Amendment 1 are relevant.

**AMENDMENTS TO SOLICITATION (JAN 2004)**

(a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offeror's should monitor the following web site for the issuance of Amendments: [www.procurement.sc.gov](http://www.procurement.sc.gov) (b) Offeror's shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by letter, or (4) by submitting a bid that indicates in some way that the bidder received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged. [02-2A005-1

REQUEST FOR PROPOSAL (RFP)  
SOLICITATION NUMBER PEBA0232018

**DEFERRED COMPENSATION PROGRAM RECORDKEEPING**

**SCHEDULE OF KEY DATES IN THE PROPOSAL PROCESS**

**All dates subject to change**

1. Distribution of the Request for Proposal	04/10/2019
2. Questions on the RFP (12:00 PM E.S.T.)	04/18/2019
3. Pre-proposal conference	04/25/2019
4. State's Written Responses to Questions Questions/Amendment Issued (tentative)	05/01/2019
5. Submission and Opening of Proposals (3:00 PM E.S.T.)	05/29/2019
6. Intent to Award Posting	06/11/2019
7. Intent to Award Becomes Official	06/21/2019
8. Contract Performance	01/01/2020

**PART 1**

**INSTRUCTIONS TO OFFERORS-A. GENERAL INSTRUCTIONS**

**1.1 DEFINITIONS, CAPITALIZATION, AND HEADINGS:** Clause headings used in this solicitation are for convenience only and shall not be used to construe meaning or intent. Even if not capitalized, the following definitions are applicable to all parts of the solicitation, unless expressly provided otherwise.

Amendment means a document issued to supplement the original solicitation document.

Authority means the State Fiscal Accountability Authority or its successor in interest.

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity.

Change Order means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

Contract See the clause entitled "Contract Documents & Order of Precedence."

Contract Modification means a written order signed by the Procurement Officer directing the Contractor to make changes which the clause of the contract titled "Changes," authorizes the Procurement Officer to order without the consent of the Contractor.

Contractor means the Offeror receiving an award as a result of this solicitation.

Cover Page means the top page of the original solicitation on which the solicitation is identified by number.

Offerors are cautioned that Amendments may modify information provided on the Cover Page.

Offer means the proposal submitted in response to this solicitation. The term Proposal is used interchangeably with the term Offer.

Offeror means the single legal entity submitting the offer. See the clause entitled "Signing Your Offer."

Procurement Officer means the person, or his successor, identified as such on either the Cover Page, an amendment, or an award notice.



Solicitation means this document, including all its parts, attachments, and any Amendments.

State means the South Carolina Public Employee Benefit Authority.

Work means all labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract.

You and Your means Offeror.

**1.2 AMENDMENTS TO SOLICITATION:** (a) The solicitation may be amended at any time prior to opening. All amendments to this solicitation shall be in writing from the State. The State shall not be legally bound by any amendment which is not in writing. All actual and prospective Offerors should monitor the following web site for the issuance of amendments: <https://procurement.sc.gov/vendor/contract-opps/other-solicitations/peba> (b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by acknowledging receipt in the Offeror's Executive Summary, (4) by letter, or (5) by submitting a proposal that indicates in some way that the Offeror received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified by the amendment(s) remain unchanged.

**1.3 AUTHORIZED AGENT (FEB 2015):** All authority regarding this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement or the resulting contract.

**1.4 AWARD NOTIFICATION:** Notice regarding any award, cancellation of award, or extension of award will be posted at the location and on the date specified on the Cover Page or, if applicable, any notice of extension of award. Notice will be sent to all Offerors responding to the Solicitation and any award will not be effective until the eleventh day after such notice is given.

**1.5 PROPOSAL AS OFFER TO CONTRACT:** By submitting Your proposal, You are offering to enter into a contract with the South Carolina Public Employee Benefit Authority. Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An offer may be submitted by only one legal entity; "joint bids" are not allowed.

**1.6 PROPOSAL ACCEPTANCE PERIOD:** In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing. Otherwise, Your Offer remains valid until final award including through any periods consumed by protests.

**1.7 BID IN ENGLISH & DOLLARS:** Offers submitted in response to this solicitation shall be in the English language and in US dollars.

**1.8 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (MAY 2008):** Giving false, misleading, or incomplete information on this certification may render you subject to prosecution under Section 16-9-10 of the South Carolina Code of Laws and other applicable laws.

(a) By submitting an Offer, the Offeror certifies that-

(1) The prices in this Offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Offeror or competitor relating to-

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this Offer have not been and will not be knowingly disclosed by the Offeror, directly or indirectly,

to any other Offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the Offer is considered to be a certification by the signatory that the signatory-

(1) Is the person in the Offeror's organization responsible for determining the prices being offered in this proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; or

(2)(i) Has been authorized, in writing, to act as agent for the Offeror's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification [As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the Offeror's organization responsible for determining the prices offered in this proposal];

(ii) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification.

(c) If the Offeror deletes or modifies paragraph (a)(2) of this certification, the Offeror must furnish with its Offer a signed statement setting forth in detail the circumstances of the disclosure.

## **1.9 CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS (JAN 2004):**

(a)(1) By submitting an Offer, Offeror certifies, to the best of its knowledge and belief, that-

(i) Offeror and/or any of its Principals-

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;

(B) Have not, within a three-year period preceding this Offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) Offeror has not, within a three-year period preceding this Offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(b) Offeror shall provide immediate written notice to the Procurement Officer, or his designee, if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) If Offeror is unable to certify the representations stated in paragraphs (a)(1), Offeror must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer, or his designee, may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer, or his designee, may terminate the contract resulting from this solicitation for default without cost to the South Carolina Public Employee Benefit Authority or the State and the Contractor will be charged for the cost of replacement goods and services.

**1.10 CODE OF LAWS AVAILABLE (JAN 2006):** The South Carolina Code of Laws, including the Consolidated Procurement Code, is available at: <http://www.scstatehouse.gov/code/statmast.php> The South Carolina Regulations are available at: <http://www.scstatehouse.gov/coderegs/statmast.php>

**1.11 DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE (FEB 2015):** You warrant and represent that Your Offer identifies and explains any unfair competitive advantage You may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from Your participation in this competition or Your receipt of an award. The two underlying principles are (a) preventing the existence of conflicting roles that might bias a contractor's judgment, and (b) preventing an unfair competitive advantage. If You have an unfair competitive advantage or a conflict of interest, the State may withhold award. Before withholding award on these grounds, an Offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered. Without limiting the foregoing, You represent that Your Offer identifies any services that relate to either this solicitation or the work that has already been performed by You, a proposed subcontractor, or an affiliated business of either.

**1.12 DEADLINE FOR SUBMISSION OF OFFER:** The South Carolina Public Employee Benefit Authority will receive sealed proposals until 3:00 p.m. local time on the opening date shown. To be timely filed, proposals and amendments thereto should be received by the time advertised for opening. It is the vendor's sole responsibility to ensure the South Carolina Public Employee Benefit Authority receives these documents. Offerors mailing proposals should allow a sufficient mail delivery period to ensure timely receipt of their proposal by the South Carolina Public Employee Benefit Authority. Any offer received after the Procurement Officer or his designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or South Carolina Public Employee Benefit Authority's mail room prior to the opening. [R. 19-445.2070(G)]

**1.13 DRUG FREE WORK PLACE CERTIFICATION (JAN 2004):** By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

**1.14 DUTY TO INSPECT AND INQUIRE:** Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation and will be implemented on time and performed satisfactorily over the entire term of the contract. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation in accordance with the terms of this Solicitation. Failure to do so will be at the Offeror's risk. All ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by amendment. Offeror assumes responsibility for any patent ambiguity in the Solicitation, or

assumption it makes concerning the Solicitation, which Offeror does not bring to the State's attention pursuant to the terms of this Solicitation. By submission of a proposal, Offeror also certifies that its Offer has been reviewed by the appropriate individuals within the Offeror's organization and that the goods and services herein, if an award is made to that Offeror, can and will be provided on time and for the compensation proposed, subject to any negotiations that may affect the amount of compensation.

**1.15 ETHICS CERTIFICATE (MAY 2008):** By submitting an offer, the Offeror certifies that the Offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment of a former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by Contractor to candidate who participated in awarding of contract. The State may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If Contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, Contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the Procurement Officer at the same time the law requires the statement to be filed.

**1.16 OMIT TAXES FROM PRICE (JAN 2004):** Do not include any sales or use taxes in Your price that the State may be required to pay.

**1.18 OPEN TRADE REPRESENTATION (JUN 2015):** By submitting an Offer, Offeror represents that Offeror is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300.

**1.19 PROTESTS:** Any prospective Offeror, Contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest (and it must be actually received) within fifteen days of the date of issuance of the applicable solicitation document at issue pursuant to S.C. Code Section 11-35-4210. Any actual Offeror, Contractor, or subcontractor who is aggrieved in connection with the intent to award of a contract shall protest (and it must be actually received) within ten days of the date notification of the intent to award is posted also in accordance with S.C. Code Section 11-35-4210. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the appropriate Chief Procurement Officer within the time provided. See the clause entitled "Protest – CPO – MMO Address".

**1.20 PROHIBITED COMMUNICATIONS AND DONATIONS (FEB 2015):** Violation of these restrictions may result in disqualification of Your Offer, suspension or debarment, and may constitute a violation of law. (a) During the period between publication of the solicitation and final award, *you must not communicate, directly or indirectly, with the South Carolina Public Employee Benefit Authority or its employees, agents or officials regarding any aspect of this procurement activity, unless otherwise approved in writing by the Procurement Officer.* All communications must be solely with the Procurement Officer. [R. 19-445.2010] (b) You are advised to familiarize yourself with Regulation 19-445.2165, which restricts donations to a governmental entity with whom you have or seek to have a contract. *You represent that Your Offer discloses any gifts made, directly or through an intermediary, by You or your named subcontractors to or for the benefit of the South Carolina Public Employee Benefit Authority during the period beginning eighteen months prior to the Opening Date.* [R. 19-445.2165]

**1.21 PUBLIC OPENING (JAN 2004):** Offers will be publicly opened at the date/time and at the location identified on the Cover Page, or last Amendment, whichever is applicable.

**1.22 QUESTIONS FROM OFFERORS:** (a) Any prospective Offeror desiring an explanation or interpretation of the solicitation, specifications, etc. (see clause 1.14 above, "Duty to Inspect and Inquire"), must request it in writing. Oral explanations or instructions will not be binding. Any information given a prospective Offeror concerning a solicitation will be furnished promptly to all other prospective Offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective Offerors. We will not identify you in our response to your question. (b) The State seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer as soon as possible regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition. Offerors should advise the South Carolina Public Employee Benefit Authority of any problems they perceive as a result of reviewing this solicitation document, which may bear upon their ability to comply, or submit any other questions, which might ultimately bear upon the State's ability to enter into the relationship described herein with a selected vendor.

**1.23 REJECTION/CANCELLATION (JAN 2004):** The State may cancel this Solicitation in whole or in part and may reject any or all proposals in whole or in part. [SC Code Section 11-35-1710 & R.19-445.2065]

**1.24 RESPONSIVENESS/IMPROPER OFFERS:**

(a) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.

(b) Multiple Offers. Offerors may submit more than one Offer, provided that each Offer has significant differences other than price. Each separate Offer must satisfy all Solicitation requirements. If this solicitation is an Invitation for Bids, each separate offer must be submitted as a separate document. If this solicitation is a Request for Proposals, multiple offers may be submitted as one document, provided that you clearly differentiate between each offer and you submit a separate cost proposal for each offer, if applicable.

(c) Responsiveness. Any proposal deemed unacceptable pursuant to S.C. Regulation 19-445.2095 (I)(1)(c) and (J) will be rejected, such determinations to be discretionary and not disturbed unless arbitrary and capricious. The South Carolina Public Employee Benefit Authority may elect to conduct discussions, including the possibility of proposal revisions, but only for those proposals determined to be either acceptable or potentially acceptable pursuant to S.C. Regulation 19-445.2095 (I)(1)(a) and (b). Any such discussions shall be conducted in accordance with S.C. Regulation 19-445.2095 (I)(2), (3), and (4).

(d) Price Reasonableness: Any offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price.

(e) Unbalanced Bidding. The State may reject an Offer as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the State even though it may be the low evaluated bid.

(f) Do not submit bid samples or descriptive literature unless expressly requested. Unsolicited bid samples or descriptive literature will not be examined or tested, will not be used to determine responsiveness, and will not be deemed to vary any of the provisions of the solicitation. S.C. Code Ann. Reg. 19-445.2077(D).

**1.25 SIGNING YOUR OFFER (JAN 2004):** Every Offer must be signed by an individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words "by its Partner," and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign. ~~(d) An Offer may be submitted by a joint venture involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the joint venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (a) through (c) above for each type of participant.~~ (d) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (c) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal.

**1.26 STATE OFFICE CLOSINGS (JAN 2004):** If an emergency or unanticipated event interrupts normal government processes so that offers cannot be received at the South Carolina Public Employee Benefit Authority office by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule the proposal opening. If state offices are closed at the time a pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference. Useful information may be available at: <http://www.scemd.org/planandprepare/disasters/severe-winter-weather>

**1.27 SUBMITTING CONFIDENTIAL INFORMATION (FEB 2015):** (An overview is available at [www.procurement.sc.gov](http://www.procurement.sc.gov)) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, as that phrase is used in Section 11-35-410. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by Section 11-35-1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response as confidential, trade secret, or protected. If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the State will detrimentally rely on Offeror's marking of documents, as required by these instructions, as being either "CONFIDENTIAL" or "TRADE SECRET" or "PROTECTED". By submitting a response, Offeror agrees to defend, indemnify and hold harmless the State of South Carolina, its agencies, officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting

from withholding information by the State of South Carolina or any of its agencies, that Offeror marked as "CONFIDENTIAL" or "TRADE SECRET" or "PROTECTED". (All references to S.C. Code of Laws.)

**1.28 SUBMITTING YOUR OFFER OR MODIFICATION:** (a) All copies of the offer or modification, and any other documents required to be submitted with the Offer should be enclosed in a sealed, opaque envelope or package – (1) Addressed to the office specified on the Cover Page; and (2) Showing the time and date specified for opening, the solicitation number, and the name and address of the Offeror. (b) Offerors using commercial carrier services shall ensure that the Offer is addressed and marked on the outermost envelope or wrapper as prescribed in paragraphs (a)(1) and (2) of this provision when delivered to the office specified on the Cover Page. (c) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered.

**1.29 TAX CREDIT FOR SUBCONTRACTING WITH DISADVANTAGED SMALL BUSINESSES (JAN 2008):** Pursuant to Section 12-6-3350, a taxpayer having a contract with this State who subcontracts with a socially and economically disadvantaged small business is eligible for an income tax credit equal to four percent of the payments to that subcontractor for work pursuant to the contract. The subcontractor must be certified as a socially and economically disadvantaged small business as defined in Section 11-35-5010 and regulations pursuant to it. The credit is limited to a maximum of fifty thousand dollars annually. A taxpayer is eligible to claim the credit for ten consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit. After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit. A taxpayer claiming the credit shall maintain evidence of work performed for the contract by the subcontractor. The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the Contractor's income tax return. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, Research and Review, Phone: (803) 898-5786, Fax: (803) 898-5888. Questions regarding subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: (803) 734-0657, Fax: (803) 734-2498.

**1.30 VENDOR REGISTRATION MANDATORY (JAN 2006):** You must have a state vendor number to be eligible to submit an offer. To obtain a state vendor number, visit [www.procurement.sc.gov](http://www.procurement.sc.gov) and select New Vendor Registration. (To determine if your business is already registered, go to "Vendor Search"). Upon registration, you will be assigned a state vendor number. Vendors must keep their vendor information current. If you are already registered, you can update your information by selecting Change Vendor Registration. (Please note that vendor registration does not substitute for any obligation to register with the S.C. Secretary of State or S.C. Department of Revenue. You can register with the agencies at <http://www.scbos.com/default.htm>.)

