

**State of Florida**  
**Department of Financial Services**  
**Invitation to Negotiate**  
**DFS TR ITN 11/12-02**  
Investment Provider Company Contract for  
The State of Florida Deferred Compensation, Internal Revenue Code 457(b) Plan

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## SECTION 1: INTRODUCTORY SECTION

### 1.1 Purpose

The Department of Financial Services (“Department”) is seeking to contract with up to five full service Investment Providers Companies with the purpose of soliciting replies for providing full administrative and investment services for the State of Florida’s IRC 457(b) program. At least one investment provider company will be chosen to offer a self-directed brokerage service.

#### 1.1.1 Summary of Plan Features

<b>Plan Feature</b>	<b>Tentative Description</b>
<b>Plan Name</b>	State of Florida Deferred Compensation Plan
<b>Type of Plan</b>	Non-Qualified 457(b) Deferred Compensation Plan
<b>Contributions</b>	Employee only
<b>Participant Directed</b>	Yes, participants choose how they would like their Deferred Compensation assets invested
<b>Investment Options/Products</b>	A current list of investment products is available for viewing at <a href="http://www.myfloridadeferredcomp.com">www.myfloridadeferredcomp.com</a> and Exhibit I (Performance Report)
<b>Frequency of Valuation</b>	Daily
<b>In-service Withdrawals</b>	De Minimus distributions as permitted by the U.S.C. 457(e)(9)(A) and hardship/unforeseeable emergency withdrawals are permitted
<b>Loans</b>	Yes (Exhibit E)
<b>Vesting</b>	Participants are vested on the first day of employment
<b>Forfeitures</b>	None
<b>Participant Statements</b>	Quarterly, produced by the investment vendors (may be offered online at the Participant’s request)
<b>Minimum Required Distributions</b>	Payouts may be deferred until the Required Minimum Distribution date, as provided in Section 457(b), Internal Revenue Code
<b>Rollovers (In &amp; Out)</b>	Direct rollovers to the plan are accepted and direct roll outs to an eligible plans are permitted
<b>Payout Options</b>	Lump sum, partial lump sum, periodic payments, and annuities (but not limited to)
<b>Death Benefits</b>	Yes
<b>Roth 457(b)</b>	Yes, as soon as administratively possible

### 1.2 Purchasing Agent

Refer ALL inquiries to the Purchasing Agent/Procurement Officer. The Purchasing Agent is the sole point of contact from the date of release of this ITN until selection of a successful Respondent. All procedural questions and requests for clarification of this solicitation shall be submitted in writing to:

Department of Financial Services  
Attn: Fran Spivey, Purchasing Services  
200 E. Gaines Street, Larson Building  
Tallahassee, FL 32399-0317  
Email: [fran.spivey@myfloridacfo.com](mailto:fran.spivey@myfloridacfo.com)  
Fax: 850-487-2389

Between the release of the solicitation and the end of the 72-hour period following the agency posting of the notice of intended award, excluding Saturdays, Sundays, and state holidays, Respondents to this solicitation or persons acting on their behalf shall not contact, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the Purchasing Agent as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a Response.

The Department will not talk to any vendors or their agents, regarding questions or otherwise, regarding a pending solicitation. Please note that questions will NOT be answered via telephone. Responses to questions will be posted on the Vendor Bid System (“VBS”) website, at [http://fcn.state.fl.us/owa\\_vbs/owa/vbs\\_www.main\\_menu](http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu) (modifies PUR 1001 ¶5).

### **1.3 Purchasing Instructions and General Conditions**

PUR Form 1001, General Instructions to Respondents, and PUR Form 1000, General Conditions, which, except as modified by these Special Conditions, are incorporated and are attached or available online at [http://dms.myflorida.com/business\\_operations/state\\_purchasing/documents\\_forms\\_references\\_repositories/purchasing\\_forms](http://dms.myflorida.com/business_operations/state_purchasing/documents_forms_references_repositories/purchasing_forms)

### **1.4 Timetable**

- A. The following schedule will be strictly adhered to in all actions relative to this solicitation, unless modified by the Department:
- B. The Invitation to Negotiate shall be issued on **Tuesday, July 26, 2011**.
- C. All questions and/or proposed changes shall be submitted in writing on or before close of business, **Friday, August 12, 2011**. Questions will not be entertained after this date. Answers to questions will be posted to the VBS on or about, **August 18, 2011**.
- D. A separately-sealed price proposal must accompany each technical Reply to this ITN. The Purchasing Office, whose address location is specified in this ITN, must receive both packages no later than **3:00 p.m. (ET), Friday, August 26, 2011**. All proposals received by this deadline will be opened at that time.
- E. The Issuing Officer will contact each Respondent that has met all of the minimum requirements as determined by the Evaluation Review Process and has been ranked according to the Proposal Evaluation Criteria established in this ITN.
- F. Negotiations will be conducted on **September 6<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup>, 2011**.

- G. Notice of the Department’s intended decision will be posted on or about, **September 20, 2011**, on the Vendor Bid System noted in Section 4.2. If the decision is made to award a contract, said contract will be executed as soon as practicable after the posting of the award. The posting tabulation with the recommended award does not constitute a contract.
- H. The Department reserves the right to make adjustments to this schedule and will notify firms participating in the solicitation. Adjustments to the schedule will be announced to all Proposers who have participated in the pre-submission conference or that have notified the Bureau of their intent to submit a Reply.
- I. Conversion/Transfer of Participant Data for a New Investment Provider Company
  - 1. Conversion/transfer of data for a new Investment vendor must be completed within 60 days after the contract is signed by both parties.
  - 2. Website, forms, call center, and communication documents for a new Investment Provider must be approved within 60 days after the contract is signed by both parties.
  - 3. New representatives must have their State deferred compensation badges with 60 days after the contract is signed by both parties.

### **1.5 Mandatory Respondent’s Conference.**

A **mandatory** pre-submission conference will be held, **Tuesday, August 9, 2011, at 9:00 a.m. (ET)**, in the Ground Floor Conference Room at the Hermitage Center, 1801 Hermitage Blvd., Tallahassee, Florida. **All Vendors are required to send a representative to the pre-submission conference as a precondition to submission of a Response.**

### **1.6 Solicitation and Technical Definitions**

1.6.1 “Bureau“ means the Bureau of Deferred Compensation within the Florida Department of Financial Services. The Bureau of Deferred Compensation is responsible for administering the State of Florida Deferred Compensation Plan established under Section 112.215, Florida Statutes for state employees.

1.6.2 “Brokerage Service“ means an Investment Provider that offers on-line brokerage service offering mutual funds, stocks, bonds, options, and other investment vehicles.

1.6.3 “Business days“ include only Monday through Friday, inclusive, except for holidays declared and observed by the state government of Florida.

1.6.4 “Business hours“ means 8AM to 5 PM EST on all business days. “Day” means business day (defined as the Department’s normal working hours) unless otherwise described.

1.6.5 “Calendar days” means all days, including weekends and holidays, except that if the last day counted falls on a weekend or holiday, the due date shall be the next business day thereafter.

1.6.6 “Contract,” unless indicated otherwise, refers to the contract that will be awarded to successful Proposers under this ITN.

1.6.7 “Contractor“, unless indicated otherwise, refers to a business entity to which a contract has been awarded by the Department in accordance with a proposal submitted by that entity in response to this ITN. This may also be referred to as “Provider”.

1.6.8 “Department” means the Department of Financial Services, or Chief Financial Officer. Terms may be used interchangeably. This may also be referred to as Buyer, Customer or “DFS”.

1.6.9 “Desirable Conditions” designated by the use of the words “should” or “may” in this solicitation, indicate desirable attributes or conditions, but are permissive in nature. Deviation from, or omission of, such a desirable feature, will not in itself cause rejection of a proposal.

