

DEPARTMENT OF FINANCIAL SERVICES

RLAC-9999-17020

Attachment 2 - STATEMENT OF WORK

November 14, 2017

Attachment 2

1 of 9

TABLE OF CONTENTS

SECTION 1 Overview	3
SECTION 2 Contractor Responsibilities	4
SECTION 3 Performance Measures.....	6
SECTION 4 Department Responsibilities	7
SECTION 5 Enforcement.....	8
SECTION 6 Liquidated Damages	8
SECTION 7 Step-In-Rights.....	8
SECTION 8 Miscellaneous Contract Terms	9

Attachment 2

2 of 9

THE SPECIFIC TERMS IN THIS STATEMENT OF WORK SHALL BE READ TOGETHER WITH GENERAL TERMS OUTLINED IN THE STANDARD TERMS AND CONDITIONS, ATTACHMENT 1. WHERE IN CONFLICT, THE MORE SPECIFIC TERMS SHALL APPLY.

SECTION 1 Overview

1.1 Scope of Work

The Department of Financial Services, Division of Rehabilitation and Liquidation (“Department”) is considering entering into multiple contracts for accounting, forensic accounting analysis, and expert witness testimony services. When the Department is appointed Receiver by the Court, we may require the services stated within this Statement of Work (SOW). The Contract will serve as a Master Agreement. When the DEPARTMENT requires services, a Letter of Authorization (LOA) will be provided to the CONTRACTOR. The LOA is the mechanism for how services will be initiated. Until the DEPARTMENT provides an LOA, there is no work to be performed. The LOA shall state the name of the company (receivership estate), the services requested, and shall be submitted in writing to the CONTRACTOR. The CONTRACTOR selection process for future work will be determined by the region of the receivership (North, Central, South) and/or by type of specialization needed. If there is a conflict with the primary CONTRACTOR performing the services, the work will be assigned to another CONTRACTOR nearest in proximity.

1.2 Contract Term

a. Term

The initial term of the Contract will be three (3) years beginning on the date of execution, and the Contract may be renewed for up to three (3) years in accordance with section 287.057, Florida Statutes.

b. Renewals

There is one (1) renewal available for this service. At the option of both parties, the Contract may be renewed up to a period equal to the term of the original contract. Renewal is optional based on factors including, but not limited to, satisfactory performance evaluations by the agency and subject to the availability of funds.

1.3 Payment Provisions

a. Compensation

This is a fixed price contract. The compensation of this Contract is stated in the attached Price Sheet, which is incorporated by reference. Invoicing will occur monthly.

b. Expenses

All expenses incurred by the CONTRACTOR for travel must be authorized by the Department in advance. Travel expenses will be reimbursed to the CONTRACTOR at a rate not to exceed that which is payable to state employees for travel and per diem as prescribed by section 112.061, F.S., and shall be submitted in accordance with said section on the approval travel form. The Department must authorize all other expenses, in advance.

c. Funding

This is a receivership contract. This is not a state procurement. This Contract will be paid solely out of receivership funds and no public monies will be obligated or spent on this Contract.

d. Invoices

The Contractor shall provide an invoice to the Department, every thirty (30) days for work performed.

Attachment 2

3 of 9

Rev. 08/29/16

- i. Electronic invoices shall be submitted to: Accounts Payable, Division of Rehabilitation and Liquidation, at Rehab.AccountsPayable@myfloridacfo.com or paper copies may be mailed to 2020 Capital Circle, SE, Suite 310, Tallahassee, FL 32301.
- ii. Subject to the terms of this agreement and the Standard Terms and Conditions Applicable to Law Firm Services Contracts - Attachment 1, the Department agrees to pay the Contractor for services rendered, according to the following schedule: Within thirty (30) days of receipt of invoice (with supporting documentation) acceptable to the Department.
- iii. If an invoice for services rendered under this Contract is submitted to the Department after ninety (90) days of the service being performed the invoice will not be paid.