**1.31 WITHDRAWAL OR CORRECTION OF OFFER (JAN 2004):** Offers may be withdrawn by written notice received at any time before the exact time set for opening. A proposal may be withdrawn in person by an Offeror or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal. The withdrawal and correction of Offers is governed by S.C. Code Section 11-35-1520 and Regulation 19-445.2085.

**PART 1**

**INSTRUCTIONS TO OFFERORS-B. SPECIAL INSTRUCTIONS**

**1.32 PRE-PROPOSAL CONFERENCE/SUBMISSION OF QUESTIONS:**

There will be a Pre-Proposal Conference at **9:30 AM Local Time on April 25, 2019** at the South Carolina Public Employee Benefit Authority, 200 Arbor Lake Drive, **PEBA Board Room**, Columbia, South Carolina.

**NOTE:** Due to the importance of all Offerors having a clear understanding of the specifications and requirements of this RFP, attendance at the pre-proposal conference is strongly encouraged. The South Carolina Public Employee Benefit Authority strongly recommends that, at a minimum, the proposed account manager and the individual responsible for preparing and submitting the Offeror's proposal be in attendance. Prospective Offerors will be limited to three (3) representatives. Please bring a copy of the RFP with you.

**SUBMISSION OF QUESTIONS**

Any questions, comments, requests for information or clarifications regarding the RFP must be submitted in writing. Do NOT wait to assert deviations, exceptions, etc. to anything in this RFP until (or in) the submission of your proposal.

All questions must be received by the Procurement Officer no later than **April 18, 2019 at 12:00 PM** local time. No further questions regarding the RFP will be accepted after this deadline.

Any written questions, requests for information or request for clarifications will be responded to in the form of a written amendment to the RFP and e-mailed to all prospective Offerors. The amendment will also be posted at the following web address: <https://procurement.sc.gov/vendor/contract-ops/other-solicitations/peba>

All questions, comments, and requests for information or clarifications regarding this RFP must be submitted as indicated below. All questions, comments, and requests for information or clarifications should, to the highest degree possible, cite the specific RFP section and paragraph number(s) to which the question refers. All questions, comments, and requests for information or clarifications regarding this RFP should include the identity of the sender, firm name, mailing address, telephone number, and e-mail address. Email is the preferred method for submitting questions, with "Questions: Deferred Compensation Program Recordkeeping RFP" as the subject of the email. Submit questions in an easily copied format such as MS Word.

**Mark envelopes on questions mailed: QUESTIONS**

**Title: Deferred Compensation Program RFP, Attn: Georgia Gillens, CPPO, CPPB**

**SEND QUESTIONS TO:**

**MAIL TO:**

South Carolina Public Employee Benefit Authority  
PO Box 11960  
Columbia, SC 29211-1960  
Attention Georgia Gillens, CPPO, CPPB

**HAND DELIVER/EXPRESS**

South Carolina Public Employee Benefit Authority  
202 Arbor Lake Drive  
Columbia, SC 29223  
Attention Georgia Gillens, CPPO, CPPB

**E-MAIL ADDRESS:**

[ggillens@peba.sc.gov](mailto:ggillens@peba.sc.gov)



**1.33 CONTENTS OF OFFER (FEB 2015):** (a) Offers should be complete and carefully worded and should convey all of the information requested. (b) Offers should be prepared simply and economically, providing a straightforward, concise description of Offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. (c) The contents of Your Offer should be divided into two parts, the technical proposal and the business proposal. Each part should be bound in a single volume. (d) If Your Offer includes any comment over and above the specific information requested in the solicitation, you should include this information as a separate appendix to Your Offer. Offers which include either modifications to any of the solicitation's contractual requirements or an Offeror's standard terms and conditions may be deemed non-responsive and not considered for award.

**1.34 CLARIFICATION (NOV 2007):** Pursuant to Section 11-35-1520(8), the Procurement Officer may elect to communicate with You after opening for the purpose of clarifying either Your Offer or the requirements of the Solicitation. Such communications may be conducted only with offerors who have submitted an offer which obviously conforms in all material aspects to the Solicitation. Clarification of an offer must be documented in writing and included with the offer. Clarifications may not be used to revise an offer or the Solicitation. [Section 11-35-1520(8); R.19-445.2080]

**1.35 OPENING PROPOSALS – INFORMATION NOT DIVULGED (FEB 2015):** Offers will be publicly opened at the date/time and at the location identified on the Cover Page, or last Amendment, whichever is applicable. In competitive sealed proposals, neither the number, identity of Offerors nor prices will be divulged at opening. [Section 11-35-1530 & R. 19-445.2095(C)(1)]

**1.36 PROTEST - CPO - MMO ADDRESS (JUN 2006):** Any protest must be addressed to the Chief Procurement Officer, Materials Management Office, and submitted in writing (a) by email to: protest-mmo@mmo.state.sc.us, (b) by facsimile at 803-737-0639 or (c) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201.

**1.37 UNSUCCESSFUL OFFERORS:** Offerors not awarded a contract under this solicitation may request return of their proposals within thirty (30) calendar days after the notice of intent to award becomes the final statement of award. All cost of returns will be paid by the Offeror. Thirty (30) calendar days after the notice of intent to award becomes the final statement of award all materials submitted by firms not awarded a contract may be destroyed.

**1.38 RELEASE OF CLAIMS:** With the submission of a proposal, each Offeror agrees that it will not bring any claim or have any cause of action against the South Carolina Public Employee Benefit Authority based on any misunderstanding, failure by the South Carolina Public Employee Benefit Authority to properly convey the information, or failure by the South Carolina Public Employee Benefit Authority to provide the Offeror with pertinent information as intended by the RFP. Additionally, the Offeror, its officers, agents, or representatives waive and release the South Carolina Public Employee Benefit Authority and each and any entity, person, or other source providing any information concerning the Offeror, of any and all claims of any sort or variety whether in tort, contract or otherwise, whether known or unknown, regarding the Offeror's or subcontractor's past performance, products, services, personnel, reputation or its Subcontractors or any other information sought or obtained by the South Carolina Public Employee Benefit Authority, whether or not the information is relied on by the South Carolina Public Employee Benefit Authority. The Offeror agrees that it will assert no claims for proposal preparation costs arising from a protest, action or claim arising from the solicitation or award.

**1.39 DISCUSSIONS AND NEGOTIATIONS (FEB 2015):** Submit your best terms from both a price and a technical standpoint. Your proposal may be evaluated and your offer accepted without any discussions, negotiations, or prior notice. Ordinarily, nonresponsive proposals will be rejected outright without prior notice. Nevertheless, the South Carolina Public Employee Benefit Authority may elect to conduct discussions, including the possibility of limited proposal revisions, but only for those proposals reasonably susceptible of being selected

for award [11-35-1530(6); R.19-445.2095(I)]. If improper revisions are submitted during discussions, the South Carolina Public Employee Benefit Authority may elect to consider only your unrevised initial proposal, provided your initial offer is responsive. The South Carolina Public Employee Benefit Authority may also elect to conduct negotiations, beginning with the highest ranked Offeror, or seek best and final offers, as provided in Section 11-35-1530(8). Negotiations may involve both price and matters affecting the scope of the contract, so long as changes are within the general scope of the request for proposals. If negotiations are conducted, the South Carolina Public Employee Benefit Authority may elect to disregard the negotiations and accept your original proposal.

## **PART 2**

### **SCOPE OF PROPOSAL**

It is the intent of the State of South Carolina, PEBA, in accordance with all requirements stated herein or attached hereto, to solicit proposals from qualified firms to provide recordkeeping/administration, communication/education, custodial trustee services, and investment management services for the South Carolina Deferred Compensation Program (the “Program”), which consists of the State of South Carolina Salary Deferral [401(k)] and Savings Profit Sharing Plan and Trust (the “401(k) Plan”) and the State of South Carolina 457 Deferred Compensation Plan and Trust (the “457 Plan”) (collectively, the “Plans”).

#### **2.1 Background**

The 401(k) Plan was adopted in 1985 and the 457 Plan was established in 1980. Both Plans meet the requirements for tax-favored treatment under the Internal Revenue Code of 1986 as amended.

There are approximately 225,000 employees who are eligible to participate in the Program. Participation is available to all employees of the State of South Carolina. The contract for services resulting from this Request for Proposal will be made available to any political subdivision (a city, county, or other local unit) in the State of South Carolina that adopts the terms of the Program.

Currently, there are 655 employers that have adopted the Program. As of December 31, 2018, total assets in the 401(k) Plan were approximately \$3.295 billion, and total assets in the 457 Plan were approximately \$950 million. There were 76,043 accounts in the 401(k) Plan and 23,366 accounts in the 457 Plan as of the same date. Participants may contribute to both Plans simultaneously. Roth options are available for both Plans.

The Program is currently administered by Empower Retirement Services (“Empower”) under a contract that will expire December 31, 2019. Each participating employer operates independently, having a separate billing group and data transmission, and receives its own employer-level reports.

The following can be found, in PDF format, at <http://procurement.sc.gov/vendor/contract-opps/other-solicitations/peba>

- SCDCP Statistics
- SCDCP Investment Policy Statement
- Current Stable Value Fund Contracts
- Current 84-Month Certificate Contracts
- 401 (k) Plan Document
- 401 (k) Plan Amendment One
- 457 Plan Document
- 457 Plan Amendment One

- PDI File Format
- Quarterly Plan Review – Q4 2018

## **2.2 Investment Structure**

At this time, PEBA will maintain the current investment lineup, but reserves the right, at its sole discretion, to add to, replace, or remove any of the current investment options. Accordingly, an Offeror should not rely on revenues generated from particular investment options when determining its proposed fees.

### 84-Month Certificate

The 84-Month Certificates (Certificates) are no longer available to receive new or reinvested assets. Unless otherwise directed by the participant, assets from maturing Certificates will be invested in the most conservative target date fund. The Contractor is responsible for any administration services related to the Certificates.

Transfers shall be allowed only at maturity. Certificates may be broken only to pay benefits for qualifying events or to pay loans. No fee shall be assessed if certificates are transferred or broken under these circumstances. Withdrawals shall be made from the certificate closest to maturity.

### Stable Value Fund

The stable value fund is currently managed by Great-West Financial, under a separate account structure. As of December 31, 2018, its market-to-book value ratio was 98.3%.

## **2.3 Goals and Objectives**

For a program of this size to be successful, an administrative process, including assistance with enrollment and education, must be in place to address the needs of all eligible employees. The Contractor shall actively manage all activities related to this process to ensure maximum participation and effectiveness of the Program.

The Contractor shall perform accurate and timely recordkeeping services and administer the Program within pre-described service standards. A high value is placed on the following qualifications.

1. Focus on Quality and Consistency of Service Delivery:
  - Adheres to successful quality assurance procedures
  - Follows a successful problem resolution methodology
  - Performs services accurately and on a timely basis
  - Provides accurate and consistent responses to inquiries
  - Measures and maintains a high level of customer satisfaction
2. Proactive Approach:
  - Develops and implements a plan that addresses participant education and service enhancements with clear and concise objectives, timetables, and benchmarking methodology
  - Educates participants by providing informed service representatives and participant-friendly communications
  - Provides on-site visits to participating employers for participant enrollment and group meetings
  - Develops strong working relationships with human resources staff of participating employers in order to maximize opportunities for employee and employer education

- Provides participants with comprehensive retirement planning and investment education services
  - Provides comprehensive plan sponsor education opportunities on an regular basis
  - Places emphasis on measuring and helping to improve participant retirement awareness
3. Commitment to Technology Development:
- Makes information technology security and the protection of participant information a high priority
  - Invests continuously in technology
  - Provides access to cutting edge technological enhancements
  - Demonstrates improvements (e.g., accuracy, timeliness) in client service through technological enhancements

## **PART 3**

### **SCOPE OF WORK**

The Contractor shall provide services to include recordkeeping/administration, communication/education, custodial trustee services, and investment management services for the Program, in accordance with all requirements outlined in this Request for Proposal (including all attachments) and the Offeror's response thereto.

PEBA is seeking proposals that comply with each of the requirements described in Part III, Scope of Work, Sections A through E below. PEBA considers unacceptable any proposal that provides any deviations from, or caveats to, Part III, Scope of Work, Sections A through E below. As a result, any item any Offeror would like to modify, seek clarifications on, or request any other deviation from, however modest, MUST be presented during the question and answer phase for the State to consider and determine before the submission date for all proposals, so that all Offerors will have a common and uniform basis upon which to submit their proposals.

The Contractor shall provide, at a minimum, the following material and essential requirements for the contract term, without deviation or modification, subject to any modifications that may be issued in an Amendment to the Request for Proposal by PEBA resulting from the question and answer phase:

#### **A. Custodial Trustee and Investment Management Services**

1. The Contractor shall provide custodial trustee services for the Program through a custodial relationship where the Program's assets are segregated from other assets held by the custodian (not held in omnibus). The Program currently maintains a segregated custodial relationship for reporting and audit purposes. The intent is to separate assets of the Program from other clients' assets commingled by the Contractor and/or custodian. Under this arrangement, the Contractor retains any float associated with the custom banking relationship.
2. The Contractor shall offer all participants a diverse array of investment options as selected by the PEBA Board. The Contractor shall notify participants of any changes to investment options as directed by the PEBA Board.
3. The Contractor shall make investment advice available to all participants. Administrative and investment advice expenses shall be deducted from participant accounts on a quarterly basis.
4. As soon as administratively practicable, the Contractor shall return to participants in the Program all revenue sharing generated from the mutual fund investment options.

## **B. Recordkeeping and Administrative Services**

1. The Contractor shall deal directly with all participating employers and Program participants.
2. The Contractor shall make available enrollment kits, which must be provided upon request. Enrollment counseling shall be available in person or by phone. All communication materials and forms are subject to approval by PEBA prior to actual use.
3. The Contractor shall process payroll deductions, monitor compliance, process participant transactions on a daily basis, and provide timely and accurate participant and plan-level statements. The Contractor shall create custom reports as the State deems necessary.
4. The Contractor shall handle multiple payroll locations, transmittal methods and frequencies. Currently, the State of South Carolina Comptroller General's Office consolidates payroll for approximately eighty-five (85) participating employers and submits the remittance file and contributions electronically to the current contractor, Empower, on a semi-monthly basis. Other participating employers submit remittance files and/or contributions electronically.
5. The Contractor shall provide loan repayment coupons for participants who leave covered employment and need to make loan payments via check or money order. For participants who are actively employed with a participating employer, loan payments must be payroll deducted and electronically submitted by the employer.
6. The Contractor shall have a toll-free customer service call center, automated voice response system, and Internet services that allow participants access to their accounts.
7. The Contractor shall provide industry-standard data encryption and a secure method for participating employers to submit and receive payroll data. The State and its designees shall have the ability to search for and view participant account information via the plan sponsor website without first having to identify the participant's employer.
8. The Contractor shall not require the signature of PEBA or the participant's employer in order to process distribution requests. Information necessary to process such requests in accordance with IRS and Plan document regulations shall be provided to the Contractor electronically or by any other method acceptable to the Contractor.
9. The Contractor shall have adequate procedures in place to follow up on outstanding checks and other uncompleted distributions to ensure that distributions are properly made in accordance with the Plan documents, IRS guidance, and any other instructions from PEBA regarding locating and making distributions to missing participants.
10. The Contractor shall provide a Form 1099-R for all distributions and shall provide administration under Section 401(a)(9) and 457, required minimum distributions, including forcing out required minimum distributions as directed by the State.
11. The Contractor shall provide complete review, approval, and administrative services related to unforeseeable emergency withdrawals, hardship withdrawals, and Qualified Domestic Relations Orders.
12. The Contractor shall provide a consolidated balance for participants who have accounts in both Plans. This consolidation must appear on quarterly participant statements, as well as the website and automated voice response system. The Contractor shall provide a consolidated summary for participant statements, not just a

combination of two (2) independent statements. Statements are defaulted to electronic delivery for newly established accounts; however, participants must have the option to elect to receive paper statements.