1.6.10 “Glide-Path” means the manner in which a target date fund will be reallocated over time to reflect differing risk levels based of the shortening of the time until the designated target date.

1.6.11 “Investment Provider” means, a private company approved by the Department of Financial Services, which offers investment products, participant statements, customer service, investment education, and markets the Deferred Compensation Program to government employees.

1.6.12 “ITN” refers to this Invitation to Negotiates and includes attachments and exhibits to this Invitation to Negotiates unless stated otherwise.

1.6.13 “Minimum Mandatory Requirements” means that the Department has established certain requirements with respect to proposals to be submitted by Proposers. The use of “shall”, “will” (except to indicate simple futurity) or “must” in this solicitation indicates that compliance is mandatory. Failure to meet mandatory requirements will cause rejection of the proposal or termination of a contract.

1.6.14 “Minor Irregularity,” used in the context of this solicitation and contract, indicates a variation from the proposal terms and conditions which does not affect the price of the Proposal or give the proposer an advantage or benefit not enjoyed by other proposers, or does not adversely impact the interests of the Department.

1.6.15 “Participant” or “Plan Participant” means any eligible government employee who has elected to defer compensation under the Plan.

1.6.16 “Plan” refers to the State of Florida Deferred Compensation Plan adopted in Rule 69C-6.003, F.A.C, pursuant to Section 112.215, Florida Statutes. The Plan is attached as Exhibit D.

1.6.17 “Plan Administrator” is the person within the Department responsible for the overall operation of the State of Florida Employees Deferred Compensation 457(b) Program. This term is interchangeable with “Administrator.”

1.6.18 “Plan Sponsored” means the condition of a 457(b) program being administered in whole or part by a governmental entity, as opposed to the administration of the program being fully

1.6.19 “Program” means activities conducted for purposes of the State of Florida 457(b) Plan.

1.6.20 “Record Keeper” is a party contracted by the Department to perform consolidated recordkeeping services for the multi-provider Deferred Compensation Program. The current Record Keeper is SunGard Data Systems, Inc. The Department may procure a different Record Keeper or bring the record keeping process into the Department. The Record Keepers contract may be terminated before 2016.

1.6.21 “Reply” means a Vendor’s submission in response to this ITN.

1.6.22 “Representative” or “Specialist” means a qualified employee of one of the approved Investment Providers who solicits deferred compensation investment products to employees eligible to participate in the Plan.

1.6.23 “Respondent” means the entity that submits materials to the Department in accordance with these Instructions, or other entity responding to this solicitation. This may also be referred to as Proposer, or Vendor. The solicitation response may be referred to as Bid, Reply, Proposal, or Response.

1.6.24 “Special Conditions” means the provisions of Section 3 of this ITN which modify and supersede the requirements of PUR Forms 1000 and 1001.

1.6.25 “Team” means the Committee selected by the Department to evaluate and rank the Responses to the ITN.

1.6.26 “Technical Reply” is the portion of the Reply that does not include cost information.

1.6.27 “Total Fee” means the sum of investment fees, 12b-1 fees and any other cost imposed upon a Participant as a percentage of assets, excluding frequent trading fees.

1.6.28 “Transaction Fees” are any fee, commission, charge, or cost, however characterized, which is imposed upon the purchase or sale on mutual fund shares or other investment products.

1.6.29 “Vendor Bid System” and “VBS” refers to the State of Florida internet-based vendor information system at [http://fcn.state.fl.us/owa\\_vbs/owa/vbs\\_www.main\\_menu](http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu)

## **1.7 Solicitation Terms and Conditions.**

The provisions of this solicitation, including the ITN and all its attachments, shall be read as a whole. In case of conflict between provisions, provisions shall have the order of precedence listed below, where the top listed item has the highest precedence:

- The Contract (Attachment D to the ITN)
- Statement or Scope of Work sections of the ITN

- Other Attachments and Exhibits to the ITN
- Remaining Sections of the ITN
- Instructions to Respondents (PUR 1001)
- General Conditions (PUR 1000)
- Respondent's Response

If there are any perceived inconsistencies among any of the provisions of the ITN and its Attachments and Exhibits, Respondent shall bring these inconsistencies to the attention of the Department prior to the submission of the Response. To report inconsistencies, Respondent must submit a formal question prior to the submission of a Response. The Contract, Attachment D, after completion of negotiations and execution by the parties, will take precedence over the ITN document.

The Department objects to and shall not consider any terms or conditions submitted by a Proposer, including any appearing in documents attached as part of a Proposer's Proposal, which are inconsistent with or contrary to the requirements, terms, or conditions of this ITN. In submitting its Proposal, a Proposer agrees that any such inconsistent or contrary terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect, and that the Department shall not be held to have acquiesced to such term or condition. Failure to comply with terms and conditions of the ITN, including those specifying information that must be submitted with a Proposal, shall be grounds for rejecting a Proposal. [Modifies PUR 1001 ¶4]

## **1.8 Objective**

1.8.1 The Department is soliciting replies from investment provider companies offering investment products and administrative services for the Internal Revenue Code 457(b) Deferred Compensation Program, as described in Section 112.215, Florida Statutes. The primary service required of a Vendor will be to provide investment services to Participants. Other services include accepting and investing 38 deferral payrolls and other off cycle deferrals, employee enrollment, communications, an industry standard 457(b) record keeping system, participant quarterly statements, a dedicated website, customer service and phone representatives, financial advising, and other aspects of plan administration. The contract services will begin January 1, 2012 and run through December 31, 2017. Any renewal is subject to Section 3.4.2 of this ITN and shall be contingent upon very high performance evaluations by the Department.

## **1.9 Background**

1.9.1 The Bureau of Deferred Compensation resides within the Division of Treasury, within the Department of Financial Services, and is charged with administering the 457(b) Deferred Compensation Program. As of December 31, 2010, total assets within the Plan were valued at approximately \$2.4 billion with over 80,000 Participant accounts. Annual deferrals for 2010 were approximately \$156 million. Participation rate for state employees is approximately 46%. The Plan Administrator is appointed by the Chief Financial Officer and approved by the Florida State Board of Administration. The Bureau employs a staff of fourteen (14).

1.9.2 The Department, with the approval of the Florida State Board of Administration, established the Program in 1982 as a benefit for the State of Florida employees. Other government units currently participating in the program are: Florida's Public Universities, the

Division of Rehabilitation and Liquidation, the State Board of Administration, the South Florida Regional Transportation Authority, and the Suwannee River Water Management District. There may be State legislation that may grant counties, cities, and special districts in Florida the ability to join the State 457(b) Program during the contract period, resulting in a larger population of prospective participants.

1.9.3 There is an Advisory Council to the Program which consists of seven members, each appointed to the Council from various agencies throughout State government. The Advisory Council provides assistance and recommendations to the State's Chief Financial Officer relating to the provisions of the Program. The members' appointments and duties are specifically defined in Section 112.215(8)(a), Florida Statutes, Exhibit B.

1.9.4 Currently, the Department contracts with four insurance companies and one mutual fund company. One of the existing Providers contracts with a brokerage firm, Charles Schwab.

1.9.5 The operations of the Bureau are funded solely by the Investment Providers. Legislation authorizing establishment of the Florida Deferred Compensation Program does not authorize any expenses of the Florida Deferred Compensation Plan to be paid from State funds. All such costs are borne directly by the Investment Provider companies. The Bureau pays indirect costs to the Department. The funds to operate the program are generated from a monthly fee of \$1.70 from each Investment Provider based on the Investment Provider's number of Participants with account balances. All start-up or implementation costs will be paid by each selected Investment Provider. Eligible employees may enroll as a Plan Participant with one or more of Florida's approved investment provider companies. Participants currently have the opportunity to choose from five full service investment provider companies and one online brokerage firm. All of the companies offer mutual funds and a guarantee of principal and interest fund. One provider offers a stable value fund in lieu of a guarantee of principal and interest fund. The Investment Provider must provide services in compliance with the State of Florida Deferred Compensation Plan, Exhibit D and Exhibit F, and its products must be qualified according to the State of Florida Deferred Compensation Investment Policy, Exhibit A. Enrollment may be completed by the Investment Provider over a recorded line, website, or in person.