SECTION 2 Contractor Responsibilities

The forensic accounting services called for under this Contract are to be completed in phases in order to minimize the necessary costs incurred. The CONTRACTOR shall perform the tasks in phases, in order, unless directed otherwise by the DEPARTMENT. The CONTRACTOR shall immediately cease work on any particular phase at such time it receives written notification from the DEPARTMENT to do so. Unless otherwise authorized by the DEPARTMENT as provided in this paragraph, the CONTRACTOR shall not proceed with work beyond Phase I until the CONTRACTOR has furnished to the DEPARTMENT the Part A deliverable(s) required under the Contract AND obtained written authorization from the DEPARTMENT to proceed with Phase II. Any fees and costs incurred in violation of this provision shall not be paid by the DEPARTMENT.

2.1 PHASE I - A

The CONTRACTOR shall perform all accounting related duties and responsibilities to assist the DEPARTMENT with facilitating on-site operational duties and responsibilities for the receivership entity. The DEPARTMENT will prioritize and provide timelines for performing these duties, which may also include investigating issues that will be analyzed in Phase II. The CONTRACTOR will be provided access to the receivership entity's accounting information system, electronically stored documents, and records contained on file servers. The CONTRACTOR duties and responsibilities include, but are not limited to:

- 2.1.1 manage availability of cash daily;
- 2.1.2 manage the forecasting of cash;
- 2.1.3 process payments for services necessary for continued operations;
- 2.1.4 manage and direct the Accounting Department personnel on-site at receivership;
- 2.1.5 completion of the National Association of Insurance Commissioners (NAIC) Checklist 8 - Accounting and any supplemental checklists provided by the DEPARTMENT;
- 2.1.6 coordinate securing, inventorying and boxing accounting paper records to be shipped to the DEPARTMENT in Tallahassee, Florida;
- 2.1.7 participate in on-site meetings, as requested by the Deputy Receiver or Contract Manager;
- 2.1.8 provide a written weekly status summary to the Contract Manager that lists tasks performed during the week and tasks projected to work on the following week until Phase I – A is completed; and
- 2.1.9 respond to requests or analysis from the DEPARTMENT regarding the receivership entity.

2.2 PHASE I - B

The CONTRACTOR will not begin Phase I - B unless and until written instruction is provided by the DEPARTMENT.

Attachment 2

4 of 9

Rev. 08/29/16

The CONTRACTOR will engage in a review and analysis of the above referenced financial records applying American Institute of Certified Public Accountants (AICPA), Statements on Standards of Attestation Engagements (SSAE) of the areas identified in Phase II of this Contract to prepare a cost budget, timeline, and procedures report for performing Phase II services. The procedures report will outline the procedures contemplated by the CONTRACTOR when performing services in Phase II. The DEPARTMENT must agree to and approve the agreed upon procedures prior to Phase II services commencing.

3.1 PHASE II

The CONTRACTOR will not begin Phase II until written instruction is provided by the DEPARTMENT.

The DEPARTMENT will prioritize the services provided in Phase II. The CONTRACTOR shall provide an agreed upon procedures report, which may at a minimum, encompass the following:

- 3.1.1 investigate intercompany transactions;
- 3.1.2 investigate loan transactions;
- 3.1.3 prepare a reinsurance analysis on all treaties and reinsurance contracts;
- 3.1.4 investigate possible causes of action against the receivership entity appointed external auditor and/or actuary;
- 3.1.5 investigate or analyze the financial condition and cause of the insolvency of the receivership entity, including allegations purported by the Florida Office of Insurance Regulation; and
- 3.1.6 submit an agreed upon procedures report.

4.1 PHASE III

The CONTRACTOR will not begin Phase III unless and until written instruction is provided by the DEPARTMENT.

The CONTRACTOR shall provide a cost budget to perform the following litigation support services, if requested by the DEPARTMENT:

- 4.1.1 assist attorneys in preparing for potential litigation;
- 4.1.2 assist attorneys with drafting legal pleadings, briefs, and other court filings;
- 4.1.3 assist attorneys in propounding and responding to discovery;
- 4.1.4 attend depositions, mediations, arbitrations, and trials;
- 4.1.5 to the extent the CONTRACTOR is identified as a testifying expert, provide expert witness testimony at depositions, hearings, and trial, which may include testifying against a Certified Public Accounting Firm;
- 4.1.6 calculate economic damages and evaluate the damages model utilized by the opposing expert(s);
- 4.1.7 prepare expert reports applying AICPA Statements on Standards for Consulting Services (SSCS);
- 4.1.8 analyze and critique reports of opposing experts; and
- 4.1.9 work with the DEPARTMENT attorneys and other professionals to recover funds.