13. The Contractor shall return to the Program, on a monthly basis, any interest credited as a result of un-cashed benefit checks or distributions.
14. The Contractor shall comply with Plan documents and regulatory provisions, including but not limited to changes to the Internal Revenue Code.
15. The Contractor shall provide for necessary changes to recordkeeping and administrative processes as a result of changes in State of South Carolina and Federal legislation and regulation.
16. The Contractor shall be solely liable and responsible for any processing errors caused by it or its agents and shall provide reimbursement for any losses that occur due to such errors.
17. The Contractor shall accept dates of death as provided by PEBA, update accounts accordingly, and ensure that distributions are properly made in accordance with the Plan documents, IRS guidance, and any other instructions from PEBA regarding making distributions of death claims.
18. The Contractor shall make available exit packets, which must be available to employers online as well as be provided upon request. Exit packets should contain a flyer regarding options for those leaving covered employment as well as the materials necessary to process contributions on annual leave payouts.
19. The Contractor shall provide PEBA with a report each calendar quarter that includes comprehensive details and statistics to assist in monitoring Plan-level performance. PEBA staff should have the opportunity to review these materials prior to issuance.
20. The Contractor shall attend up to seven (7) meetings per year at PEBA's office in Columbia, SC. If requested, one (1) of these meetings shall consist of up to a full day of training performed by the Contractor.

### **C. Communication and Training**

1. The Contractor shall prepare communication materials that describe the features and operations of the Program as well as any changes to the Program and increase awareness of the Program's benefits. These communication materials shall be furnished to Program participants and participating employers.
2. The Contractor will ensure that communications with PEBA, Program participants and participating employers through electronic data transfer, fax, telephone and hard copy transfer of information are accurate, secure and efficient, as determined by the contract and the law.
3. The Contractor shall work collaboratively with PEBA staff to develop an annual marketing plan that includes a variety of targeted marketing content and deliverables. All collateral the Contractor produces is subject to approval by PEBA prior to actual use. Materials for Program participants and benefits administrators, include, but are not limited to:
  - Content for multiple, targeted, digital campaigns to promote Program benefits, services and initiatives. Content may be used by PEBA to develop electronic turnkey toolkits for participating employers (posters, flyers, brochures, postcards, email templates, social media posts, employee newsletter article templates, etc.).

4. The Contractor shall provide personnel with experience in marketing and communications for bi-weekly calls in which initiatives, campaigns, and progress will be discussed. The Contractor shall also recommend specific communications plans and goals in accordance with the overall management of the Program during these calls. Reporting of general and targeted metrics and status updates, as well as operational updates, will be required as well. Other calls may be scheduled in addition to bi-weekly calls in order to meet deadlines for campaigns.
5. The Contractor shall work collaboratively with PEBA staff to develop a comprehensive annual strategic plan to increase participation in the Program. Contractor should provide recommendations to meet long-term and short-term goals for increasing participation in the Program. The strategic plan should also include areas of focus for the field service representatives. The Contractor shall provide PEBA with a report each year detailing the performance results related to the strategic plan.
6. The Contractor shall cobrand all informational materials, letters, notices, and collateral with PEBA's Program logo and the Contractor's logo according to PEBA's brand guidelines for vendors. The Contractor's logo should be labeled as "Administered by:" to reflect the relationship between PEBA and the Contractor. The Contractor should follow other guidelines including size of logo, colors, typography, and other styles as identified in the identity guidelines and will also adhere to Associated Press style guidelines. All materials must be reviewed and approved by PEBA prior to use.
7. The Contractor shall develop and distribute approved participant account-specific communications materials and items. Information specific to a participant's account shall be printed and mailed to the participant's address on file if the participant has opted out of paperless delivery. These include, but are not limited to: notification of Program selections and changes to participants. Notices and materials must be reviewed and approved by PEBA prior to use.
8. The Contractor shall maintain, at a minimum, a secure, password-protected, transaction-enabled website specific to the Program.
9. The Contractor shall provide a website that is accessible without entering a password that includes information specific to the Program benefits and features. The website shall explain the benefits and value of participating in the Program. Website shall also provide general resources and information to promote retirement awareness. Website content must be reviewed and approved by PEBA prior to use.
10. The Contractor shall not conduct any mass paper or electronic mailings to enrolled participants, eligible employees, participating employers, or other benefits personnel without the prior express permission of PEBA.
11. The Contractor shall provide materials and an adequate number of its personnel as needed to train participating employers and PEBA personnel about the Program and operational procedures of the Contractor. The Contractor shall provide training and education sessions upon PEBA or employer request at: PEBA's location, various employer sites statewide, or presented over the internet (e.g., webinars). In the event a new entity joins the Program, the Contractor shall supply its personnel and materials to assist in the entity's setup, upon the request of PEBA or the new entity. All materials and training items distributed to participating employers by the Contractor are subject to PEBA approval prior to actual use.
12. The Contractor shall provide materials and an adequate number of its personnel, upon PEBA or participating employers' request, to present at seminars and attend promotional events to promote enrollment and inform participants of rules, updates, changes, and features of the Program. When a new entity joins the Program, the Contractor shall supply its personnel and materials to assist in explaining the Program during the initial

enrollment, upon the request of PEBA or the new entity. During the 2017 calendar year, PEBA staff presented at approximately 150 seminars and attended approximately 50 benefit fairs at employer locations across the state. All materials distributed to participants and eligible employees are subject to PEBA approval prior to actual use.

13. The Contractor shall provide personnel at PEBA's annual Benefits at Work Conference, which is typically held over a multi-day period each year in August/September, beginning in August 2019. Approximately 350 benefits administrators and other essential benefits personnel attend each day. Traditionally, the conference has been held in Columbia, South Carolina; however, the Contractor is required to provide personnel at the conference regardless of the in-state location and dates. PEBA's contractors are responsible for hosting a table each day of the conference, providing printed promotional and educational materials, answering questions from participating employers and PEBA staff, and engaging with those in attendance at the conference. The Contractor may be asked to provide staff to present Program material at the conference. All information and materials to be distributed by the Contractor at the conference must be approved in advance by PEBA.
14. The Contractor shall conduct an annual Customer Satisfaction Survey for participants to gauge satisfaction with the Contractor. The Customer Satisfaction Survey must be approved by PEBA prior to distribution. Results must be submitted to PEBA.
15. The Contractor shall research and compile data requested by PEBA for the creation of PEBA-developed communication materials.

#### **D. Local Office Services**

1. The Contractor shall have a local office in Columbia, South Carolina, preferably at 200 Arbor Lake Drive, to accommodate participant consultations and other services. The Contractor is accountable for the rent at the location of their choosing.
2. The Contractor shall provide dedicated field service representatives, available between the hours of 8:30 a.m. and 5 p.m. on all State business days, to offer participants one-on-one counseling and group education opportunities. The Contractor and its field service representatives shall emphasize the importance of improving participant retirement awareness and promote positive long-term outcomes. All communication materials are subject to approval by PEBA prior to actual use.
3. The Contractor's field service representatives should provide onsite education and participant communication services and **may not market any associated banking services, have commission-based compensation, or any financial incentives to promote any investment product or services. Compensation and incentive awards for field representatives must be structured to maintain an objective and unbiased distribution of investment products and services to the Program's participants.**

#### **E. Other Requirements**

1. If requested, the Contractor shall supply Program-related information to PEBA and its consultants, attorneys, auditors, and other designees. With reasonable notice, the Contractor shall provide access to parties authorized by PEBA to perform audits or reviews.
2. The Contractor shall provide PEBA with a detailed transition plan within twenty (20) business days of the date of award, along with written materials to explain Program changes and enhancements.



## PART 4

### QUALIFICATIONS

**4.1 QUALIFICATIONS OF OFFEROR:** (1) To be eligible for award, You must have the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance. We may also consider a documented commitment from a satisfactory source that will provide you with a capability. We may consider information from any source at any time prior to award. We may elect to consider key personnel, any predecessor business, and any key personnel of any predecessor business, including any facts arising prior to the date a business was established. (2) You must promptly furnish satisfactory evidence of responsibility upon request. Unreasonable failure to supply requested information is grounds for rejection. (3) **Corporate subsidiaries are cautioned that the financial capability of an affiliated or parent company will not be considered in determining financial capability;** however, we may elect to consider any security, e.g., letter of credit, performance bond, parent-company corporate guaranty, that you offer to provide. Instructions and forms to help assure acceptability are posted on [procurement.sc.gov](http://procurement.sc.gov), link to “Standard Clauses & Provisions.”

Provide the following information or documentation for the Offeror. This information, and other information in PEBA’s discretion, will be used to determine your responsibility:

- (a) Your most current financial statement, financial statements for your last two fiscal years, and information reflecting your current financial position. If you have audited financial statements meeting these requirements, you must provide those statements.
- (b) A list of failed projects, suspensions, debarments, and significant litigation.
- (c) Most current Service Organization Controls (SOC-1) report.

### **4.2 MANDATORY MINIMUM QUALIFICATIONS**

PEBA believes that a Contractor does not have the capability of successfully and fully performing the contract unless it meets the mandatory minimum qualifications outlined below. For an Offeror to be considered for an award, it must demonstrate that it, or its subcontractor/affiliate, possesses, as of the date of proposal submission, all of the following minimum qualifications. An Offeror may meet the requirements described in Part 4.2, Mandatory Minimum Qualifications, through a contractor/subcontractor or contractor/affiliate arrangement.

1. Offerors must certify that they are a qualified firm to provide administrative services pursuant to Sections 401(k) and 457(b) of the Internal Revenue Code (Code) and all rules and regulations of the State of South Carolina.
2. Offerors must offer bundled administrative services (i.e., recordkeeping/administration, communication/education, custodial trustee services, and participant investment advisory services), as well as an open architecture investment platform.
3. Offerors must be able to accept payroll files from 654 payroll centers across the State.
4. Offerors must have at least five (5) years’ experience providing to the public sponsor defined contribution marketplace the services and products outlined in this Request for Proposal.
5. Offerors must have a minimum of three (3) billion dollars in assets under administration for public sector 401(k) and 457(b) plans.

6. Offerors must have at least three (3) public defined contribution plan accounts, each with twenty thousand (20,000) or more participants.
7. Offerors must have provided custodial trustee services to defined contribution plans for at least five (5) years and have at least five (5) billion dollars under custody.
8. Any relationships proposed to provide services offered in this RFP must have been in place for at least five (5) years and provide services to similar plans (size and demographics).

Any Offeror not meeting these requirements will not be considered for award, and therefore will not be evaluated. See S.C. Code Ann. § 11-35-1810.

## **PART 5**

### **INFORMATION FOR OFFERORS TO SUBMIT**

Proposals will be accepted only from the entity that will be providing the services hereunder. Offerors shall submit:

- a. One (1) original marked “original” and **four** (4) identical paper copies of your Technical Proposal. Please label copies, 1 of 3, 2 of 3, etc.
- b. One (1) original marked “original” and **four** (4) labeled USB flash drives containing a copy of the Offeror’s Technical Proposal Response (in MS Word, MS Excel and/or PDF format where appropriate). Please label copies, 1 of 3, 2 of 3, etc.
- c. One (1) original marked “original” and one (1) paper copy of your Business Proposal (Attachment 5)
- d. One (1) labeled USB flash drives containing a copy of the Offeror’s Business Proposal (Attachment 5).
- e. One (1) USB flash drive labeled “original redacted” containing a redacted version of your original Technical Proposal.
- f. One (1) USB flash drive labeled “original redacted” containing a redacted version of your original Business Proposal.

Offerors should submit the following information for purposes of evaluation. PEBA desires a detailed written submission so that it can make an accurate comparison of all proposals received. Please be specific in your answers. The Proposal shall include the following sections and shall be presented in the listed order:

#### **5.1 TECHNICAL PROPOSAL**

The Technical Proposal shall include the following sections and shall be presented in the listed order.

##### **5.1.1 COVER PAGE**

Offerors must submit a signed copy of the cover page (page one and two) with their offer. By submitting a proposal, Offeror agrees to be bound by all of the terms of the RFP. Offerors agree to hold their offer open for a minimum of one hundred twenty (120) calendar days after the Opening Date.

##### **5.1.2 EXECUTIVE SUMMARY**

An Executive Summary should be provided with the Offeror’s Proposal. The Executive Summary should include a brief description of the Offeror’s understanding of the scope of services and their ability to provide the required services. The Executive Summary should be signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP.

**Statement of Acceptance:** Offerors shall reply to Part 1 Instructions to Offerors-A. General Instruction, Part 1 Instructions to Offerors-B. Special Instructions, Part 2 Scope of Proposal, Part 3 Scope of Work, Part 7 Terms and Conditions-A. General, and Part 7 Terms and Conditions-B. Special, by declaring that the Offeror fully understands, agrees to, and will comply with all of the provisions/requirements/terms in each of these Parts. Offerors should include this Statement of Acceptance in their Executive Summary. Please note that the State considers any proposal containing deviations, exceptions, or caveats to the RFP that have not been submitted for consideration during the question and answer phase, and adopted by PEBA, as unacceptable.

**Mandatory Minimum Qualification:** Offerors should provide detailed information to establish that the Offeror meets the mandatory minimum qualifications outlined in Part 4, Mandatory Minimum Qualifications. Offerors should include this detailed information in their Executive Summary. Any Offeror not meeting the Mandatory Minimum Qualifications will not be considered for award, and therefore will not be evaluated.

### 5.1.3 TABLE OF CONTENTS

The Proposal should include a Table of Contents that lists page number references. The Table of Contents should be in sufficient detail to facilitate easy reference to the sections of the Proposal and separate attachments (which shall be included in the main Table of Contents). The Table of Contents in your PDF submittal should be searchable and in the same order as the hard copy response. If supplemental materials are included with the Proposal, each copy of the Proposal should include such supplemental materials. Supplemental information (i.e., information not required) and attachments included by the Offeror should be clearly identified in the Table of Contents and provided as a separate section.

### 5.1.4 SUBCONTRACTORS AND AFFILIATES

Offerors may utilize the service(s) of an affiliate or a subcontractor to perform services/requirements outlined in this Request for Proposal. If the Offeror's services provided for hereunder include services, equipment, or materials supplied by an affiliate, the affiliate shall be within the Offeror's controlled group and the Offeror, if awarded a contract, must act as the Contractor and shall assume full responsibility for any affiliate's performance.

If the Offeror's services provided for hereunder include services, equipment, or materials supplied by a subcontractor, the Offeror, if awarded a contract, must act as the Contractor and assume full responsibility for any subcontractor's performance. The Contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all requirements.

Offerors utilizing the services of an affiliate or a subcontractor to perform services/requirements outlined in this Request for Proposal should complete Attachment 6, Subcontractor/Affiliate Information. Attachment 6 should be completed for each subcontractor/affiliate proposed to perform any of the requirements of this contract. All subcontractor arrangements must be finally established and all contracts negotiated with subcontractors/affiliates prior to submission of proposals. Following submission of proposals and prior to award, copies of all subcontractor contracts may be requested for review by PEBA.