1.9.6 All Participant information is processed by the five Investment Providers and received by the Program's Record Keeper. The Record Keeper is a hub of participant information and maintains the Participant records for the Florida Deferred Compensation Program on a computer system owned by the Record Keeper. The Record Keeper provides a daily compilation of participant investment and demographic information to the Florida Deferred Compensation Office and the Program's website at [www.myfloridadeferredcomp.com](http://www.myfloridadeferredcomp.com).

1.9.7 Each Investment Provider shall provide any requested information and counsel to the Bureau during the contract period.

## **SECTION 2: TECHNICAL SPECIFICATIONS AND SCOPE OF WORK**

The specifications included in this section are intended to inform Proposers of the minimum requirements of the Department.

### **2.1 Scope**



The Department is seeking no more than five full service Investment Provider Companies that will have the ability to offer the services described in this section for the State's Internal Revenue Code 457(b) Deferred Compensation Program. The companies may offer a Brokerage service. Investment Providers may offer other services and products that it believes is beneficial and adds value to the Deferred Compensation Program and its participants at the approval of the Department.

## **2.2 Minimum Mandatory Requirements**

2.2.1 There shall be no cost to a Participant's account to transfer to another Vendor in the Deferred Compensation Plan or to roll out from the Deferred Compensation Plan.

2.2.2 The Investment Provider Company shall fully accept non-qualified fiduciary responsibility for plan assets that come into its custody to the extent of the responsibilities undertaken.

2.2.3 The Investment Provider shall have its principal place of business and corporate charter located and registered in the United States of America.

2.2.4 The Investment provider shall provide enrollment services, investment services, phone and customer service representatives, advanced recordkeeping services and technology, participant quarterly statements, free on-line financial and educational tools, dedicated website, and market the Deferred Compensation Program to government employees.

2.2.5 For an Investment Provider offering an on-line Brokerage Service, Section 2.3.1 G shall apply.

2.2.6 All Investment Providers must comply with 2.3.1 F.

## **2.3 Scope of Work**

**2.3.1 Investments** – The Department seeks investment products for each of the following categories. (Note: Current investment vendors are encouraged to retain their current portfolio of product offerings as long as the products meet Exhibit A). Additional investment funds may be added.

### **A. Equity Investment Products (Retail Mutual Funds) :**

1. Vendors responding to this category shall offer participants mutual funds representing at least, each of the following investment classes: large, mid, and small capitalization growth and value equity classes, an international equity fund, low cost index funds that do not have a reimbursement or wrap fee, and bond funds.
2. The maximum total reimbursement fee for any single product will be no more than 40 basis points for the portfolios weighted average of its mutual funds.
3. All mutual fund products must meet the requirements in Exhibit A.

B. Fixed Income Products: At least one of the products below (1-3) must be provided by each vendor.

1. Guaranteed Fixed Accounts: The Department desires each Vendor to offer one fixed income account that has a guarantee of principal and interest that meets the following criteria:

- a. must have a floor.
- b. no restrictions on withdrawals, transfers or contributions.
- c. Vendors shall clearly state how the asset in the fixed income product is managed.
- d. must be fully liquid.
- e. rate must be guaranteed for each quarter.
- f. there shall be no market adjustment.
- g. may not have a spread, reimbursement fee, or other fees or combination of fees which total more than 150 basis points.
- h. have no fees for insurance features.
- i. an information sheet identifying at least the following for its fixed product must be submitted to the Bureau on a semi-annual basis:
  - 1) Average Maturity and Average Life of the fixed account
  - 2) Effective Duration to Average Maturity and Average Life, as appropriate for use in the Crediting Rate Formula
  - 3) Market Value vs. Book Value
  - 4) Investment Policy Statement Compliance Letter (semi-annually)
  - 5) Underlying Investment Portfolio guidelines regarding allocation to Sectors, Ratings, Derivatives, types of securities
  - 6) Sector weightings
  - 7) Average ratings of corporate bonds held and % of whole portfolio with ratings below BBB+
  - 8) Crediting Rate Formula
  - 9) Reporting of any changes in the operation of the fund
  - 10) List of people who can make changes involving the fund

2. Deposit Products:

The guaranteed minimum interest rate for the liquid savings account and the 1, 3, and 5 year Certificate of Deposit (CD) shall be as follows: the US Treasury 90-day maturity yield plus 50 basis points for the savings rate. For CDs, the US Treasury constant maturity yield for the corresponding time period (1, 3, and 5 year) plus 25 basis points. It is desired that those Vendors offering deposit products offer the following:

- a. A liquid savings account
- b. 1, 3, and 5 year CD's

3. Stable Value Funds (Please provide on a semi-annual basis)

- a. Schedule of investments
- b. Total assets of the Fund
- c. 30 day effective yield
- d. Weighted average maturity
- e. Market Value to Book Value ratio
- f. Investment strategy

- g. Fund manager profile
- h. Historical returns
- i. Fee structure
- j. Average credit quality

C. Bond Mutual Funds

D. Target Date Funds – (This is the Qualified Default Investment Alternative for the Plan.)

1. The Vendor shall demonstrate a credible track record with and dedication to asset allocation portfolios.
2. The Vendor shall articulate and support its rationale for the proposed Glide-path of the portfolio, as well as for portfolio construction, including allocation over time to various asset classes and sub-asset classes within US equity, non-US equity, fixed income, and short term fixed income.
3. The Vendor must articulate and demonstrate effective risk control processes.
4. All fees must be identified and reasonably set given the allocation to various asset classes and sub-asset classes utilized to achieve desired outcomes. For “funds of funds,” an Investment Provider shall not assess an “asset allocation overlay fee.”
5. The benchmark construction must be documented and supported, and a credible rationale provided.
6. The Vendor shall report semi-annually performance attribution analysis relative to its benchmark.
7. The Vendor shall be able to articulate and demonstrate the benefits of their product's performance relative to typical participant-crafted portfolios.

E. Investments with a Lifetime Income Account (Not required)

The Department will evaluate parameters relating to return and cost. The Department will also evaluate such investments with regard to portability in the event that a Participant seeks to change investments, if a Provider’s Contract is terminated or a provider contract is non-renewed.

F. Low-cost Index Funds

The Department seeks to provide Participants with low-cost index funds. The investment management fee for these funds shall be at or below the following. Each vendor is required to have one low-cost Index fund in its portfolio.

- |                                     |                 |
|-------------------------------------|-----------------|
| 1. Large blend                      | 20 basis points |
| 2. Total international stock market | 26 basis points |
| 3. Small cap blend                  | 31 basis points |
| 4. Mid-cap blend                    | 26 basis points |
| 5. Total stock market               | 18 basis points |

- |                        |                 |
|------------------------|-----------------|
| 6. Bond – short term   | 22 basis points |
| 7. Bond – intermediate | 22 basis points |
| 8. Bond- long term     | 22 basis points |

The fee limitations in Paragraph F above apply only to the low-cost index funds and do not preclude a Vendor from offering additional funds with higher fees. Refusal by a Vendor to offer a low-cost index fund which meets the above standards for management fees in response to this ITN will be disqualified. The availability of such funds has been determined by the Department to be important to the goal of providing value for Participants. Investment Providers currently in the Plan are encouraged to keep their current low cost Vanguard fund or proprietary index fund.