Attachment 2

5 of 9

Rev. 08/29/16

SECTION 3 Performance Measures

3.1 Deliverables

The Contractor shall provide the deliverable(s) that meets the criteria outlined in the section below:

PHASE I - A

DELIVERABLE	PERFORMANCE MEASURES AND DUE DATE	FINANCIAL CONSEQUENCES
A written weekly status report confirming the tasks that were performed during the prior week and list the projected tasks for the following week until PHASE I – A is completed.	Submit by close of business every Friday, or a mutually agreed upon timeframe, once the DEPARTMENT assigns PHASE I -A and continues until PHASE I – A is completed.	Failure to submit deliverable and/or meet specified time criteria results in a financial consequence of two hundred fifty dollars (\$250.00) per day.

PHASE I - B

DELIVERABLE	PERFORMANCE MEASURES AND DUE DATE	FINANCIAL CONSEQUENCES
A cost budget, timeline and procedures report to perform services under PHASE II in a format approved by the DEPARTMENT.	Submit a cost budget, timeline and procedures report within thirty (30) days of the DEPARTMENT’s request unless a mutually agreeable alternative timeline is established.	Failure to submit deliverable and/or meet specified time criteria results in a financial consequence of two hundred fifty dollars (\$250.00) per day.

PHASE II

DELIVERABLE	PERFORMANCE MEASURES AND DUE DATE	FINANCIAL CONSEQUENCES
Agreed Upon Procedures Report identified in PHASE II.	Submit Agreed Upon Procedures Report within sixty (60) days from the DEPARTMENT’s approval unless a mutually agreeable alternative timeline is established.	Failure to submit deliverable and/or meet specified time criteria results in a financial consequence of two hundred fifty dollars (\$250.00) per day.

PHASE III

DELIVERABLE	PERFORMANCE MEASURES AND DUE DATE	FINANCIAL CONSEQUENCES
A cost budget to perform the services requested under PHASE III, as requested by the DEPARTMENT.	Submit budget to the DEPARTMENT within five (5) days of receipt of the DEPARTMENT’s request for services unless a mutually agreeable alternative timeline is established.	Failure to submit deliverable and/or meet specified time criteria results in a financial consequence of two hundred fifty dollars (\$250.00) per day.
Litigation support and expert witness testimony, as requested by the DEPARTMENT.	Provide litigation support and expert witness testimony services within the timeframe requested by the DEPARTMENT unless a mutually agreeable alternative timeline is established.	<p>Failure to meet the specified time criteria results in a financial consequence of two hundred fifty dollars (\$250.00) per day.</p> <p>Failure to perform litigation support and expert witness testimony as requested by the DEPARTMENT will result in the CONTRACTOR reimbursing the DEPARTMENT for all expenditures incurred from Phase I-B through Phase III and for the expense of the DEPARTMENT obtaining litigation support and expert testimony from another source if such failure to perform is not the fault of the DEPARTMENT or outside the reasonable control of the CONTRACTOR.</p>

SECTION 4 Department Responsibilities

4.1 The Department will provide, in writing, all instances where deliverables do not conform to the

Attachment 2

minimum acceptance criteria as specified in Section 3 Deliverables. All deliverables that do not conform to Section 3 Deliverables will be subject to the Financial Consequences included in Section 5 Enforcement.

- 4.2 The DEPARTMENT will provide the CONTRACTOR with access to company books, records, and any other information available to perform work under this contract.

SECTION 5 Enforcement

5.1 Financial Consequences for Nonperformance

The DEPARTMENT shall reduce the invoice due to the CONTRACTOR by two hundred fifty dollars (\$250.00) for every business day beyond the due date that the deliverable is late.