If any subcontractor/affiliate arrangement(s) necessitate an additional administrative agreement or procedural document to be signed by PEBA, Offerors should provide copies of all of the necessary documents, or at a minimum a sample of the documents, in their proposal response. **Please note: Administrative agreements not submitted with your response may not be accepted after award.**

**5.1.5 OFFEROR’S TECHNICAL PROPOSAL RESPONSE**

Offerors should provide a detailed response to each of the questions/sub-questions below. Please be specific in your response. Please list the question as stated below with your response immediately following the question.

**I. Organization and Company History**

1. Offerors should provide a brief overview of your organization. The narrative shall include the following;
  - a. date established
  - b. ownership (public, partnership, subsidiary, etc.);
  - c. years active in the public defined contribution (DC) markets;
  - d. years in the public 401(k) market;
  - e. years in the public 457(b) market; and
  - f. relationships with other entities relevant to or related to the subject matter of this Request for Proposal;
  
2. Offerors should provide the following information:
  - a. Total assets under administration;
  - b. Total DC assets under administration;
  - c. Total public DC assets under administration;
  - d. Total public 401(k) assets under administration; and
  - e. Total public 457(b) assets under administration.
  
3. What are your client retention statistics for each of the last three (3) years broken out by year? What percentage left due to issues pertaining to services provided by your company?
  
4. What is your average client relationship duration? What is the average relationship duration for your public sector plans?
  
5. Complete the chart on your public sector 401(k) or 457(b) plans you have gained and lost in the last three (3) years:

	2018		2017		2016	
	Gained	Lost	Gained	Lost	Gained	Lost
Public 401(k)						
Public 457(b)						

6. Offerors should list the number and total assets of the public sector 401(k) and 457(b) plans they currently administer by completing the charts below:

Number of Participants 401(k) Plans	Plans		Assets	
	Number	Percent	Amount	Percent
Under 5,000				
5,001 – 10,000				
10,001 – 20,000				
20,000 +				
<b>Total</b>				

Number of Participants 457 Plans	Plans		Assets	
	Number	Percent	Amount	Percent
Under 5,000				
5,001 – 10,000				
10,001 – 20,000				
20,000 +				
<b>Total</b>				

7. What is the total number of participants in all public sector defined contribution plans currently being administered by your company? What is the number specific to public 401(k)? Public 457(b)? Include any statewide governmental multiple employer programs.
8. Offerors should describe their errors/omissions liability insurance and coverage. Describe the various types of insurance coverage and indemnification provided to protect clients.
9. Has your company, or any affiliates, been a party to any litigation during the last three (3) years involving your company's defined contribution recordkeeping and administration services? If so, provide: 1) the nature of the claim or action, 2) the current status of the litigation and 3) any judgments, fines or settlements paid.
10. What is the last date when your company had a change in its business structure, whether through an acquisition or divestiture or through an alliance arrangement? If applicable, how did this change in business affect the recordkeeping division?
11. Offerors should describe any pending or anticipated plans to re-organize your company within itself or as part of the larger organization of which your company is a part. Offerors should also describe any pending or anticipated plans to consolidate or merge with another company.

## II. References

1. Offerors should provide references for three (3) current public sector clients whose plan demographics are most similar to the Program (e.g., plan size, plan design). If available, at least one (1) of the three (3) should have converted within the last year.

For each reference, provide:

Client name	
Contact name	
Phone number	
E-mail address	
Services provided	
Year becoming a client	

2. Offerors should provide references for three (3) former clients whose plan demographics are most similar to the Program (e.g., plan size, plan design). At least one (1) of the three (3) should have left within the last year.

For each reference provide:

Client name	
Contact name	
Phone number	
E-mail address	
Services provided	
Year becoming a client	

### III. Client Service and Quality Assurance

1. How many total employees work on defined contribution retirement plans? Offerors should provide the employee breakdown by completing the below chart:

Personnel Type	Number
Management	
Call Center Mgmt./Supervisors	
Customer Service Reps	
Communications	
Field Reps	
Systems Management	
Systems Staff: Development & Operating/Maintenance	
Website	
Other	

2. What is the average tenure (in years) of the following positions in your company:
  - a. Client Service Manager;
  - b. Client Relationship Manager;
  - c. Field Service Representatives;
  - d. Communications Lead;
  - e. Conversion Project Manager; and
  - f. Call Center Customer Service Representatives.
3. Do you currently have staff located in South Carolina? If yes, where is your office located? If no, where is the closest office?
4. Offerors should describe the team that would deal directly with PEBA on an ongoing basis. Indicate staff size, experience, and turnover rates. In addition, provide a brief resume for each individual.
5. Will you need to hire additional staff to service this Program? If so, state the number of additional staff required, by job title and function.

6. What is the number of account relationships for each member of the proposed service team?
7. What location(s) would provide the services described in this Request for Proposal?
8. Offerors should describe the training program and licensing requirements for the field service representatives.
9. Offerors should describe the training program and licensing requirements for the call center customer service representatives.
10. List the common topics and issues when training benefit and payroll staff for participating employers. Is training available through webinars or on-demand learning online? (Yes/No)
11. Offerors should complete the chart below regarding service standards and turnaround time and any associated guarantees:

<b>Transaction</b>	<b>Turnaround Time</b>	<b>Guarantee (\$) for Not Meeting Standard</b>
Issuance of Participant Statements		
Transaction Confirmation Statements		
Hard Copy Plan Level Administrative Reports (hard copies)		
Processing Payroll Contributions		
Processing New Loans		
Hardship/Unforeseen Emergency Withdrawals		
Termination/Rollovers/Direct Transfers for Distribution		
Fund Balance Transfers		
Investment Election Requests		
Contribution Elections/ Changes		
QDRO Processing		

12. What is the total, annual amount you are willing to put at risk for the guarantees identified above?
13. PEBA is dedicated to measuring and maintaining a high level of customer (participant and employer) satisfaction. How frequently do you conduct client and participant satisfaction surveys of your services and performance?
14. Who will be conducting the above surveys?
15. What corrective measures or actions steps do you perform to address clients, participating employers and participants who are not satisfied with your performance?
16. Do you provide participants protection against unauthorized access to their accounts? Briefly describe the protection and any qualifications for such protection. Include in your response, your process for indemnifying the participant and the timeframe involved with each step in the process.

#### **IV. Recordkeeping and Administration**

1. What portion of your company's expenses is related to recordkeeping and system technology development?
2. Confirm your ability to provide a contribution report to each employer to update its payroll records for contribution changes requested by its employees. How frequently can you provide such a report?
3. Confirm your ability to handle payroll reconciliations from approximately 654 unique payroll centers? Briefly describe your administrative process for correcting payroll data and performing edits on incomplete or missing data for multiple employer plans.
4. Confirm your ability to provide an administrative or procedures manual that includes employer's roles and responsibilities specific to the Program.
5. Briefly describe the level of customization available to the Program on the administrative forms used by Program participants.
6. Can you accept manual edits, adjustments, and indicative data changes to the contribution input file? Do you use a new file to over-write the entire original or only edit those accounts impacted? Briefly describe any limitations or qualifications that apply.
7. Can you handle negative data from the payroll files? Briefly describe any limitations or qualifications that apply.
8. Describe how your payroll contribution reports identify participants contributing up to the current maximum contribution, and identify participants in catch-up status.
9. Briefly describe how you handle electronic distributions. Include details about security measures and verification procedures used during this process.
10. For distributions, does your system withhold Federal tax and if applicable, State tax? Does your system allow participants to request a net payment amount if State tax withholding is requested?
11. Confirm that you are able to fully administer hardship/unforeseeable emergency distribution requests. Are you able to handle first level appeals? Briefly describe any limitations or qualifications that apply.
12. Confirm that you are able to fully qualify and process Qualified Domestic Relations Orders (QDROs) with the attorneys representing the parties. What, if any, role would PEBA be required to play?
13. Do you maintain separate participant accounts for non-participant alternate payees?
14. Briefly describe your process for searching for missing participants.
15. Briefly describe your standard procedures for uncashed checks.
16. List any limits imposed on any participant initiated transactions (i.e., mix changes, contribution rate changes, etc.).
17. Describe the process you use to obtain, track and maintain employee beneficiary data.



18. Confirm your ability to accept and maintain primary and secondary beneficiary information online.
19. Are you able to assist participants who elect to transfer their Program account assets to purchase service credits in the South Carolina Retirement Systems' defined benefit plans?
20. Are all of your participant service systems (e.g. VRS, 1-800 & Internet) linked to the same recordkeeping database? (Yes/No) If not, briefly describe how you ensure that member's information is updated between systems.

## **V. Loans**

*Participating employers process loan repayments on behalf of active participants via payroll deduction. New loans are not allowed for participants who are not actively employed.*

1. Confirm that you are fully capable of administering participant loans.
2. List the different methods available to apply for a loan.
3. When a loan is taken, can a participant elect that the proceeds come from a specific investment option or must they be taken pro-rata?
4. Describe the flexibility in your loan repayment processing (i.e., additional payments, missed payments, etc.).
5. List the different methods you are able to utilize for loan repayments.
6. Are you able to handle multiple loans? (Yes/No)
7. How do you handle delinquent and/or defaulted loans?
8. Briefly describe how you handle loan repayments for participants no longer in the Program. Are they able to pay through personal check, money order, or ACH?

## **VI. Systems Capabilities and Hardware**

1. What system do you use to recordkeep and administer defined contribution plans? Is the same system used for 401(k) and 457(b) plans?
2. Was the software developed internally, leased, or purchased from another provider? Who has the ultimate responsibility/authority to make sure the software remains current to laws, regulations, client needs, etc.?
3. How long have you used these systems for recordkeeping?
4. Are you planning any major change in the software or hardware supporting your recordkeeping system in the next 24 months? If yes, please describe.
5. Describe your documented disaster recovery plan. How often do you test your recovery system?
6. How often is data backed-up? Is back-up data encrypted?
  - a. Describe any system outages within the last three years and how have they been handled.

- b. Has any liability resulted from these outages and are there any pending claims related to these outages?
7. Describe in detail your procedures and safeguards used to guarantee:
  - a. Security for your hardware and facility;
  - b. Authorized access to data;
  - c. Confidentiality of data;
  - d. Security for any hard copy of plan-related data or documents; and
  - e. Explain your process in the event that participant data is compromised.
8. Do you utilize a Secure File Transfer Protocol (SFTP) when exchanging information with the client?
9. Provide a current SSAE18 audit of your recordkeeping system, or any other audit you have performed. Who completes the audit and how frequently?
10. Do you test IT security as part of the SSAE18 or separately? If separately, who performs and how frequently.
11. Are your recordkeeping and trust systems fully integrated?

## **VII. Custodial Trustee Services**

1. For the custody/trustee services you propose, what is the name of the trust company, the total number of years that they have been in operation, and the assets the company holds as of December 31, 2018?
2. What are the total public sector defined contribution assets currently held by the custodian?
3. Are there any restrictions by investment type that pertain to your custodial services? If yes, describe them in detail.
4. Confirm that you will offer trustee services for outside investment funds.
5. Is your preferred custodial trustee able to accommodate a white label (fund-of-funds) investment structure? If yes, what is the additional cost? If no, how are you able to accommodate white label investments, including creating fund fact sheets and making them available to participants?
6. Do you have a limit on the number of checks/wires available to participants?
7. Do you have an electronic link with the investment managers for updating participants' accounts on the recordkeeping system?
8. Describe your reconciliation process to ensure participant accounts and total custodial assets are in balance.
9. Will PEBA be required to execute a custodial agreement with your custodial trustee or will it be part of the contract with PEBA? If an additional agreement is required, a copy of the agreement must be submitted with your response to this RFP. Agreements not submitted with your response may not be accepted after award.

## **VIII. Regulatory and Compliance**

1. Offerors should list the standard compliance testing they provide as part of the base recordkeeping fee. How do you address any tests that fail?
2. Offerors should describe how they monitor §401(a)(9) required minimum distributions including:
  - Identification of individuals;
  - Determination of the minimum required payment amount; and
  - Payment within required deadlines.
3. Offerors should describe their capabilities and timeframes for monitoring maximum deferral limits and the catch-up provisions.
4. What resources do you have to obtain legal opinions, interpretations of laws, regulations, and other matters on issues pertaining to defined contribution plans?
5. How do you ensure that your recordkeeping system is in compliance with all applicable rules and regulations?
6. How quickly are changes in the law reflected in your system?
7. Offerors should acknowledge and describe, in detail, their fiduciary responsibility with respect to the Program.
8. If requested by PEBA, are you able to provide fee disclosures that comply with IRC Sections 408(b)(2) and 404(a)? If so, confirm no additional cost for this service.

## **IX. Communication and Education**

1. Describe the educational services that you will provide to the Program. Describe separately your initial and on-going communication and education program (including printed material, visits, training, etc.). Be sure to identify the key elements provided as part of your proposed communication and education program package including the types marketing media (e.g. print, e-mail, onsite, etc.). Provide sample materials for enrollment, transition and on-going communication and education.
2. Describe the initial enrollment process/methods. Include such items as monitoring and tracking new hires. Will you maintain and control the inventory of all related enrollment materials that are to be included in the enrollment kits?
3. Describe the communication and education process that you provide for non-active participants (i.e., retirees and terminated employees with account balances).
4. Describe the education your firm delivers in providing distribution counseling to participants (active and inactive) on the potential benefits of leaving the account balance in the Program.
5. Will you provide participants with onsite, group education, and retirement planning sessions or financial/pre-retirement seminars on an on-going basis? If yes, list the titles of the subjects that are covered in your program with a brief description.

6. Briefly describe the services you offer to help participants achieve retirement awareness.
7. Briefly describe the information provided to Program participants regarding distribution options? Highlight any services or programs you provide for participants (retired or terminated) leaving the Program.
8. Describe PEBA's role in the communication, education, and enrollment processes.
9. Describe your ability to customize communications for PEBA. Provide examples that illustrate cobranding.
10. Describe, in detail, how you will work collaboratively with PEBA staff to develop and implement a comprehensive marketing plan to increase participation in the Program. Describe how you will play a collaborative role in managing the communications for the Program to increase participation.
11. Briefly describe how you measure the success of your education/communication programs.
12. Are you willing to provide customized surveys to assess the success of the education program?

#### **X. Plan Sponsor Reporting (including Plan Audit)**

1. Describe the standard reporting package that you would provide to PEBA (provide samples with your proposal).
2. Will PEBA be able to generate these reports on-line? If yes, what type of training is provided to staff in the use of the reporting system as well as other aspects of program administration?
3. What is the standard timeframe for providing each plan sponsor report, including investment asset reports, after the reporting period ends?
4. List the types of demographic participant data you will be able to provide.
5. Provide an Internet address and instructions on how to access a demonstration of your plan sponsor website.
6. Confirm your ability to provide an annual SOC-1 report.
7. PEBA conducts an annual audit of both Plans. For the audit:
  - a. Briefly describe your process for assisting PEBA and its auditor.
  - b. Describe your firm's resources dedicated to audit assistance.
  - c. What is the lead time needed to fulfill requests?
  - d. Provide a listing of documentation and reporting included in your standard annual audit package (provide samples with your proposal).
  - e. Do you offer any performance guarantees with respect to delivering information for the annual audit?

## **XI. Participant Reporting**

1. Briefly describe your standard participant statement (provide samples).
2. Confirm your ability to provide a consolidated statement for the 401(k) and 457(b). A consolidated summary must be provided, not just a combination of two independent statements.
3. How is retirement awareness addressed on your participant statements?
4. Briefly describe any differences between your hard copy statements and the statements available online.
5. What time periods are illustrated for a participant's personalized rate-of-return?
6. Describe the Program's customization capabilities for participant statements and indicate whether they apply to hard copy statements, electronic statements, or both.
7. Are participants able to additionally customize the statements they receive (hard copy or electronic)?
8. Are participants able to elect to receive paper statements on a quarterly basis? If so, describe any associated charges to the participant or the Program.
9. How much space is there for customized messages from PEBA on your quarterly participant statement? Indicate where it appears on hard copy and electronic statements, and whether any additional cost applies.
10. Can you include other printed information, prepared by PEBA, with mailed hard copy statements, electronic statements, or both? Verify that this service is available at no additional cost.
11. Are all associated fees itemized and disclosed on the quarterly statements? (Yes/No) Do they substantially comply with ERISA disclosures? (Yes/No)
12. What additional fee disclosure, if any, do you provide?