#### G. Brokerage Service

1. In addition to the investment products listed in 2.3.1, the Department seeks to have one of the Vendors offer an on-line self-directed brokerage service. The brokerage service, shall meet the following requirements:
  - a. There shall be no minimum balance requirement to trade or a minimum account value in the core accounts at the host Vendor.
  - b. The maximum trade fee will not exceed \$8.95 for an internet trade, limit, stop, or market.
  - c. There must be a large selection of “no transaction fee” mutual funds offered.
  - d. The Vendor shall provide an electronic brokerage window that allows Participants the ability to buy and sell a broad range of investments, including but not limited to: listed stocks, fixed income instruments, mutual funds, options, and exchange-traded-funds (ETFs).
  - e. The Brokerage Vendor shall allow the trading of fractional shares at no fee beyond what would be charged for a transaction involving only whole shares, allow for the selling of fractional shares transferred into the brokerage account at no cost, or otherwise provide a means whereby Participants are not subjected to additional costs associated with the liquidation of fractional shares.
  - f. The Brokerage Vendor shall also offer a cash account with a competitive market interest rate which will hold Participants’ funds resulting from the sale of a security or awaiting an order to be placed.
  - g. The Brokerage Vendor shall permit Participants to place orders through the internet, a voice reply system, and a call center.
  - h. The Brokerage Vendor shall be subject to the same requirements placed upon the other Vendors in the Program. These include: a Participant telephone support phone line, a Deferred Compensation Program website, employee enrollment requirements, and online financial and educations tools.

- i. The Vendor shall fully integrate its operations, in terms of recordkeeping, transaction history, and performance reporting with the Bureau's Record Keeper.
  - j. The Brokerage Vendor shall inform Participants of the information necessary to properly invest through a Brokerage Window. Some of the topics that shall be addressed are: the importance of a diversified portfolio, trading frequency limits, possibility of trading delays and an explanation of the types of fees that can be incurred. All fees shall be clearly and conspicuously disclosed to Participants prior to trading. Additionally, all fees shall be described in explicit detail in the cost proposal submitted in response to this ITN.
2. The Department strongly prefers the Brokerage Vendor to offer a free dividend reinvestment plan. However, if dividend reinvestment is offered, the Brokerage Vendor must provide the sale of trailing dividends at no cost, automatic dollar-cost-averaging into mutual funds, online access to portfolio and investment information, and excellent research tools.
  3. The Department retains the right to eliminate or limit the number of certain types of securities offered by the Brokerage Vendor based on the Department's assessment of the needs of the Participants.
  4. A Vendor offering a brokerage service may propose a sub-contractor to offer **this service**. The Brokerage Vendor will not be required to have representatives in the field; however, the Brokerage Vendor shall insure that the phone line available to Participants is staffed with persons able to efficiently and effectively resolve problems which arise regarding Participant accounts. Additionally, the Brokerage Vendor shall provide the Administrator with a liaison that is readily available when issues arise regarding the Vendor's contractual duties.
- H. The inclusion of additional types of investment products not identified above is encouraged. The Department will consider a variety of products. The provision of innovative products which serve the best interest of the State in providing reasonable costs, performance, diversification and controlled risk to the deferred compensation participant will be given positive consideration in evaluating proposals.

### **2.3.2 Advisory and Managed Account Service**

- A. In addition to the investments described in paragraph 2.3.1 above, the Department seeks an advisory or managed account service as an option for Plan Participants who desire such an option. This service is not mandatory. This service may be offered for a reasonable fee.
- B. The following conditions apply to this service:
  1. Each selected Vendor will provide this service for a reasonable fee to participants who use it, but will not require Participants who do not use the service to be charged an additional fee.

2. Enrollment documents, solicitations, and fee disclosures made to Participants are subject to the prior approval of the State Deferred Compensation Administrator, and shall not be used without such prior approval.
3. Solicitations and enrollment documents shall clearly describe all fees to Participants, and each Participant must initial the fee disclosure document. The initialed disclosure document shall be retained by the Vendor and a copy shall be submitted to the Bureau.
4. Vendor shall provide an independent financial advisory service that is not an affiliate or employee of the vendor company.
5. All advice given to Participants by the Vendor or the financial advisor, shall comply with Employee Retirement Income Security Act of 1974 and other Department of Labor guidelines.
6. The Vendor shall ensure that Participants complete a client profile for all financial data they would like included in their personal financial advice plan.
7. It is presumed that a deferred compensation plan is only one component of a Participant's retirement planning. Any advice that is not based on a Participant's overall retirement funding is incomplete. The service shall provide for the inclusion of all significant retirement assets of Participants and their partner, in order to provide an integrated, comprehensive basis for a Participant's retirement planning.
8. The financial advice and the resulting managed account must always serve the best interest of Participants, and shall not be provided in a manner that unduly favors products or services for which the advisor receives financial remuneration or products and services in which the advisor has a vested interest.
9. Participants shall be provided with a face-to-face personal meeting with their financial advisor to be provided necessary financial information and analysis.
10. Each Participant shall be provided a written financial analysis, reasonable wealth projections, and annual statements specific to the Participant's circumstances, based upon on-going monitoring of the Participant's accounts and needs.
11. Participants shall be given the choice to preauthorize the financial advisor to implement the advice and future rebalancing of their portfolio if the Participant has a contract with the Investment Provider for financial advice.

### **2.3.3 Communication and Education**

- A. The Investment Provider shall provide educational support to its Participants in the Program. This function will consist of retirement-related financial education that can be demonstrated to afford value to Participants. All educational materials must be prepared under the assumption that the employee is a novice investor.

- B. The Investment Provider's educational role will include, but not be limited to: distributing educational materials, providing free retirement planning financial and educational tools and on-line advice, and offer financial planning guidance on matters such as investment diversification, investment risks, investment costs, and proper asset allocation. Investment advice shall consist of thorough and balanced recommendations, and shall adhere to Exhibit D.
- C. The Investment Provider shall prepare, print, and provide written and web materials (including forms) on all of its investment product(s) and services. The Investment Provider shall provide approved general financial educational materials to Participants and prospective Participants. The Investment Provider shall absorb all costs of mailing the materials, including addressing the envelopes, inserting communication pieces, and postage. Materials developed by the Investment Provider for state employees' or Plan Participants' use shall be submitted to the Plan Administrator for review, editing, and approval, with adequate time as determined by the Bureau.
- D. The communication strategy for the Program is designed to effectively advertise and promote interest in the Plan by accurately communicating risks and benefits and explaining the considerations necessary for financially reasonable retirement planning. The Investment Provider shall work with the Bureau to create, implement, and manage a motivational and educational program directed towards State agencies, universities, and other approved governmental entities, to accurately inform eligible employees about the Plan. Communication about the Program will be done by the Investment Providers, as well as the Bureau. Providers shall be required to increase the scale of marketing activities in the event that other governmental entities in Florida are granted the opportunity to participate in the Plan.
- E. Each Investment Provider shall communicate with each Participant annually to ensure the Participant has a clear understanding of their plan, their investment allocations, and an opportunity to increase or otherwise modify their contributions.
- F. Each Investment Provider shall communicate with its participants quarterly that have stopped deferring to help the Participant decide whether or not the Participant should resume contributions (quarterly information will be provided to the Investment Provider by the Bureau).
- G. Monthly each Investment Provider will communicate with their Participants that have terminated their employment in the prior month to insure that the Participant makes an informed decision as to whether to leave their 457(b) assets in the Deferred Compensation Program. The Bureau prohibits an Investment Provider from soliciting the terminated participants to remove their 457(b) assets to their company's IRA. However, this does not prohibit Providers from accepting rollovers which are initiated by the participants without solicitation. If a participant of less than 59 ½ years in age seeks to roll over plan assets to an IRA or 401(k), the provider must inform the participant of the tax penalty associated with withdrawals from such accounts as compared to a 457(b) Plan. (A monthly file will be provided to the Investment Provider by the Bureau, of Participants who have terminated employment.)