5.2 Financial Consequences for Failure to Timely and Satisfactorily Perform

Failure to use the appropriate technical requirements as identified in the SOW will result in automatic task rejection and shall not be invoiced or paid until correction of the task. Failure to complete all deliverables in accordance with the requirements of the Agreement, and in particular, as specified above in Section 3 Performance Measures, will result in the assessment by the DEPARTMENT of the specified financial consequences. If applicable, should the parties agree to a corrective action plan, the plan shall specify the applicable financial consequences to be applied after the effective date of the corrective action plan.

This provision for financial consequences shall in no manner affect the DEPARTMENT's right to terminate the Agreement as provided elsewhere in the Agreement.

SECTION 6 Liquidated Damages

The CONTRACTOR acknowledges that its failure to provide services in accordance with all terms and conditions of this Contract will damage the DEPARTMENT, but that by its nature such damage is impossible to ascertain presently and will be difficult to ascertain in the future. Accordingly, the parties agree upon a reasonable amount of liquidated damages that are not intended to be a penalty and are solely intended to compensate for unknown and unascertainable damages. Liquidated damages shall be assessed on the CONTRACTOR for \$1,000.00 per calendar day for each day the CONTRACTOR fails to complete agreed upon work after expiration of the time allowed by the Contract, subject to the force majeure provisions of this Contract. Allowing completion after the time allowed shall not act as a waiver of liquidated damages. Nothing in Section 6 shall be construed to make the CONTRACTOR liable for delays that are beyond its reasonable control, nor shall Section 6 limit the DEPARTMENT's right to pursue its remedies for other types of damages, including those for professional malpractice. The DEPARTMENT shall maintain the right to pursue against the CONTRACTOR any claim for legal or professional malpractice, separately and apart from any liquidation damages claim provided for in Section 6.

SECTION 7 Step-In-Rights

- 7.1 The DEPARTMENT, at its option, may enforce the provisions of this Contract by exercising "Step-In" rights for the discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, abandonment of the Contract, or for noncompliance by the CONTRACTOR with tasks related to public records.
- 7.2 If the DEPARTMENT exercises its Step-In rights, the CONTRACTOR must cooperate fully with the DEPARTMENT (including its personnel and any third parties acting on behalf of the DEPARTMENT) and shall provide, at no additional charge to the DEPARTMENT, all assistance reasonably required by the DEPARTMENT as soon as possible, including:

- a. Providing access to all relevant equipment, premises, and software under the CONTRACTOR's control as required by the DEPARTMENT (or its nominee); and
- b. Ensuring that the CONTRACTOR personnel normally engaged in the provision of the public records tasks are available to the DEPARTMENT to provide assistance which the DEPARTMENT may reasonably request.

7.3 The DEPARTMENT Step-In rights will end, and the DEPARTMENT will hand back the responsibility to the CONTRACTOR, when the CONTRACTOR demonstrates to the reasonable satisfaction of the DEPARTMENT that the CONTRACTOR is capable of resuming provision of the tasks in accordance with the requirements of the Statement of Work and that the circumstances giving rise to the Step-In right cease to exist and will not recur.

SECTION 8 Miscellaneous Contract Terms

8.1 PUR 1000

The following provisions found in PUR1000, available at:

http://www.dms.myflorida.com/business_operations/state_purchasing/documents_forms_references_resources/purchasing_forms, are not applicable to this Contract:

- Section 2. Purchase Orders.
- Section 3. Product Version.
- Section 4. Price Change Applicable only to Term Contracts subsections (b), Best Pricing Offer and (e), Equitable Adjustment.
- Section 5. Additional Quantities.
- Section 6. Packaging.
- Section 8. Safety Standards.
- Section 11. Transportation and Delivery.
- Section 12. Installation.
- Section 14. Transaction Fee.
- Section 15. Invoicing and Payment.
- Section 20. Limitation of Liability.
- Section 27. Purchase Order Duration.
- Section 32. Employees, Subcontractors, and Agents.
- Section 39. Leases and Installment Purchases.
- Section 43. Cooperative Purchasing.
- Section 45. Annual Appropriation.