## **XII. Participant Services/Automated Voice Response System (VRS)**

1. Describe the security through which a participant passes to use the VRS (i.e., recorded lines, PIN, etc.).
2. Are there any transactions that cannot be processed through the VRS (i.e., PIN changes, address changes, etc.)?
3. How quickly is the VRS updated after transactions are performed?
4. Is the VRS fully capable of generating all the necessary administrative forms to handle enrollments, hardships, terminations, and beneficiary distribution requests?
5. If a participant calls the VRS but does not properly complete the transaction, is there any follow-up with the participant? Briefly describe.
6. Can participants request contribution deduction changes through the VRS?
7. Does your VRS accommodate non-English speaking participants? What languages?

8. Does it accommodate participants with hearing/speech impairments?
9. Describe how data is secured within the system (i.e., PIN, audit trail, confirmations).
10. Describe any security breaches that resulted in improper access to one or more participant accounts within the last three years and the steps you took to remedy the breach.

**XIII. Participant Services/1-800 Customer Service Center**

1. What are the standard hours of operation of your customer service center? Is there flexibility in setting these hours of operation?
2. Where is your customer service center located?
3. Where is your back-up customer service center?
4. Are there any transactions that cannot be processed through the customer service center? If yes, what?
5. If allowed by the Program, can employees enroll through the customer service center?
6. Can participants change their PIN by calling the customer service center? Can PINs be reset and immediately provided to a participant during the call? Can participants who misplace their PIN call the customer service center and have a new PIN sent directly to their home address?
7. Provide the following information about your customer service representatives (CSR):
  - a. Licensing requirements, employment qualifications as well as your training program;
  - b. Relationship: employees or outside contractors;
    - 1) If contractors or a combination, include the percentage of each & duration of subcontractor agreement;
  - c. Average tenure;
  - d. Total CSR agents employed on a year-round basis; and
  - e. Compensation structure.
8. Describe how data is secured within the system (i.e., PIN, audit trail, confirmations).
9. Provide the information below on your service center standards:

	<b>Performance Standard</b>	<b>4<sup>th</sup> Quarter 2018</b>	<b>3<sup>rd</sup> Quarter 2018</b>	<b>2<sup>nd</sup> Quarter 2018</b>
Number of calls				
Average length				
Average response time				
Percentage requiring follow-up				
Abandonment rate				
Percentage handled 100% via VRS versus 1-800				

#### **XIV. Participant Services/Website**

1. Provide a web address and instructions on how to access a demonstration of your participant website.
2. Briefly highlight your participant website capabilities.
3. Provide a detailed description of the website you will use that will be accessible without entering a password that explains the features, benefits and value of enrolling in the Program. Detail the capability for customization.
4. Specify any transactions that cannot be completed via your website.
5. Do you have a mobile app or mobile optimized website? Are the limitations to the functionality versus the full site? If yes, what?
6. What general and investment education materials and retirement planning tools do you offer participants via the website? Specify which are available pre-login versus post-login.
7. Do you offer an automated enrollment process through the website?
8. Do participants have the ability to implement auto escalation via their online account?
9. Can participants e-mail specific questions via the website? If yes, who receives the e-mail, researches the issue, and responds? What is the turnaround time?
10. Can participants live chat via the website? If yes, who answers the chat and what hours are they available?
11. Does your website have the ability to download participant account information into software programs (i.e. Quicken, Mint, etc.)? If yes, which programs?
12. Describe the security through which a participant passes to use your web system. What firewalls do you have in place for your online services?
13. Describe any security breaches that resulted in improper access to one or more participant accounts within the last three years and the steps you took to remedy the breach.
14. What improvements to your website capabilities are designated to occur in the next two to three years?
15. Are the same improvements being made to your mobile capabilities? If no, briefly describe what is being done to enhance your mobile capabilities.

#### **XV. Field Service Representatives**

1. Confirm you will have a local office in Columbia, SC. Provide the location, if already known.
2. How many field service representatives would you assign to the Program? Confirm they be 100% full-time dedicated to this Contract.

3. Describe the structure of how the field service representatives would be organized to service this relationship, including:
  - a. Location;
  - b. Staffing (including functions to be performed);
  - c. Standard hours of operation;
  - d. How you would handle pre-scheduled consultations; and
  - e. How you would handle walk-ins.
4. What is your annual cost associated for each dedicated service representative?
5. What is the per participant cost for your proposed servicing model?
6. Could you assign more or fewer FSRs to the Program, as PEBA requests? If so, please describe how any requested changes would impact your fees listed in Attachment Five (5) of this Request for Proposal.
7. Confirm PEBA's ability to request a new onsite representative if the individual(s) is not meeting the Program's needs.
8. Briefly describe the credentials and related experience of local service representatives who will be assigned to the Program.
9. Will the representatives assigned to the Program be employees of your firm? If not, explain the relationship.
10. Detail the compensation structure for the local representative (e.g. 85% salary, 15% bonus). Include an explanation of how any bonuses and incentives are determined. *As indicated, it is a requirement that your field service representatives that provide enrollment and education services are not compensated on a commissioned or incentive basis to promote any investment product or services.*
11. Confirm field service representatives will be available to discuss the Program and investments with participants on a one-on-one basis. How often? Will you provide local annual account reviews for participants?
12. How will these discussions be handled (e.g., in person, via telephone)?
13. Identify the annual number of group meetings and number of one-on-one consultations you have assumed will be provided by the field service representatives. If this number is exceeded, what is the additional cost for onsite meetings?

## **XVI. Investment Advisory**

1. Describe the participant investment advisory services you offer (i.e., Morningstar ClearFuture, Financial Engines, etc.), including managed accounts. Note the different levels available.
2. How long have you partnered with your current vendor for each of the services in your advisory program?
3. List the various methods through which participants could receive advice (e.g. phone, in-person, internet, VRS).



4. What are the costs associated with the advisory services? Is it based on total plan level or only charged to participants who elect these services?
5. Does your service:
  - a. Produce asset allocation recommendations?
  - b. Provide recommendations of specific funds?
  - c. Include savings rate recommendations?
  - d. Take into account a participant's assets outside the Program?
6. If a call center is available for participants to speak with an investment advisory representative, what are the standard hours of operation? Is there flexibility in setting these hours of operation?
7. Describe the generally accepted investment theories that form the basis for the vendor's advice model.
8. Briefly describe how you ensure that participants receive impartial and objective advice, free of any conflicts of interest between the advice provider and investment providers.
9. Briefly describe the type and level of indemnification you provide to PEBA for the vendor's advisory services.
10. What is disclosed to participants regarding your fiduciary role and the vendor's fiduciary role with respect to these participant investment advisory services?
11. Confirm that PEBA will not be responsible for advice offered through their investment advisory services.
12. How many of your existing public sector clients have subscribed for each level of service you offer?
13. Do you or the vendor offer specific investment advice to participants on an in-person basis other than through the on-line advice provider? If yes, briefly describe.
14. For in-person investment advice, how do you manage conflicts of interest?
15. Do you receive additional compensation (including to any subsidiaries) from the participant investment advisory service vendor? If yes, describe the arrangement and whether you are willing to rebate a portion of the compensation received from the vendor to the Program.
16. Briefly describe any additional relationships you have with any other advisory or financial wellness providers.
17. Will PEBA be required to execute a separate contract with your investment advisory service vendor or will it be part of your service contract and agreements? If an additional agreement is required, a copy of the agreement must be submitted with your response to this RFP. Agreements not submitted with your response may not be accepted after award.

## **XVII. Plan Implementation (Not an Evaluated Item)**

*Offerors should assume an in-kind transfer method that will not require an initial re-enrollment.*

1. Offerors should submit a proposed implementation plan. The proposed implementation plan should outline, in detail, all the tasks necessary to begin full operations and performance of the contract on January 1, 2020. At a minimum, the proposed implementation plan should specify expected dates of completion of all tasks, how the tasks will be accomplished, the identity of the person(s) responsible for each task, and any personnel who will be onsite during the implementation process. The proposed implementation plan will be converted to a Final Implementation Plan and will be strictly enforced. Offeror should provide the names and qualifications of the top three (3) principal individuals who will be responsible for the implementation of this contract. Specific tasks and schedules to be included in the Offeror's proposed implementation plan include, but may not be limited to:
  - Benefits at Work conference (August 26–28, 2019);
  - Program description, marketing materials and website to be used beginning January 1, 2020;
  - Forms to be used beginning January 1, 2020; and
  - Letters to be used beginning January 1, 2020.
2. By what date would you need authority to proceed to accommodate the January 1, 2020 asset and recordkeeping transfer?
3. What involvement will be required from PEBA during the implementation process?
4. How many tests of prior valuation and reconciliation of assets does your company require before conversion?
5. Do you have any limitations as to the format/media of participant data received from the current Contractor?
6. How are investments handled during the conversion process?
7. Describe your procedures during the conversion period to communicate with non-active employees (i.e. retirees and terminated employees with accounts in the Program).
8. How are distributions handled to accommodate the continuity of payments to retirees during the conversion process?
9. Describe how you would manage the transition of assets from the current Managed Account option.
10. What assurances/guarantees do you provide with respect to a timely implementation?
11. What is the standard length of your blackout period?
12. Identify comparable plan conversions in which you have been involved. How many conversions and implementations has your company conducted during the past three years involving plans with 10,000 participants or more?

### **XVIII. Self-Directed Brokerage Services**

1. Through whom do you offer self-directed brokerage account services?
2. What are any specific program design requirements?
3. What is the annual cost for maintaining an account? Would you be willing to waive the fee or reimburse participants for the cost?
4. Confirm your self-directed brokerage account allows a minimum balance requirement. What happens if minimum balances are not maintained? Confirm PEBA can customize the minimum balance.
5. Confirm your brokerage account services allows the Program to restrict a participant from certain investments.
6. Are there any transfer restrictions for moving money between the core investment line-up and the self-directed brokerage account?
7. How are assets within the SDB account treated for purposes of the following:
  - a. Regular distributions or hardship distributions;
  - b. IRC required and minimum distributions;
  - c. Qualified Domestic Relations Orders;
  - d. Death benefit claims; and
  - e. Federal tax levies.
8. Provide information on the website that participants use at the brokerage service provider.
9. What are the standard hours of operation for telephone support?
10. Do participants receive a detailed account summary of all assets held in the brokerage account? If so, how often?
11. What information from the self-directed brokerage account is reflected and reported on Program quarterly participant statements?
12. Will PEBA be required to execute a separate contract for self-directed brokerage? If an additional agreement is required, a copy of the agreement must be submitted with your response to this RFP. Agreements not submitted with your response may not be accepted after award.

### **XIX. Investment Management Services**

***At this time, PEBA will maintain the current investment lineup, but reserves the right, at its sole discretion, to add to, replace, or remove any of the current investment options. Accordingly, an Offeror should not rely on revenues generated from particular investment options when determining its proposed fees.***

1. Except as described in Section XXII, 84-Month Certificate, please confirm no transfer restrictions or withdrawal charges on investment options within the Program.
2. Provide the number of outside mutual fund family alliances with which you have relationships. Approximately how many investment options does this represent?

3. Provide the number of commingled investment trust investment options you have available on your platform. What asset classes does this represent?
4. Briefly describe your ability to accommodate white label (fund-of-fund) investments.
5. Is there a cost for making changes to the investment line-up?
6. What is the standard timeframe for making changes to the investment line-up?
7. Describe your recordkeeping capabilities for exchange traded funds. Is the Program able to offer exchange traded funds as part of the core investment line up?

## **XX. Stable Value Fund**

1. Confirm whether your investment platform can accommodate the current South Carolina Stable Value Fund, which is managed by Great-West Financial under a separate account structure.
2. List ALL of the stable value/fixed account products available on your platform.

## **XXI. 84-Month Certificate**

Certificates are no longer available to receive new or reinvested assets. Unless otherwise directed by the participant, assets from maturing Certificates will be invested in the most conservative target date fund. The Contractor is responsible for any administration services related to the Certificates. Administrative fees shall be deducted to determine a net rate, which would be credited to participant accounts.

Transfers shall be allowed only at maturity. Certificates may be broken only to pay benefits for qualifying events or to pay loans. No fee shall be assessed if certificates are transferred or broken under these circumstances. Withdrawals shall be made from the certificate closest to maturity.

1. Offerors should confirm that the 84-month certificate shall be administered as stipulated in the RFP.

## **5.2 BUSINESS PROPOSAL**

### **5.2.1 OFFEROR'S PROPOSED FEES**

#### **I. Offeror's Proposed Fees**

Offerors shall complete Attachment 5. All proposed fees must be included in Attachment 5 so PEBA may compare Offerors on an equitable basis.

All revenue sharing generated from the mutual fund investment options shall be returned to Program participants invested in the fund as soon as administratively practicable.

Contractor's fees shall be guaranteed for a period of five (5) years, subject to future price reductions based on increased asset size. PEBA expects favorable fee renegotiations if Program assets increase significantly during the contract period.

At this time, PEBA will maintain the current investment lineup but reserves the right, at its sole discretion, to add to, replace, or remove any of the current investment options. Accordingly, an Offeror should not rely on revenues generated from particular investment options when determining its proposed fees.

## **PART 6**

### **AWARD CRITERIA**

Award will be made to the highest ranked, responsive and responsible Offeror whose offer is determined to be the most advantageous to the State. Award will be made to one Offeror.

Proposals will be evaluated by a review panel on the basis of the following criteria. Evaluation criteria are stated in relative order of importance with the first criteria being the most important. Once evaluation is complete, all responsive Offerors shall be ranked from most advantageous to least advantageous.

- A. Participating Employee and Employer Services:** Information submitted in response to Part 5, Information for Offerors to Submit, Section 5.1.5, Roman Numerals IX-XV will be used to evaluate this criterion.
- B. Recordkeeping and Administrative Services:** Information submitted in response to Part 5, Information for Offerors to Submit, Section 5.1.5, Roman Numerals IV – VI and VIII will be used to evaluate this criterion.
- C. Custodial Trustee and Investment Management Services:** Information submitted in response to Part 5, Information for Offerors to Submit, Section 5.1.5, Roman Numerals VII, XVI, and XVIII-XXI will be used to evaluate this criterion.
- D. Offeror's Proposed Fees:** Information submitted in response to Part 5, Information for Offerors to Submit, Section 5.2.1, will be used to evaluate this criterion.
- E. Organization and History:** Information submitted in response to Part 5, Information for Offerors to Submit, Section 5.1.5, Roman Numerals I – III will be used to evaluate this criterion.

## **PART 7**

### **TERMS AND CONDITIONS -- A. GENERAL**

**7.1 ASSIGNMENT, NOVATION, AND CHANGE OF NAME, IDENTITY, OR STRUCTURE (FEB 2015):** (a) Contractor shall not assign this contract, or its rights, obligations, or any other interest arising from this contract, or delegate any of its performance obligations, without the express written consent of the Procurement Officer. The foregoing restriction does not apply to a transfer that occurs by operation of law (e.g., bankruptcy; corporate reorganizations and consolidations, but not including partial asset sales). Notwithstanding the foregoing, Contractor may assign monies receivable under the contract provided that the state shall have no obligation to make payment to an assignee until thirty (30) days after Contractor (not the assignee) has provided the Procurement Officer with (i) proof of the assignment, (ii) the identity (by contract number) of the specific state contract to which the assignment applies, and (iii) the name of the assignee and the exact address or account information to which assigned payments should be made. (b) If Contractor amends, modifies, or otherwise

changes its name, its identity (including its trade name), or its corporate, partnership or other structure, or its FEIN, Contractor shall provide the Procurement Officer prompt written notice of such change. (c) Any name change, transfer, assignment, or novation is subject to the conditions and approval required by Regulation 19-445.2180, which does not restrict transfers by operation of law.