### **2.3.4 Participant Forms and Procedures**

- A. Prior to the new contract period, the Vendor shall have an adequate supply of forms, as adopted in Rule 69C-6.003, Florida Administrative Code that may be used for a particular service selected by a Participant. Each form shall have a detailed attachment provided by the Investment Provider explaining how to complete the form and shall accompany any and all forms sent to Participants during the transition and contract periods. Each Vendor is required to use the State's forms and abide by all procedures as identified in Exhibit G. If you will provide on-line enrollment, the State's enrollment forms must be available on the Vendors dedicated website and the participant enrollment information must be made available to the Department upon request.
  
- B. The Vendor shall on a daily basis:
  - 1. date stamp all incoming forms;
  - 2. review each form for accuracy and completeness;
  - 3. enter all data on the form including address changes into their system and transmit participant data electronically to the Record Keeper system;
  - 4. store all documents and participant changes for the life of the contract.
  
- C. On a daily basis, the Investment Provider shall transmit to the Record Keeper a data transmission including newly enrolled Participants and any changes made to an existing Participant's account. The Record Keeper shall post information and shall submit an error report to the Investment Provider. The following work day, the Investment Provider shall review and correct the error report submitted to them by the Record Keeper.
  
- D. Once a Participant's record has been entered into the Investment Provider's system and/or a change has been made to an account, a written or email confirmation shall be sent to the Participant within two days of the change. A written confirmation shall be sent to the Participant's address of record and shall summarize the activity that has taken place. A confirmation of a plan to plan "transfer in" must generate a next day confirmation to the participant.
  
- E. The Investment Provider shall permit Participants to enroll by the following methods:
  - 1. in person with a Investment Provider representative;
  - 2. through the Investment Provider's website; or
  - 3. through the Investment Provider's customer service toll-free recorded line.
  
- F. Each Investment Provider shall maintain compliance with Exhibits A, B, C, D,E, F, G, H and J of this ITN, attachments and any applicable state and federal laws.

### **2.3.5 Field or Phone Representatives**

- A. It is encouraged that each Proposer employ a sufficient number of field (industry standard) and/or phone representatives to effectively service the State of Florida Plan's Participants, and be available 7:00-7:00 Eastern Time to respond to the Participants.



- B. Representatives shall enroll new Participants, effectively service existing Participants, and seek to increase participation in the Program if it is in the best interest of the Participant. This may be accomplished through a variety of methods including, but not limited to: employer education seminars, on-site employee education workshops, mailings, and one-on-one employee counseling. Investment providers must enroll 1,200 new participants to the Plan per year. If the Provider Company(s) fails to meet this goal, the Provider Company(s) will pay (or share) the costs of creating, printing and mailing a communications document to all participants and non-participants to encourage them to increase their contribution or enroll in the 457(b) Plan.
- C. Investment Providers shall not solicit account rollovers and/or transfers from other Investment Providers in the program. Rollovers and/or transfers shall be completed in compliance with all laws, rules, regulations, and contractual provisions which legally apply. The prohibition of solicitation of rollovers and/or transfers applies to all representatives of the Investment Provider. This prohibition also applies to representatives employed by one Investment Provider who subsequently obtain employment with another approved Investment Provider.
- D. All field or client relations representatives shall comply with the requirements of the Plan Document, Operating Procedures and Forms Procedures. (Exhibit D, F, G)
- E. All client representatives that have contact with the States Deferred Compensation participants must attend senior suitability training and be certified.
- F. Each Specialist must hold and present upon request to the Administrator a copy of the Specialist's Florida resident or nonresident Life and Variable Annuity License, FINRA registration, FBI background check to conduct Deferred Compensation business in a branch location registered with the State of Florida Department of Financial Services.
- G. Prior to being qualified to solicit Investment Products to state employees, each Specialist shall have received from the Administrator an identification badge accompanied by an authorization letter. The identification badge shall be prominently displayed at all times by each Specialist when offering Investment Products to state employees. The authorization letter shall be carried by each Specialist and shall be presented upon request. Each Investment Provider shall return the identification badge and the authorization letter to the Chief Financial Officer immediately upon the suspension or termination of a Specialist.
- H. When enrolling an employee, the Specialist shall provide the employee with a copy of *Commonly Asked Questions With Answers*, Form DFS-J3-1174, incorporated by reference in Rule 69C-6.003, F.A.C., Participant Action Form, Form DFS-J3-1163, incorporated by reference in Rule 69C-6.003, F.A.C., and Enrollment Information Form, Form DFS-J3-1164, incorporated by reference in Rule 69C-6.003, F.A.C. If requested by the employee, the Specialist shall provide the employee with a copy of the Plan document.

- I. To enroll in the Plan, the employee shall execute the Enrollment Information Form, Form DFS-J3-1164, incorporated by reference in Rule 69C-6.003, F.A.C., and complete and execute the Participant Action Form, Form DFS-J3-1163, incorporated by reference in Rule 69C-6.003, F.A.C.
- J. Each Provider Company shall be responsible for continuous training of their Specialists and other personnel, including administrative personnel and phone representatives, with regard to its Investment Products and this Plan and any ancillary topics as the Department deems necessary.
- K. A Specialist is permitted to use state facilities, including meeting rooms or conference rooms, for private consultation with employees upon prior approval by the employer. A Specialist may use equipment if provided for by the appropriate state agency personnel.
- L. All advertising and sales materials for securities shall be sent by the Provider Company to FINRA for its review. Each Provider Company shall advise the Administrator of any objection or comment made to the proposed material by FINRA and shall furnish a copy of any written communication concerning any objections or comments to the Administrator.
- M. Each Specialist, when acting as a Specialist, shall not use Deferred Compensation as a means for the sale of other products or services other than the products approved by the Department for the IRC 457(b) plan. This includes a “plan to plan” roll out.
- N. Each Specialist shall make a reasonable effort to qualify a prospective Participant with regard to the Participant’s financial ability to participate in the Plan. The Specialist shall determine and affirm that the prospective Participant has sufficient cash savings, salary and other liquid assets from which to pay normal living expenses prior to enrolling that person in the Plan.
- O. Specialists shall not be on state premises during working hours except for the purpose of participating in an authorized group meeting or keeping a previously scheduled appointment with an employee.
- P. Each Provider Company shall furnish each Specialist with an individual copy of the Plan Document. The Plan Document shall be carried by each Specialist while on Deferred Compensation business. All activities of Provider Companies and Specialists shall be governed and regulated by the Plan Document, the rules of the Department of Financial Services and Chief Financial Officer, the applicable Florida Statutes, Chapter 69C-6.003 of the Florida Administrative Code, and any and all applicable federal laws, regulations, court decisions and regulatory agencies.
- Q. A violation of the Plan Document; or Chapter 626, Florida Statutes, or Section 112.215, Florida Statutes; or Rule Chapter 69C-6.003 by any Specialist or any other Provider Company personnel shall result in the suspension or revocation of the identification badge and authorization letter of the Specialist or termination of the Provider Company as necessary to protect the Deferred Compensation funds and the Participants.

## 2.3.6 Operations Requirements

- A. **Final Investment Provider payroll file** - After all actual deferral files for the pay cycle have been reconciled by the Record Keeper, Bureau, Investment Provider, and the pay centers, the Record Keeper will send each Investment Provider an electronic final payroll file to notify them of the pending deferral amounts for the pay cycle, which will be wired to them by the Bureau. The Participant deferrals must be invested, as directed by the Participant, on the same day the Investment Provider receives the Participant's contributions. These files are only generated after the Bureau has given the Record Keeper approval that each of the pay centers amounts are equal to the what the Record Keeper had previously reported to Bureau.

The Final Investment Provider Payroll Files contain the following information:

- Employer Code
- IP Code
- Record ID
- Participant Name
- Payroll Date
- Pay Center Code
- File ID
- PART SSN
- Pay Cycle Code
- Participant's deferral amount or percentage

- B. **Participant Data Collection** - The Record Keeper maintains an electronic communications system which allows Participant data entry directly from the Record Keeper, the IPs and the Bureau. This system supports the functions of new Participant enrollment, current Participant individual account changes and individual Participant account data reconciliation between the Record Keeper, Bureau and Investment Providers. The data driver of this system is the Electronic Participant Action Form (EPAF), which provides for the transition of Participant data from a hardcopy environment, or on-line entry into an electronic file. The structure and transaction of this electronic data is provided in a format acceptable to the Department. The EPAF system provides Participant data, which is current as of the prior business day.
- C. **Electronic Participant Action Form (EPAF)** - Each of the Investment Providers furnishes the Record Keeper an EPAF file each business day by 6 AM EST. The EPAF file transfer process is used by the Record Keeper to pass Participant transaction information to Record Keeper's system. EPAFs originate daily from the different Investment Providers that provide Participant data and investment services to Department. Notifications of Record Keeper's receipt of the EPAF files are emailed to the Investment Providers. The information from the EPAF will be extracted, validated and used to trigger the appropriate Record Keeper transactions. Transactions activated by the EPAF and posted by the Record Keeper are provided back to the Investment Providers in a conformation and exception file of the EPAF transactions – both accepted and rejected.
- D. **EPAF Confirmation Report** - The Record Keeper submits an EPAF Confirmation report on a daily basis, back to the Investment Providers once the EPAF files have been validated and processed on the Record Keeper system. The EPAF Confirmation report is a summary of the transactions that were accepted, and/or rejected. If Investment Provider does not submit an EPAF file or if the EPAF file contains no data, a report will not be generated.
- E. **EPAF Exception Report** - Record Keeper submits an EPAF Exception report to the Investment Providers when any data on the EPAF file is rejected. The EPAF Exception

report will contain an error message describing the cause of the rejection. It is the Investment Provider's responsibility to review and correct all rejections on the EPAF Exception report and resubmit the correct data the following day.

- F. **Plan Level Reports & Files** - The Record Keeper must submit separate daily, monthly, semi-annual and annual reports/files on a variety of data in the Deferred Compensation Plan as designated by the Department. The Record Keeper will be required to provide the Department with the information included in these reports/files as specified for each of the individual reports/files as may be indicated below. The Record Keeper is responsible for accuracy, timely delivery and comprehensive structure of all reports/files as required by contract and this ITN. Record Keeper is expected to provide prompt delivery (hard copy or electronic) of any records, reports of files and other information specified by the Department. Record Keeper shall maintain sufficient personnel to process data, reports, files, etc. within the time limits established by the Bureau.
- G. **Account Summary File** - The Investment Providers furnishes the Record Keeper an electronic Account Summary File each business day (Tuesday – Saturday) by 6 AM EST. The Record Keeper uses this file to update the daily Participant balances on their system. These daily balances are reflected on the State of Florida website, which is hosted by the Record Keeper.
- H. **Census Files** - Record Keeper receives an electronic file from the centralized pay center each week that contains the State of Florida pay center employees who are eligible to participate in the Deferred Compensation Plan. Record Keeper receives an electronic file from FRS each month that contains eligible Participants. The Record Keeper updates their system to keep records of the eligible employees.
- I. **Monthly Valuation File – (MOVAL)** - Record Keeper shall receive from Investment Providers and maintain an all-inclusive up-to-date Plan-level Valuation File in the form established by the Record Keeper. All information in the MOVAL File is the property of the State and shall be available to the Bureau at any time. All Deferred Compensation Plan records are confidential and are exempt from the provisions of Section 119.07(1) as cited in Section 112.215(7), Florida Statutes. The Investment Providers will furnish a MOVAL file to the Record Keeper by the 5<sup>th</sup> business day of the following month to be utilized in preparing the monthly summary reports. The MOVAL will be prepared in accordance with a record layout approved by the Bureau and electronically transmitted to Record Keeper by Investment Providers and shall include no less than the following information for each investment product selected by each Participant:

- |   |  |
|---|--|
| 1. Case identifier                                    | 17. File identifier  |
| 2. Record identifier                                  | 18. File creation date   |
| 3. Valuation date                                     | 19. Participant's SSN  |
| 4. Participant's account                              | 20. Money source   |
| 5. IP code for provider                               | 21. Transaction date   |
| 6. Fund code  | 22. Transaction type code  |
| 7. Charges/ Explanations                              | 23. Net amount of transaction  |
| 8. Unit or share price on transaction                 | 24. Number of units or shares acquired or surrendered as a result of the transaction |
| 9. Transferred to/from fund code                      | 25. Transfer value   |
| 10. Transfer amount                                   | 26. Transfer date  |
| 11. Cash value of fund                                | 27. Fund code for inter-fund transfers in/out  |
| 12. Annuity value                                     | 28. Transaction group  |
| 13. Monthly amount of each transaction group          | 29. Year to date value of each transaction group                                     |
| 14. Inception to date value of each transaction group | 30. Payout option code for annuities   |
| 15. Annuity payment amount                            | 31. Frequency of annuity payment   |
| 16. Year to date annuity payment amounts              | 32. Inception to date of all annuity payments made                                   |

J. **Benefit Payment File - (BENPAY)** - Investment Providers provides a Benefit Payment file (BENPAY) to Record Keeper by the 10<sup>th</sup> business day of each month. The Record Keeper compares the current months BENPAY file to the prior BENPAY files to determine those Participants who have Started, Stopped, or changed distribution amounts on a monthly, quarterly, semi-annual or annual basis. This report is due to Bureau by the 15<sup>th</sup> business day of the month.

The outputs obtained from the comparison are separated into three reports for each Investment Provider:

- **Start Distributions:** List any Participant that are on the current BENPAY file and not on the prior monthly, quarterly, semi-annually and annually BENPAY files.
- **Stop Distributions:** List any Participant that was previously reported on the prior monthly, quarterly, semi-annually and annually BENPAY files, but are no longer reported as receiving a distribution on the current BENPAY file.
- **Changed Distributions:** List any Participant who has received a distribution, but the amount of the distribution is different from what is being reported on the current BENPAY file.

The information reported on the Start and Stop reports are:

- Payee Name
- Payee SSN
- Benefit Payment Amount
- Pay mode: When the Participant receives their distribution (i.e. monthly, annually, etc.)
- Payee ID: Whether the distribution is going to a participant or beneficiary.
- Participant Name
- Participant SSN

The information reported on the Changed Distribution reports are:

- Same information as Start and Stop with the following additional fields
- Current Benefit Payment Amount
- Prior Benefit Payment Amount – the Record Keeper determines the change in distribution amount and reports only those Participants whose amount changed by \$75.00 to Bureau.

When all three reports for each Investment Providers are finished, the reports are distributed appropriately.

**K. Plan Audit Report** - The Plan Audit Report is created on a monthly basis by the Record Keeper from the data that is reported on the Monthly Value Files that is received from the each of the Investment Providers. This report, which is due 15 business days after the receipt of the MOVAL files, reflects the transaction activity amounts and then identifies any discrepancies between the total amounts reported on the MOVAL files and the individual amounts that is on the MOVAL files.