**7.2 BANKRUPTCY – GENERAL (FEB 2015):** (a) Notice. In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to PEBA. This notification shall be furnished within two (2) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract. (b) Termination. This contract is voidable and subject to immediate termination by the State upon the Contractor's insolvency, including the filing of proceedings in bankruptcy.

**7.3 CHOICE-OF-LAW (JAN 2006):** The Agreement, any dispute, claim, or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by this solicitation.

**7.4 CONTRACT DOCUMENTS & ORDER OF PRECEDENCE (FEB 2015):** (a) Any contract resulting from this solicitation shall consist of the following documents: (1) a Record of Negotiations, if any, executed by you and the Procurement Officer, (2) the solicitation, as amended, (3) documentation of clarifications [11-35-1520(8)] or discussions [11-35-1530(6)] of an offer, if applicable, (4) your offer, (5) any statement reflecting the state's final acceptance (a/k/a "award"), and (6) purchase orders. These documents shall be read to be consistent and complimentary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. (b) The terms and conditions of documents (1) through (5) above shall apply notwithstanding any additional or different terms and conditions in any other document, including without limitation, (i) a purchase order or other instrument submitted by the State, (ii) any invoice or other document submitted by Contractor, or (iii) any privacy policy, terms of use, or end user agreement. Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect. (c) No contract, license, or other agreement containing contractual terms and conditions will be signed by PEBA. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect.

**7.5 DISCOUNT FOR PROMPT PAYMENT (JAN 2006):** (a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices. (b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the State annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

**7.6 DISPUTES (JAN 2006):** (1) Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court

of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. Contractor agrees that any act by the Government regarding the Agreement is not a waiver of either the Government's sovereign immunity or the Government's immunity under the Eleventh Amendment of the United States' Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by this solicitation. (2) Service of Process. Contractor consents that any papers, notices, or process necessary for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.

**7.7 EQUAL OPPORTUNITY (JAN 2006):** Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference.

**7.8 FALSE CLAIMS (JAN 2006):** According to the S.C. Code of Laws Section 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.

**7.9 FIXED PRICING REQUIRED (JAN 2006):** Any pricing provided by Contractor shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, Contractor's price shall be fixed for the duration of this contract, including option terms. This clause does not prohibit Contractor from offering lower pricing after award.

**7.10 NO INDEMNITY OR DEFENSE (FEB 2015):** Any term or condition is void to the extent it requires the State to indemnify, defend, or pay attorney's fees to anyone for any reason.

**7.11 NOTICE (JAN 2006):** (A) After award, any notices shall be in writing and shall be deemed duly given (1) upon actual delivery, if delivery is by hand, (2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or (3) upon deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used. (B) Notice to Contractor shall be to the address identified as the Notice Address on Page Two. Notice to the state shall be to the Procurement Officer's address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph.

**7.12 OPEN TRADE (JUN 2015):** During the contract term, including any renewals or extensions, Contractor will not engage in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300.

**7.13 PAYMENT & INTEREST (FEB 2015):** (a) The State shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified herein, including the purchase order, payment shall not be made on partial deliveries accepted by the Government. (b) Unless otherwise provided herein, including the purchase order, payment will be made by check mailed to the payment address on "Page Two." (c) Notwithstanding any other provision, payment shall be made in accordance with S.C. Code Section 11-35-45, or Chapter 6 of Title 29 (real property improvements) when applicable, which provides the Contractor's exclusive means of recovering any type of interest from the Owner. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, the State shall not be liable for the payment of interest on any debt or claim arising out of or

related to this contract for any reason. (d) Amounts due to the State shall bear interest at the rate of interest established by the South Carolina Comptroller General pursuant to Section 11-35-45 (“an amount not to exceed fifteen percent each year”), as amended, unless otherwise required by Section 29-6-30. (e) Any other basis for interest, including but not limited to general (pre- and post-judgment) or specific interest statutes, including S.C. Code Ann. Section 34-31-20, are expressly waived by both parties. If a court, despite this agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (c) and (d) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published for each year, applied as simple interest without compounding. (f) The State shall have all of its common law, equitable and statutory rights of set-off.

**7.14 PUBLICITY (JAN 2006):** Contractor shall not publish any comments or quotes by State employees, or include the State in either news releases or a published list of customers, without the prior written approval of the Procurement Officer.

**7.15 PURCHASE ORDERS (JAN 2006):** Contractor shall not perform any work prior to the receipt of a purchase order from PEBA. Purchase orders may be used to elect options available under this contract, e.g., quantity, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order.

**7.16 SURVIVAL OF OBLIGATIONS (JAN 2006):** The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Indemnification - Intellectual Property, Contract Documents and Order of Precedence, HIPAA Compliance/Confidentiality and any provisions regarding warranty or audit.

**7.17 TAXES (JAN 2006):** Any tax the Contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the Contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by the State. It shall be solely the State's obligation, after payment to Contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to Contractor by the taxing authority. In the event that the Contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to the Contractor, Contractor shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on the Contractor's net income or assets shall be the sole responsibility of the Contractor.

**7.18 TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JAN 2006):** Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefore. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, Contractor will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term.

**7.19 THIRD PARTY BENEFICIARY (JAN 2006):** This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third party beneficiary or otherwise.



**7.20 WAIVER (JAN 2006):** The State does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of the State's rights under this Contract. Any waiver must be in writing.

## **PART 7**

### **TERMS AND CONDITIONS -- B. SPECIAL**

**7.21 BANKRUPTCY – GOVERNMENT INFORMATION (FEB 2015):** (a) All government information (as defined in the clause herein entitled “Information Security - Definitions”) shall belong exclusively to the State, and Contractor has no legal or equitable interest in, or claim to, such information. Contractor acknowledges and agrees that in the event Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, government information in its possession and/or under its control will not be considered property of its bankruptcy estate. (b) Contractor agrees to notify the State within forty-eight (48) hours of any determination that it makes to file for bankruptcy protection, and Contractor further agrees to turn over to the State, before such filing, all government information that is in Contractor’s possession in a format that can be readily utilized by the State. (c) In order to protect the integrity and availability of government information, Contractor shall take reasonable measures to evaluate and monitor the financial circumstances of any subcontractor that will process, store, transmit or access government information.

**7.22 CHANGES (JAN 2006):** (1) Contract Modification. By a written order, at any time, and without notice to any surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

- (a) drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the [State] in accordance therewith;
- (b) method of shipment or packing;
- (c) place of delivery;
- (d) description of services to be performed;
- (e) time of performance (i.e., hours of the day, days of the week, etc.); or,
- (f) place of performance of the services. Subparagraphs (a) to (c) apply only if supplies are furnished under this contract. Subparagraphs (d) to (f) apply only if services are performed under this contract.

(2) Adjustments of Price or Time for Performance. If any such change increases or decreases the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made in the contract price, the delivery schedule, or both, and the contract modified in writing accordingly. Failure of the parties to agree to an adjustment shall not excuse the Contractor from proceeding with the contract as changed, provided that the State promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(3) Time Period for Claim. Within 30 days after receipt of a written contract modification under Paragraph (1) of this clause, unless such period is extended by the Procurement Officer in writing, the Contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the Contractor's claim unless the State is prejudiced by the delay in notification.

(4) Claim Barred After Final Payment. No claim by the Contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

**7.23 COMPLIANCE WITH LAWS (JAN 2006):** During the term of the contract, Contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs.

**7.24 CONFERENCE – PRE-PERFORMANCE (JAN 2006):** Unless waived by the Procurement Officer, a pre-performance conference between the Contractor, PEBA and Procurement Officer shall be held at a location selected by PEBA within five (5) days after final award, and prior to commencement of work under the contract. The responsibilities of all parties involved will be discussed to assure a meeting of the minds of all concerned. The Contractor or his duly authorized representative shall be required to attend at Contractor’s expense.

**7.25 CONTRACTOR'S LIABILITY INSURANCE-GENERAL (FEB 2015):** (a) Without limiting any of the obligations or liabilities of Contractor, Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work and the results of that work by the Contractor, his agents, representatives, employees or subcontractors. (b) Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an “occurrence” basis, including products-completed operations, personal and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an “insured contract” as defined in the policy.

(2) Worker’s Compensation: As required by the State of South Carolina, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(b) PEBA, its officers, officials, employees and volunteers, must be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor’s insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

(c) For any claims related to this contract, the Contractor’s insurance coverage shall be primary insurance as respects the State, PEBA, and its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the State, PEBA, or its officers, officials, employees and volunteers, shall be excess of the Contractor’s insurance and shall not contribute with it.

(d) Prior to commencement of the work, the Contractor shall furnish the State with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this section. All certificates are to be received and approved by the State before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor’s obligation to provide them. The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this section, at any time.

(e) Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify the State immediately upon receiving any information that any of the coverages required by this section are or will be changed, cancelled, or replaced.

(f) Contractor hereby grants to the State and PEBA a waiver of any right to subrogation which any insurer of said Contractor may acquire against the State or PEBA by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the State or PEBA has received a waiver of subrogation endorsement from the insurer.

(g) Any deductibles or self-insured retentions must be declared to and approved by the State. The State may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(h) The State reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**7.26 CONTRACTOR'S OBLIGATION - GENERAL (JAN 2006):** The Contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work. The Contractor must act as the prime contractor and assume full responsibility for any subcontractor's performance. The Contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.

**7.27 DEFAULT (JAN 2006):** (a) (1) The State may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other material provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The State's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within ten (10) days (or more if authorized in writing by the Procurement Officer) after receipt of the notice from the Procurement Officer specifying the failure.

(b) If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Procurement Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the State in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the State may require the Contractor to transfer title and deliver to the State, as directed by the Procurement Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Procurement Officer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.

(f) The State shall pay contract price for completed supplies delivered and accepted. The Contractor and Procurement Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property; if the parties fail to agree, the Procurement Officer shall set an amount subject to the Contractor's rights under the Disputes clause. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the Procurement Officer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable,

the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the termination had been issued for the convenience of the State. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the State, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the contractor's rights under the Disputes clause.

(h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract.

**7.28 ILLEGAL IMMIGRATION (NOV. 2008):** (An overview is available at [www.procurement.sc.gov](http://www.procurement.sc.gov)) By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your subcontractors language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14.

**7.29 INDEMNIFICATION - THIRD PARTY CLAIMS – DISCLOSURE OF INFORMATION (FEB 2015):** (a) Without limitation, Contractor shall defend and hold harmless Indemnitees from and against any and all suits, claims, investigations, or fines (hereinafter "action") of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which arise out of or in connection with a disclosure of government information (as defined in the clause titled Information Security - Definitions) caused in whole or in part by any act or omission of Contractor, its subcontractors at any tier, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such action is brought by a third party or an Indemnitee, but only if the act or omission constituted a failure to perform some obligation imposed by the contract or the law.

(b) Indemnitee must notify Contractor in writing within a reasonable period of time after Indemnitee first receives written notice of any action. Indemnitee's failure to provide or delay in providing such notice will relieve Contractor of its obligations under this clause only if and to the extent that such delay or failure materially prejudices Contractor's ability to defend such action. Indemnitee must reasonably cooperate with Contractor's defense of such actions (such cooperation does not require and is without waiver of an Indemnitees attorney/client, work product, or other privilege) and, subject to Title 1, Chapter 7 of the South Carolina Code of Laws, allow Contractor sole control of the defense, so long as the defense is diligently and capably prosecuted. Indemnitee may participate in Contractor's defense of any action at its own expense. Contractor may not, without Indemnitee's prior written consent, settle, compromise, or consent to the entry of any judgment in any such commenced or threatened action unless such settlement, compromise or consent (i) includes an unconditional release of Indemnitee from all liability related to such commenced or threatened action, and (ii) is solely monetary in nature and does not include a statement as to, or an admission of fault, culpability or failure to act by or on behalf of, an Indemnitee or otherwise adversely affect an Indemnitee. Indemnitee's consent is necessary for any settlement that requires Indemnitee to part with any right or make any payment or subjects Indemnitee to any injunction.

(c) Notwithstanding any other provision, Contractor's obligations pursuant to this clause are without any limitation whatsoever. Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of the contract. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance.

(d) "Indemnitee" means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees.

**7.30 INFORMATION SECURITY - DEFINITIONS (FEB 2015):** The following definitions are used in those clauses that cross reference this clause.

**Compromise** means disclosure of information to unauthorized persons, or a violation of the security policy of a system in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object may have occurred. Without limitation, the term "compromise" includes copying the data through covert network channels, or copying the data to unauthorized media, or disclosure of information in violation of any obligation imposed by this contract.

**Data** means a subset of information in an electronic format that allows it to be retrieved or transmitted.

**Government information** means information (i) provided to Contractor by, or generated by Contractor for, PEBA, or (ii) acquired or accessed by Contractor as a result of performing the Work. Without limiting the foregoing, government information includes any information that Contractor acquires or accesses by software or web-based services, which includes, without limitation, any metadata or location data. Government information excludes unrestricted information.

**Information** means any communication or representation of knowledge such as facts, statistics, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual.

**Information system** means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

**Public information** means any specific information, regardless of form or format, that the State has actively and intentionally disclosed, disseminated, or made available to the public. Information is not public information solely because it may be subject to inspection pursuant to an unfulfilled public records request.

**Software** means any computer program accessed or used by PEBA or a third party pursuant to or as a result of this contract.

**Third party** means any person or entity other than PEBA, the Contractor, or any subcontractors at any tier.

**Unrestricted information** means (1) public information acquired other than through performance of the work, (2) information acquired by Contractor prior to contract formation, (3) information incidental to your contract administration, such as financial, administrative, cost or pricing, or management information, and (4) any ideas, concepts, know-how, methodologies, processes, technologies, techniques which Contractor develops or learns in connection with Contractor's performance of the work.

**Web-based service** means a service accessed over the Internet and acquired, accessed, or used by the using governmental unit or a third party pursuant to or as a result of this contract, including without limitation, cloud services, software-as-a-service, and hosted computer services.

### **7.31 INFORMATION SECURITY - SAFEGUARDING REQUIREMENTS (FEB 2015)**

(a) *Definitions.* The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions. In addition, as used in this clause—

**Clearing** means removal of data from an information system, its storage devices, and other peripheral devices with storage capacity, in such a way that the data may not be reconstructed using common system capabilities (i.e., through the keyboard); however, the data may be reconstructed using laboratory methods.

**Intrusion** means an unauthorized act of bypassing the security mechanisms of a system.

**Media** means physical devices or writing surfaces including but not limited to magnetic tapes, optical disks, magnetic disks, large scale integration memory chips, and printouts (but not including display media, e.g., a computer monitor, cathode ray tube (CRT) or other (transient) visual output) onto which information is recorded, stored, or printed within an information system.

**Safeguarding** means measures or controls that are prescribed to protect information.

**Voice** means all oral information regardless of transmission protocol.

(b) *Safeguarding Information.* Without limiting any other legal or contractual obligations, Contractor shall implement and maintain reasonable and appropriate administrative, physical, and technical safeguards (including without limitation written policies and procedures) for protection of the security, confidentiality and integrity of the government information in its possession. In addition, Contractor shall apply security controls when the Contractor reasonably determines that safeguarding requirements, in addition to those identified in paragraph (c) of this clause, may be required to provide adequate security, confidentiality and integrity in a dynamic environment based on an assessed risk or vulnerability. Contractor shall comply fully with all current and future updates of the information security requirements of PEBA, as outlined in this Contract and as provided during the term of the Contract.