The data is collected, by fund and source, for the month and displayed in these categories:

- |                          |                        |
|--------------------------|------------------------|
| • Beginning Balance      | • Deposits             |
| • Earnings               | • Transfers In         |
| • Transfers Out          | • Withdrawals          |
| • Charges                | • Transfers to Annuity |
| • Plan to Plan Transfers | • QDROS In             |
| • QDROS Out              | • Ending Balances      |

The Report also itemizes the assets by specific Investment Provider, investment option and these accounting categories:

- |                     |                           |
|---------------------|---------------------------|
| • Pretax            | • Qualified Plan Rollover |
| • 457 Plan Rollover | • IRA Rollover            |
| • All Sources       |                           |

The Plan Audit Report also lists the monthly Participant count for each Investment Provider, and the total number of unique Participants in the plan as defined below:

- The unique Participant count is the number of Participants that are signed up with only one Investment Provider.
- The monthly Participant count is the number of Participants with an account balance.

The completed Plan Audit Report is delivered to each Investment Provider to be reconciled, with a detailed explanation for any discrepancies that have been reported for the month.

L. **Plan Audit Report Responses** - Once the Plan Audit Report has been submitted to the Investment Provider's, a detailed explanation of any discrepancies must be returned to the Record Keeper within 10 calendar days. Failure to do so will result in a \$100 daily service level credit until the corrected report is received by the Record Keeper. The Bureau must then reconcile those explanations to the discrepancies originally reported on the Plan Audit Report. That information is then collated into the Plan Audit Report Response, and submitted to Bureau.

M. **Loan File Exchange** - Record Keeper provides access to their FTP server to both the Investment Provider's and Bureau for the monthly loan files to be submitted and retrieved. The loan files are submitted by the Investment Provider before or on the fifth business day of the month. A notification will be sent out to the Investment Providers to verify the receipt of the Loan files. Another notification will be sent out to Bureau to advise that the files have been placed out on their FTP directory.

N. **Schedule of Plan Assets** - Bureau provides the Schedule of Plan Assets as of June 30<sup>th</sup>, which is due by July 15<sup>th</sup>. The Bureau request and gathers the appropriate asset data from each Investment Provider to complete the Schedule of Plan Assets. The asset information is entered into one spreadsheet which displays the following asset categories for each Investment Provider. Failure to submit a complete and accurate report will result in a \$100 service level credit each day the report is late and/or not accurate.

- |  |                                   |
|--|-----------------------------------|
| • Beginning Asset Balance (previous year ending balance) | • Participant Deposit Activity    |
| • Withdrawals  | • Company to Company Transfers In |
| • Company to Company Transfers Out                       | • Net Earnings, Gains, and Losses |
| • Change in Present Value of Annuities                   | • Ending Asset Balance            |

This Schedule displays the number and percentage of Participants that have accounts with multiple Investment Providers and it breaks out the different investment categories for each Investment Provider.

### 2.3.7 Interface with Record Keeper Services

A. See Exhibit C for transmission and implementation of the Record Keeper requirements.

- B. Implementation costs (estimated at \$75,000+) for the necessary electronic interface with the Record Keeper shall be paid by each Investment Provider. Any subsequent or start-up costs shall be paid by each Investment Provider. Information regarding the requirements associated with the necessary electronic interface with the Record Keeper can be found in Exhibit C.
- C. The Record Keeper shall function as the central Program Record Keeper and will compile daily transactions from each Investment Provider. Participants who elect to participate in the program may participate with as many Investment Providers as they elect. The Record Keeper will be responsible for directing the split of deferrals made among different Investment Providers. Each Investment Provider is required to maintain Participant records, including but not limited to investments (deferrals, cost, exchanges, transfers, etc.), demographics, and beneficiary information.
- D. Each Investment Provider will be required to provide to the Record Keeper, in an approved electronic format, all data necessary for the Record Keeper's preparation of monthly plan audits, distribution reports, annual plan audit, annual report, populate the State's website and any other reporting criteria as required in Exhibit C.
- E. Each Investment Provider shall prepare a detailed implementation and conversion plan for the Bureau, outlining all the steps necessary to set up account records, create interfaces with the Record Keeper, and establish reconciliation procedures. Current Investment Providers are not required to submit a conversion and implementation plan unless the current Provider does not intend to offer its current services.
- F. Each Investment Provider shall provide advice the Department on matters related to the implementation and recordkeeping process to the Bureau and shall establish procedures for performing services, including but not limited to, the processing of enrollments, and other requests from Participants, as requested by the Department.
- G. Each new Investment Provider shall work with the Bureau and the Record Keeper to develop an implementation plan for a compatible system that sends and receives data to and from the Record Keeper in a manner determined by the Bureau in order to successfully administer the Plan. (Exhibit C) Record keeper shall validate that requirements have been appropriately met,(within 60 days after the contract has been signed by both parties),systems have been designed to meet the Bureau's and the Record Keeper's requirements, and that adequate testing has been completed to ensure that systems handle data appropriately and are adequate to handle the transaction volume for each Investment Provider.
- H. Each Investment Provider shall work with Bureau and Record Keeper staff to provide staff training on all aspects of the implementation plan and ensure that all necessary procedures have been addressed and documented. The post implementation period shall be used by the Investment Provider to address system and business issues that were not anticipated at the time of start-up.
- I. Each Investment Provider shall establish and maintain working contacts with appropriate staff members at the Bureau and the Record Keeper. The maintenance of such contacts



includes, but is not limited to, providing a liaison and a backup liaison who is readily accessible during business hours, and who possesses the ability and authority to effectively and efficiently resolve issues which arise relating to the Investment Provider's services to the Department and Participants.

- J. The Record Keeper staff shall train the Investment Provider's Staff regarding procedures for accessing and electronically transmitting Participant data, reconciling the data, and resubmitting the participant data on a daily basis.

### **2.3.8 Participant Information Access**

- A. Each Investment Provider shall maintain an adequate number of staff and an adequate number of toll-free telephone lines(industry standard),dedicated to the State of Florida 457(b) Plan with voice response capabilities and Internet access. Both Voice Response System (VRS) and Internet access shall be available 24 hours a day, with the exception of the time necessary for the normal maintenance of the system and updating of information. All costs associated with exchanges or trades shall be communicated to the Participant prior to the Participant's trade order. The VRS and website must provide the following information and services to Participants:
  - 1. the current allocated investment options
  - 2. Participant account balance
  - 3. the current share prices
  - 4. the ability to make exchanges between funds with the same Investment Provider
  - 5. the daily changes in share prices
  - 6. PIN change
  - 7. informational brochures
  - 8. enrollment
  - 9. Participant demographic information
  - 10. beneficiaries
  - 11. deferral and contribution amounts
  - 12. paycheck calculator
  - 13. the State's plan forms
  - 14. redemption fees
  - 15. frequent trading fees
  - 16. retirement education tools
  - 17. management expense fees
- B. The service representatives shall be available to answer Participant questions between the hours of 7:00 a.m. Eastern Time and 7:00 p.m. Eastern Time each business day, unless the Department agrees to alternative hours. Each Investment Provider's client service representatives shall be able to answer all reasonably anticipated Participant questions about investment products offered by the Provider, received in writing or over the telephone, including questions about each product's performance. Changes to investment allocations shall be made to the Participant's account and record the date they are requested. Investment transfers received by 4:00 p.m. Eastern Time shall be made before the beginning of the next business day, using the previous day's net asset value, unit or share value.

- C. The Investment Provider shall ensure that the personnel answering the customer service lines are properly trained and qualified to provide accurate information on the Plan's information, procedures and its investment offerings. These representatives shall refer the Participant to the Bureau, if necessary, to address the participant's needs or concerns. The Investment Provider shall ensure that information is provided in a manner consistent with all insurance and securities laws and that all personnel who provide such information are properly licensed with all required regulatory agencies.
- D. Each Investment Provider will be required to maintain records providing daily information associated with a Participant's allocated account, including but not limited to: investment balances, allocations, contributions, transfers, distributions, earnings, investment management fees, redemption fees, frequent trading fees, current demographic information including physical and email addresses, places of employment, beneficiaries, and any other information necessary for the proper administration of a Participant's account. Each Investment Provider shall update the Bureau's recordkeeping system daily with any changes made to Participant account records.