(c) *Safeguarding requirements and procedures.* Contractor shall apply the following basic safeguarding requirements to protect government information from unauthorized access and disclosure:

(1) Protecting information on public computers or Web sites. Do not process government information on public computers (e.g., those available for use by the general public in kiosks, hotel business centers) or computers that do not have access control. Government information shall not be posted on Web sites that are publicly available or have access limited only by domain/Internet Protocol restriction. Such information may be posted to web pages that control access by user ID/password, user certificates, or other technical means, and that provide protection via use of security technologies. Access control may be provided by the intranet (versus the Web site itself or the application it hosts).

(2) Transmitting electronic information. Transmit email, text messages, blogs, and similar communications that contain government information using technology and processes that provide the best level of security and privacy available, given facilities, conditions, and environment.

(3) Transmitting voice and fax information. Transmit government information via voice and fax only when the sender has a reasonable assurance that access is limited to authorized recipients.

(4) Physical and electronic barriers. Protect government information by at least one physical and one electronic barrier (e.g., locked container or room, login and password) when not under direct individual control.

(5) Sanitization. At a minimum, clear information on media that have been used to process government information before external release or disposal. Overwriting is an acceptable means of clearing media in accordance with National Institute of Standards and Technology 800–88, Guidelines for Media Sanitization, at [http://csrc.nist.gov/publications/nistpubs/800-88/NISTSP800-88\\_with-errata.pdf](http://csrc.nist.gov/publications/nistpubs/800-88/NISTSP800-88_with-errata.pdf).

(6) Intrusion protection. Provide at a minimum the following protections against intrusions and compromise:

(i) Current and regularly updated malware protection services, e.g., anti-virus, antispyware.

(ii) Prompt application of security-relevant software upgrades, e.g., patches, service packs, and hot fixes.

(7) Transfer limitations. Transfer government information only to those subcontractors that both require the information for purposes of contract performance and provide at least the same level of security as specified in this clause.

(d) *Subcontracts.* Any reference in this clause to Contractor also includes any subcontractor at any tier. Contractor is responsible for, and shall impose by agreement requirements at least as secure as those imposed by this clause on, any other person or entity that contractor authorizes to take action related to government information.

(e) *Due Diligence.* Contractor shall complete a due diligence process annually or as otherwise requested by PEBA or a PEBA designated third party. This process may include a written questionnaire and in some cases could require an onsite visit from PEBA or a PEBA designated third party.

(f) *Background Checks.* Contractor shall ensure its staff shall have a criminal background check completed prior to accessing systems and/or applications that contain PEBA data. The background check shall be nationwide and, at a minimum, include federal, state, and county records where the Contractor's staff member has resided for the past seven years. PEBA maintains the right to request a third party vendor or an individual who is involved with PEBA data and/or systems be removed from the further interaction with PEBA's data and/or systems.

(g) *Training.* Contractor shall provide security and privacy training, at least annually, for all staff members who have access to systems and/or applications that contain PEBA data.

(h) *Other contractual requirements regarding the safeguarding of information.* This clause addresses basic requirements and is subordinate to any other contract clauses or requirements to the extent that it specifically provides for enhanced safeguarding of information or information systems.

**7.32 INFORMATION SECURITY – DATA LOCATION (FEB 2015):** Contractor is prohibited from accessing, processing, transmitting, or storing government information, as defined in the clause titled Information Security, outside the United States. This obligation is a material requirement of this contract.

**7.33 INFORMATION USE AND DISCLOSURE (FEB 2015):** Except to the extent necessary for performance of the work, citizens should not be required to share information with those engaged by the government in order to access services provided by the government and such information should be used by those engaged by the government only to the extent necessary to perform the work acquired; accordingly, this clause addresses basic requirements for the Contractor's use and disclosure of government information, which expressly includes, but is not limited to, information provided by or obtained from the citizens. Anonymizing information does not resolve the foregoing concern. This clause should be broadly interpreted to effectuate this intent. Every obligation in this clause is material. Absent express reference to this clause, this clause supersedes any other clause to the extent of any inconsistency unless and to the extent the other clause provides greater protection for government information.

(a) *Definitions.* The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions.

(b) *Legal mandates.* Contractor shall be permitted to use, disclose, or retain government information to the limited extent necessary to comply with any requirement imposed on Contractor by law. If it is necessary for Contractor to use, disclose, or retain government information in order to comply with a law, Contractor shall provide using governmental unit with written notice, including a description of the circumstances and applicable law, in advance of such use, disclosure or retention except to the extent expressly prohibited by law.

(c) *Flow down.* Any reference in this clause to Contractor also includes any subcontractor at any tier. Contractor is responsible for, and shall impose by agreement the requirements of this clause on, any other person or entity that contractor authorizes to take action related to government information.

(d) *Collecting Information.* Contractor must gather and maintain government information only to the minimum extent necessary to accomplish the work.

(e) *Rights, Disclosure and Use.* Except as otherwise expressly provided in this solicitation, Contractor agrees NOT to either (1) use or disclose government information, or (2) retain government information after termination or expiration of this contract. Contractor acquires no rights in any government information except the limited rights to use, disclose and retain the government information in accordance with the terms of this solicitation. To the extent reasonably necessary to perform the work, Contractor may: (i) use (including access, process, transmit, and store) and maintain the government information itself; and (ii) disclose government information to persons having a need-to-know (e.g., subcontractors). Before disclosing government information to a subcontractor or third party, Contractor shall give PEBA detailed written notice of both the reason for disclosure and the identity and location of the recipient. The notice shall be provided no later than fifteen (15) business days in advance of the disclosure.

(f) *Return.* Notwithstanding PEBA's failure to perform or the pendency of a dispute, Contractor agrees to promptly deliver to PEBA (or destroy, at PEBA's option) all government information in its possession as and upon written request of PEBA (provided that, if the contract has not expired or been terminated, Contractor shall be excused from the performance of any work reasonably dependent on Contractor's further access to such government information).

(g) *Privacy Policy & Applicable Laws.* Without limiting any other legal or contractual obligations imposed by this contract or the law, Contractor shall (a) comply with its own privacy policies and written privacy statements relevant to the work, and (b) comply with (1) all laws applicable to Contractor regarding government information, and (2) all laws and standards identified in the clause, if included, entitled Information Use and Disclosure – Standards.

(h) *Actions Following Unintended Disclosure.* Immediately upon discovery of a compromise or improper use of government information, Contractor shall take such action as may be necessary to preserve forensic evidence and eliminate the cause of the compromise or improper use. As soon as practicable, but no later than two business days after discovery, Contractor shall notify PEBA of the compromise or improper use, including a description of the circumstances of the use or compromise. As soon as practicable after discovery, Contractor shall undertake a thorough forensic investigation of any compromise or improper use and provide PEBA all information necessary to enable PEBA to fully understand the nature and extent of the compromise or improper use. With regard to any compromise or improper use of government information, Contractor shall: (1) provide any notification to third parties legally required to be provided such notice by Contractor, and if not (e.g., if legally required of PEBA), Contractor shall reimburse PEBA for the cost of providing such notifications; (2) pay all costs and expenses for at least two years of identity theft monitoring services (including without limitation, credit monitoring) and identity theft restoration services for any such affected individuals receiving notice where such services are appropriate given the circumstances of the incident and the nature of the information compromised; (3) undertake any other measures that are customary and reasonable for an entity to take when experiencing a similar disclosure, (4) pay any related fines or penalties imposed on PEBA, and (5) reimburse PEBA all costs reasonably incurred for communications and public relations services involved in responding to the compromise or improper use. Notwithstanding any other provision, contractor's obligations pursuant to this item (h) are without limitation.

(i) *Survival & Remedy.* All the obligations imposed by this paragraph are material. The obligations of this section shall survive termination or expiration of the contract. Without limiting any rights PEBA may have, and notwithstanding any other term of this contract, Contractor agrees that PEBA may have no adequate remedy at law for a breach of Contractor's obligations under this clause and therefore PEBA shall be entitled to pursue equitable remedies in the event of a breach of this clause.

**7.34 INFORMATION USE AND DISCLOSURE – STANDARDS (FEB 2015):** To the extent applicable:

(a) Breach of security of state agency data; notification; rights and remedies of injured parties; penalties; notification of Consumer Protection Division, S.C. Code Ann. § 1-11-490.

(b) South Carolina Financial Identity Fraud and Identity Theft Protection Act (FIFITPA), 2008 Act 190, as amended. Solely for purposes of Section 39-1-90 of the South Carolina Code of Laws, as amended, Contractor is deemed to be the owner of government information, as defined herein, and Contractor agrees that PEBA is not a licensee.

(c) The South Carolina Family Privacy Protection Act of 2002, S.C. Code Ann. §§ 30-2-10, *et seq.*

(d) Personal Identifying Information Privacy Protection, S.C. Code Ann. §§ 30-2-310 *et seq.*

(e) Data Breach Notification, Proviso 117.110 of the 2015-2016 Appropriations Act. H.R. 3701 § 117.110. 121st Cong. (S.C. 2015) (Act 91), as revised in any future annual appropriations act.

**7.35 LICENSES AND PERMITS (JAN 2006):** During the term of the contract, the Contractor shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract.

**7.36 PRICE ADJUSTMENTS (JAN 2006):** (1) Method of Adjustment. Any adjustment in the contract price made pursuant to a clause in this contract shall be consistent with this Contract and shall be arrived at through whichever one of the following ways is the most valid approximation of the actual cost to the Contractor (including profit, if otherwise allowed):

(a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

(b) by unit prices specified in the Contract or subsequently agreed upon;

(c) by the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;



(d) in such other manner as the parties may mutually agree; or,  
(e) in the absence of agreement by the parties, through a unilateral initial written determination by the Procurement Officer of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the Procurement Officer in accordance with generally accepted accounting principles, subject to the provisions of Title 11, Chapter 35, Article 17 of the S.C. Code of Laws.

(2) Submission of Price or Cost Data. Upon request of the Procurement Officer, the contractor shall provide reasonably available factual information to substantiate that the price or cost offered, for any price adjustments is reasonable, consistent with the provisions of Section 11-35-1830.

**7.37 PRICE ADJUSTMENT - LIMITED-AFTER INITIAL TERM ONLY:** Upon approval of the Procurement Officer, prices may be adjusted for any renewal term. Prices shall not be increased during the initial term. Any request for a price increase must be received by the Procurement Officer at least six (6) months prior to the expiration of the applicable term and must be accompanied by sufficient documentation to justify the increase. If approved, a price increase becomes effective starting with the term beginning after approval. A price increase must be executed as a change order. Contractor may terminate this contract at the end of the then current term if a price increase request is denied. Notice of termination pursuant to this paragraph must be received by the Procurement Officer no later than fifteen (15) days after the Procurement Officer sends contractor notice rejecting the requested price increase.

**7.38 PRICE ADJUSTMENTS--LIMITED BY CPI "OTHER GOODS & SERVICES" (JAN 2006):** Upon request and adequate justification, the Procurement Officer may grant a price increase up to, but not to exceed, the unadjusted percent change for the most recent 12 months for which data is available, that is not subject to revision, in the Consumer Price Index (CPI) for all urban consumers (CPI-U), "Other Goods & Services" for services, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at [www.bls.gov](http://www.bls.gov)

**7.39 PRICING DATA -- AUDIT -- INSPECTION (JAN 2006)**

(a) Cost or Pricing Data. Upon Procurement Officer's request, you shall submit cost or pricing data, as defined by 48 C.F.R. Section 2.101 (2004), prior to either (1) any award to contractor pursuant to 11-35-1530 or 11-35-1560, if the total contract price exceeds \$500,000, or (2) execution of a change order or contract modification with Contractor which exceeds \$100,000. Your price, including profit or fee, shall be adjusted to exclude any significant sums by which the State finds that such price was increased because you furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between parties. (b) Records Retention. You shall maintain your records for three years from the date of final payment, or longer if requested by the Chief Procurement Officer. The State may audit your records at reasonable times and places. As used in this subparagraph (b), the term "records" means any books or records that relate to cost or pricing data submitted pursuant to this clause. In addition to the obligation stated in this subparagraph (b), you shall retain all records and allow any audits provided for by 11-35-2220(2). (c) Inspection. At reasonable times, the State may inspect any part of your place of business which is related to performance of the work. (d) Instructions Certification. When you submit data pursuant to subparagraph (a), you shall (1) do so in accordance with the instructions appearing in Table 15-2 of 48 C.F.R. Section 15.408 (2004) (adapted as necessary for the state context), and (2) submit a Certificate of Current Cost or Pricing Data, as prescribed by 48 CFR Section 15.406-2(a) (adapted as necessary for the State context). (e) Subcontracts. You shall include the above text of this clause in all of your subcontracts. (f) Nothing in this clause limits any other rights of the state.

**7.40 RELATIONSHIP OF THE PARTIES (JAN 2006):** Neither party is an employee, agent, partner, or joint venturer of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.

**7.41 RESTRICTIONS ON PRESENTING TERMS OF USE OR OFFERING ADDITIONAL SERVICES (FEB 2015):**

(a) Citizens, as well as public employees (acting in their individual capacity), should not be unnecessarily required to agree to or provide consent to policies or contractual terms in order to access services acquired by the government pursuant to this contract (hereinafter “applicable services”). Further, in the event it is necessary for a citizen or public employee to agree to or provide consent to any end user contract, privacy policy, or other terms of use (hereinafter “terms of use”) in connection with the use of any applicable services, the terms of use shall apply only to the extent that they are not inconsistent with this contract.

(b) Unless expressly provided in the solicitation, public contracts are not intended to provide contractors an opportunity to market additional products and services; accordingly, in performing the work, contractor shall not – for itself or on behalf of any third party – offer citizens or public employees (other than the procurement officer) any additional products or services not required by the contract.

(c) Any reference to contractor in items (a) or (b) also includes any subcontractor at any tier. Contractor is responsible for compliance with these obligations by any person or entity that contractor authorizes to take any action related to the work.

(d) Any violation of this clause is a material breach of contract. The parties acknowledge the difficulties inherent in determining the damage from any breach of these restrictions. Contractor shall pay the state liquidated damages of \$1,000 for each contact with a citizen or end user that violates this restriction.

**7.42 SERVICE PROVIDER SECURITY ASSESSMENT QUESTIONNAIRE – REQUIRED:**

The Contractor must demonstrate that programs, policies and procedures are in place to adequately provide for the confidentiality, integrity, and availability of the information systems used by Contractor to process, store, transmit, and access all government information. In order for the State to accurately evaluate the strength and viability of the Contractor’s security policies, procedures and practices related to confidentiality, integrity and availability, Offerors must submit with their offers a thorough and complete written response to the Service Provider Security Assessment Questionnaire (“Response to SPSAQ”) attached to this Solicitation (Attachment 3), which must address all applicable organizations and applicable information systems. The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions.

**7.43 SERVICE PROVIDER SECURITY REPRESENTATION (FEB 2015):** The following obligations are subordinate to any other contract clause to the extent the other clause specifically provides for enhanced safeguarding of government information, applicable information systems, or applicable organizations. Offeror (i) warrants that the work will be performed, and any applicable information system (as defined in the clause titled “Information Security - Definitions”) will be established and maintained in substantial conformity with the information provided in Offeror’s Response to SPSAQ; (ii) agrees to provide PEBA with prompt notice of any material variation in operations from that reflected in the Response to SPSAQ; and (iii) agrees to comply with all other obligations involving either information security or information use and disclosure imposed by the contract, notwithstanding any inconsistent statement in Offeror’s Response to SPSAQ. To the extent Offeror’s Response to SPSAQ does not conform to any other contractual requirements, PEBA’s lack of objection does not constitute a waiver.

**7.44 TERM OF CONTRACT - EFFECTIVE DATE:**

Maximum Contract Term: January 1, 2020 through December 31, 2024.

Initial Contract Term: January 1, 2020, through December 31, 2022.

The contract will automatically extend on each anniversary date, beginning January 1, 2023, unless either party elects not to extend the contract.

These dates are estimates only. The effective date of this contract is the first day of the Contract Term as specified on the final statement of award. Regardless, this contract expires no later than the last date stated on the final statement of award.

**7.45 TERM OF CONTRACT – OPTION TO RENEW:** (a) At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of one year(s), 0 month(s), and 0 day(s). Extensions may be less than, but will not exceed, two (2) additional one (1) year terms. Either party may elect not to extend on the anniversary date by providing the other party notice of its intention not to extend, in writing, no later than March 1<sup>st</sup> of the year prior to the anniversary date.

**7.46 TERMINATION FOR CONVENIENCE (JAN 2006):** (1) Termination. The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the Contractor specifying the part of the contract terminated and when termination becomes effective.

(2) Contractor's Obligations. The Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the State. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

(3) Right to Supplies. The Procurement Officer may require the Contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the Contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. The Contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the Contractor in which the State has an interest. If the Procurement Officer does not exercise this right, the Contractor shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code Section 2-706. Utilization of this Section in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause.

(4) Compensation. (a) The Contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such claim. If the Contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the Contractor, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph.

(b) The Procurement Officer and the Contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated;

(c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the Contractor the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this Subparagraph:

(i) contract prices for supplies or services accepted under the contract;

(ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;

(iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Paragraph (2) of this clause. These costs must not include costs paid in accordance with Subparagraph (c)(ii) of this paragraph;

(iv) any other reasonable costs that have resulted from the termination. The total sum to be paid the Contractor under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the Contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph (b) of this Paragraph, and the contract price of work not terminated.

(d) Contractor must demonstrate any costs claimed, agreed to, or established under Subparagraphs (b) and (c) of this Paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.

(5) Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect the state's right to require the termination of a subcontract, or (ii) increase the obligation of the state beyond what it would have been if the subcontract had contained an appropriate clause.

## **PART 8**

### **ATTACHMENTS TO SOLICITATION**

Attachment 1 — Important Tax Notice – Nonresidents Only  
Attachment 2 — Offeror's Checklist  
Attachment 3 — Service Provider Security Assessment Questionnaire  
Attachment 4 — Minority Participation Form  
Attachment 5 — Offeror's Proposed Fees  
Attachment 6 — Subcontractor/Affiliate Information  
Attachment 7 — Questions and Answers

**Attachment 1**  
**IMPORTANT TAX NOTICE - NONRESIDENTS ONLY**

Withholding Requirements for Payments to Nonresidents: Section 12-8-550 of the South Carolina Code of Laws requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident. The withholding requirement does not apply to (1) payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina, (2) nonresidents who are not conducting business in South Carolina, (3) nonresidents for contracts that do not exceed \$10,000 in a calendar year, or (4) payments to a nonresident who (a) registers with either the S.C. Department of Revenue or the S.C. Secretary of State and (b) submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the contract.

The withholding requirement applies to every governmental entity that uses a contract ("Using Entity"). Nonresidents should submit a separate copy of the Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to every Using Entity that makes payment to the nonresident pursuant to this solicitation. Once submitted, an affidavit is valid for all contracts between the nonresident and the Using Entity, unless the Using Entity receives notice from the Department of Revenue that the exemption from withholding has been revoked.

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Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of \$1,200.00 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation. Contact the Department of Revenue for any applicable exceptions.

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For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department's website at [www.sctax.org](http://www.sctax.org).

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This notice is for informational purposes only. This agency does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit, Columbia, S.C. 29214-0140. All withholding questions should be directed to the Withholding Section at 803-898-5383.



STATE OF SOUTH CAROLINA  
 DEPARTMENT OF REVENUE  
**NONRESIDENT TAXPAYER  
 REGISTRATION AFFIDAVIT  
 INCOME TAX WITHHOLDING**

**I-312**  
 (Rev. 6/26/01)  
 3323

The undersigned nonresident taxpayer on oath, being first duly sworn, hereby certifies as follows:

1. Name of Nonresident Taxpayer: \_\_\_\_\_
2. Trade Name, if applicable (Doing Business As):  
 \_\_\_\_\_
3. Mailing Address: \_\_\_\_\_
4. Federal Identification Number: \_\_\_\_\_
5. \_\_\_\_\_ Hiring or Contracting with:  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_
- \_\_\_\_\_ Receiving Rentals or Royalties From:  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_
- \_\_\_\_\_ Beneficiary of Trusts and Estates:  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_
6. I hereby certify that the above named nonresident taxpayer is currently registered with (check the appropriate box):  
 The South Carolina Secretary of State or  
 The South Carolina Department of Revenue  
 Date of Registration: \_\_\_\_\_

7. I understand that by this registration, the above named nonresident taxpayer has agreed to be subject to the jurisdiction of the South Carolina Department of Revenue and the courts of South Carolina to determine its South Carolina tax liability, including estimated taxes, together with any related interest and penalties.

8. I understand the South Carolina Department of Revenue may revoke the withholding exemption granted under Code Sections 12-8-540 (rentals), 12-8-550 (temporarily doing business or professional services in South Carolina), and 12-8-570 (distributions to nonresident beneficiary by trusts or estates) at any time it determines that the above named nonresident taxpayer is not cooperating with the Department in the determination of its correct South Carolina tax liability.

The undersigned understands that any false statement contained herein could be punished by fine, imprisonment or both.

Recognizing that I am subject to the criminal penalties under Code Section 12-54-44 (B) (6) (a) (i), I declare that I have examined this affidavit and to the best of my knowledge and belief, it is true, correct and complete.

\_\_\_\_\_  
 Signature of Nonresident Taxpayer (Owner, Partner or Corporate Officer, when relevant) (Seal) \_\_\_\_\_  
 Date

If Corporate officer state title: \_\_\_\_\_

\_\_\_\_\_  
 (Name - Please Print)

**Attachment 2**  
**OFFEROR'S CHECKLIST**  
***AVOID COMMON PROPOSAL MISTAKES***

Review this checklist prior to submitting your proposal.  
If you fail to follow this checklist, you risk having your proposal rejected.

- DO NOT INCLUDE ANY OF YOUR STANDARD CONTRACT FORMS!
- UNLESS EXPRESSLY REQUIRED, DO NOT INCLUDE ANY ADDITIONAL BOILERPLATE CONTRACT CLAUSES.
- REREAD YOUR ENTIRE PROPOSAL TO MAKE SURE YOUR PROPOSAL DOES NOT TAKE EXCEPTION TO ANY OF THE STATE'S MANDATORY REQUIREMENTS.
- MAKE SURE YOU HAVE PROPERLY MARKED ALL PROTECTED, CONFIDENTIAL, OR TRADE SECRET INFORMATION IN ACCORDANCE WITH THE INSTRUCTIONS ENTITLED: **SUBMITTING CONFIDENTIAL INFORMATION**. DO NOT MARK YOUR ENTIRE PROPOSAL AS CONFIDENTIAL, TRADE SECRET, OR PROTECTED! DO NOT INCLUDE A LEGEND ON THE COVER STATING THAT YOUR ENTIRE RESPONSE IS NOT TO BE RELEASED!
- HAVE YOU PROPERLY ACKNOWLEDGED ALL AMENDMENTS? INSTRUCTIONS REGARDING HOW TO ACKNOWLEDGE AN AMENDMENT SHOULD APPEAR IN ALL AMENDMENTS ISSUED.
- MAKE SURE YOUR PROPOSAL INCLUDES A COPY OF THE SOLICITATION COVER PAGE. MAKE SURE THE COVER PAGE IS SIGNED BY A PERSON THAT IS AUTHORIZED TO CONTRACTUALLY BIND YOUR BUSINESS.
- MAKE SURE YOUR PROPOSAL INCLUDES THE NUMBER OF COPIES REQUESTED.
- CHECK TO ENSURE YOUR PROPOSAL INCLUDES EVERYTHING REQUESTED!
- IF YOU HAVE CONCERNS ABOUT THE SOLICITATION, DO NOT RAISE THOSE CONCERNS IN YOUR RESPONSE! AFTER OPENING, IT IS TOO LATE! AS THIS SOLICITATION INCLUDES A QUESTION & ANSWER PERIOD, RAISE YOUR QUESTIONS AS A PART OF THAT PROCESS!

This checklist is included only as a reminder to help offerors avoid common mistakes.  
Responsiveness will be evaluated against the solicitation, not against this checklist.  
You do not need to return this checklist with your response.

### **Attachment 3**

#### **Service Provider Security Assessment Questionnaire**

Instructions: (1) Attach additional pages or documents as appropriate and make sure answers cross reference to the questions below. (2) As used in this Questionnaire, the phrase “government information” shall have the meaning defined in the clause titled “Information Security.” (3) This Questionnaire must be read in conjunction with both of the following two clauses (a) Service Provider Security Assessment Questionnaire – Required, and (b) Service Provider Security Representation.

#### **Access Control**

1. Describe your policies and procedures that ensure access to government information is limited to only those employees and contractors who require access to perform your proposed services.
2. What safeguards and practices do you have in place to vet your employees and contractors who will have access to government information?
3. Describe safeguards that are in place to prevent unauthorized use, reuse, distribution, transmission, manipulation, copying, modification, access or disclosure of government information.

#### **Data Protection and Disposal**

4. Do you have documented policy and procedures for managing information assets? If yes, please provide those policies and procedures.
5. Will government information be encrypted at rest? Will government information be encrypted when transmitted? Will government information be encrypted during data backups, and on backup media? Please elaborate.
6. How will government information be managed after contract termination? Will government information provided to the Contractor be deleted or destroyed? When will this occur?

#### **Third Party Management**

7. Identify any third party which will host or have access to government information.
8. Describe and explain your security policies and procedures as they relate to your use of your contractors and next-tier sub -contractors.

#### **Human Resources**

9. Do you conduct employee awareness training? If so, please explain.



## **Audit and Compliance**

10. List any reports or certifications that you have from properly accredited third-parties that demonstrate that adequate security controls and assurance requirements are in place to adequately provide for the confidentiality, integrity, and availability of the information systems used to process, store, transmit, and access all government information. (For example, an ISO/IEC 27001 compliance certificate, an AICPA SOC 2 (Type 2) report, or perhaps an AICPA SOC 3 report (i.e., a SysTrust or WebTrust seal)). For each certification, describe the scope of the assessment performed. Will these reports / certifications remain in place for the duration of the contract? Will you provide the state with most recent and future versions of the applicable compliance certificate / audit report?

## **Physical Security**

11. Please list the geographical locations of your data centers that could contain PEBA data. Do your secondary/failover sites have commensurate security with your primary site?
12. Describe the policies, procedures and practices you have in place to provide for the physical security of your data centers and other sites where government information will be hosted, accessed or maintained.

## **Detection and Prevention**

13. What controls are in place to detect security breaches? What system and network activity do you log? How long do you maintain these audit logs?
14. Is penetration testing and/or vulnerability assessments performed annually? Is this done with an outside vendor or is it performed using internal staff? Please list the last 3 assessment dates.

## **Incident Response**

15. Describe your incident response policies and practices.
16. Have you had any breaches in the last 3 years which involve more than 500 records? If yes, please provide details. Have you had paid any regulatory fines related to the loss of Personal Health Information and/or Personally Identifiable Information in the last three years? If yes, please describe.

**Security Requirements and General Information**

- 17. Are there any planned system upgrades, conversions, other system changes that may affect PEBA in the next year? If yes, please describe.
- 18. Are there any other material items that you believe we should be aware of?

Offeror’s response to this questionnaire includes any other information submitted with its offer regarding information or data security.

**SIGNATURE OF PERSON AUTHORIZED TO REPRESENT THE ACCURACY OF THIS INFORMATION ON BEHALF OF CONTRACTOR:**

By: \_\_\_\_\_  
(authorized signature)

Its: \_\_\_\_\_  
(printed name of person signing above)

\_\_\_\_\_  
(title of person signing above)

Date: \_\_\_\_\_

**Attachment 4**  
**Minority Participation**

Is the Offeror a South Carolina Certified Minority Business?  Yes  No

Is the Offeror a Minority Business certified by another governmental entity?  Yes  No

If so, please list the certifying governmental entity:

Will any of the work under this contract be performed by a SC certified Minority Business as a subcontractor?

Yes  No

If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subcontractor?

Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subcontractor?  Yes  No

If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subcontractor?

If a certified Minority Business is participating in this contract, please indicate all categories for which the Business is certified:

Traditional minority

Traditional minority, but female  Women (Caucasian females)

Hispanic minorities

DOT referral (Traditional minority)  DOT referral (Caucasian female)

Temporary certification

SBA 8 (a) certification referral

Other minorities (Native American, Asian, etc.)

(If more than one minority contractor will be utilized in the performance of this contract, please provide the information above for each minority business.)

For a list of certified minority firms, please consult the Minority Business Directory, which is available at the following URL: <http://osmba.sc.gov/index.html>

**Attachment 5  
Offeror's Proposed Fees**

1. What are the factors you consider in determining future fee changes?
2. How frequently do you evaluate your fees?
3. Provide other alternatives not outlined in this proposal that could result in the lowering of participant fees. Be clear in your response and provide the condition and the result.
4. For your fees quoted below, provide details on your projected asset levels and participant counts as outlined in the chart:

Contract Year	Assets	Participant Accounts
Initial 3-year term		
Option Year 1		
Option Year 2		

5. Briefly describe your fee leveling capabilities.
6. For returning revenue sharing to participant accounts, how frequently do you calculate the amount and how often is it returned to participants?
7. Confirm that your proposed fees are not based upon the receipt of any revenue generated from investment options in the Program.
8. What is your asset-based fee (in basis points) to provide all services described in this Request for Proposal? Unless noted elsewhere within this Attachment, provide details of any fees not included in this amount.
9. What is your per-participant fee (in lieu of the asset-based fee described in Question #8 above) to provide all services described in this Request for Proposal? Unless noted elsewhere within this Attachment, provide details of any fees not included in this amount.
10. Please complete the following charts:

**Additional Plan-Level Fees**

Services	Fee	Comments
Plan Set-up/Installation (one-time fee)		
Plan documents (outside of prototype)		
Annual notifications to eligible participants		
408(b)(2) disclosures		
404(a)(5) disclosures		
Other (be specific)		

### Additional Participant-Level Fees

Services	Fee	Comments
Investment advisory		
Managed accounts		
Loan set-up		
Loan maintenance		
Self-directed brokerage		
Hardship/Unforseeable Emergency Qualifications		
DRO Qualifications		
Wire Fees		
Other (be specific)		

**Attachment 6**  
**Subcontractor/Affiliate Information**

1. Provide the name of the subcontractor/affiliate and their relationship to the Offeror.
2. Provide a summary of the history of the subcontractor/affiliate to include the number of years they have been in business.
3. Specifically, what role will the subcontractor/affiliate have in the performance of the contract? Provide a detailed description of the services the subcontractor/affiliate will be performing. Include in the description the applicable section from Part V, Information for Offerors to Submit, by listing the Roman Numeral and title (e.g., XVII. Investment Advisory Services).
4. Please confirm that the contract between the subcontractor/affiliate has been resolved and is ready for execution upon award.
5. Explain the process for monitoring the performance of the subcontractor/affiliate.
6. List any services for which the subcontractor/affiliate will be solely responsible, and describe how the subcontractor/affiliate will be monitored and managed.
7. Describe any government action or litigation taken or pending against the subcontractor/affiliate during the most recent five (5) years.

**Attachment 7**  
**Questions and Answers (posted to the web)**