### **2.3.9 Customer Service Representatives (CSR)**

- A. Phone – All representatives must exclusively service the State of Florida's 457(b) Program, and be properly trained to serve the Plan. There shall be a sufficient number of representatives to effectively serve the total number of Florida accounts. Each Investment Provider shall have a comprehensive plan in place to guarantee prompt response time during peak periods and give extensive training on the State's deferred compensation program. Customer Service Representatives must possess a Series 6 license registered with FINRA prior to servicing customers. The Investment Provider must also provide an adequate number of bilingual CSRs.
- B. All calls must be recorded, and 75% of calls must be answered by trained customer service representatives for this Plan within 20 seconds, with no call being placed on hold or in a queue for more than 60 seconds.
- C. Website response – Actions requested by Participants via the website must be posted within 24 hours. On-Line enrollments must be entered into the system daily and checked for acceptance the following day.
- D. Specialists - All Specialists must have extensive training on the State's IRC 457(b) Plan. Specialists shall be provided with at least six weeks of on-the-job training with a trainer that will ensure they are correctly answering questions about the Program. The trainer shall provide and ensure that Specialists understand plan specifics.
- E. Specialists that have received a Deferred Compensation issued badge are required to attend an annual training meeting by the Bureau. Failure to do so will result in a \$100.00 daily service level credit until the training has been completed.

### **2.3.10 Required Special Reports to the Bureau of Deferred Compensation**

- A. Monthly loan reports using the recordkeeping clearinghouse (See Exhibit E and F.)
- B. A participant required minimum distribution annual report shall be submitted to the Bureau in October of each year. The report will identify participants that qualify for a required minimum distribution.
- C. Information for the Program's annual report will be requested of each Vendor by the Record Keeper.
- D. Domestic Relations Orders – accounts affected shall be reported annually no later than January 31st of each year by each Investment Provider.
- E. All Investment Providers must clear their payroll discrepancy reports by the end of the next month. This report is sent to the Investment Providers operation staff by the State for each Participant payday. Failure to clear 100% of the report by the end of the next month will be a service level credit of \$100.00 a day until the report is cleared.
- F. The distribution report will be submitted monthly, in conformance with Exhibit C.
- G. All confirmations must be sent to the Bureau immediately upon a transaction by the Investment Provider.
- H. Quarterly investment information shall be sent to the Bureau 5 business days after the end of the quarter that will list the mutual funds your company offers, the Morningstar category, the Morningstar 5 year rating, ticker symbol, inception date, 1, 3,5,10 year historical rates (include fees in the returns) and Morningstar's comparative indexes and fees. Failure to submit the quarterly investment information on time will result in a \$100.00 daily service level credit until the information is submitted to the Bureau.
- I. Loan files to be in compliance with Exhibit E.
- J. The Investment Provider will provide a quarterly report to the Bureau of all its active agents that have a DFS issued badge..
- K. Investment Provider shall furnish the State a performance bond in the amount of \$500,000.00 written by an insurance company licensed to do business within the State guaranteeing the performance by Investment of the terms of this ITN.
- L. Investment Provider shall at all times maintain a fidelity bond in the amount of 10% of the Plan assets invested with Investment Provider under the Plan at the beginning of each calendar year. The Investment Provider is responsible for paying any deductible associated with the bond.
- M. Investment Provider shall furnish annually to the State no later than March of each year, a certification as to the continued correctness of its programs requirements.

### **2.3.11 Distribution**

- A. Investment Providers shall offer a full selection of distribution options to Participants. These options shall include, but not be limited to:
  - 1. life annuities
  - 2. life annuities with period certain
  - 3. joint and last survivor annuities
  - 4. designated period annuities
  - 5. systematic withdrawal options
  - 6. fixed dollar amounts
  - 7. fixed designated period amounts
  - 8. lump sum payments
  - 9. pre-authorized withdrawals without restrictions
  - 10. lifetime guaranteed minimum withdrawal benefits
- B. Participants shall be permitted to change their distribution options without penalty to the Participant, unless the participant is made aware of the charges by their signature.
- C. All fees must be reasonable, transparent, and fully disclosed to Participants. All fee disclosures will be in compliance with the Federal regulations.
- D. All Investment Providers' Plan to Plan transfers out will be monitored by the Department to ensure that the Investment Provider is in compliance with the provisions of the Plan Document, Exhibit D and this ITN.
- E. All distribution options must be capable of transfer to another Investment Provider should the Investment Provider not be renewed at the end of the contract period. Any such transfer shall be accomplished at no cost to the Participants.
- F. Upon a distribution request, each Investment Provider shall provide all Participants a tax notification with all required identification on the notice.
- G. The Department has a zero tolerance policy for senior fraud.
- H. All distributions must be in compliance with Exhibit F and G.

### **2.3.12 Quarterly Statements**

- A. Quarterly statements shall disclose all investment management fees in dollars. Fee disclosure must be in compliance with federal regulations. In addition, the quarterly statements must include all quarterly transactions, earnings, share price, and number of shares purchased and owned.
- B. Statements shall be mailed to the Participant by the 10th business day of the following quarter. Failure to mail the Participant quarterly statements within 10 business days after the end of the quarter will result in a daily service level credit of \$100 until the statements are mailed.

- C. All statement information shall be clearly disclosed to the participant.
- D. Statements shall include 1, 3, 5, 10 year returns for all of the Investment Provider's investments available to state Participants. The quarterly statement may be provided on-line with the Participant's prior approval.

### **2.3.13 Investment Provider State Program Dedicated Web site**

Each Investment Provider will provide a website solely for the Deferred Compensation Program and will be responsible for providing correct and current information and maintenance of this site. The purpose of this website is to be informative, educational and aid Participants in gaining a better understanding of investing and the importance of saving for retirement. This site shall include: Participant account balances and transaction history, available fund options, performance information for investment products including daily share or unit prices and investment performance history for individual employee accounts, all fund expenses, investment strategies, benefits of tax-deferred investing, free on-line financial educational tools, information on financial literacy, and other areas pertinent to retirement planning. It shall also include a tool for suggested portfolio allocations, "real-time" market quotes, essential topics such as the basics of investing, retirement planning concepts, any pertinent tax-law changes, and a glossary of commonly used investment terms. This website should also have the capability to allow a Participant to enroll in the plan and make allocation, deferral and demographic changes. All content for this website must be approved by the Plan Administrator prior to posting and shall not constitute an extra cost to Participants. The Website shall post all current State of Florida Deferred Compensation and Company forms on its site for participants to download. These forms must be able to be faxed or emailed back to the company.

### **2.3.14 Toll-Free Telephone Support Line**

On or before December 1, 2011, a Participant toll-free telephone support line shall be operational and available for testing. As of January 1, 2012, the line must be staffed with a sufficient number of qualified representatives to the Program who are appropriately credentialed and well-trained in all aspects of the State of Florida's 457(b) Program. The telephone number must be Telecommunications Device for the Hearing and Speech Impaired (TDD/TTY) capable. There shall also be a facility for Spanish telephone services to Participants provided as well. Representatives shall be able to but not limited to enroll Participants, answer Participant's specific account questions, make changes to the Participant's account or counsel the Participant as to how to have changes made, and shall explain any and all plan education materials. Participants initiating transactions via client service representatives shall receive a written confirmation, which shall be mailed to the address on file for the Participant within two business days. All calls shall be recorded for quality assurance and be available for review by the Bureau following 24 hours notice. All calls shall be retained by the Investment Provider for the life of the contract.

Each Investment Provider shall have a facsimile machine designated to receive documents provided by the Bureau. Each Investment Provider shall have the ability to receive participant's requests from the State office by email, phone and regular postal mail. Each staff person at the Investment Provider receiving participant information shall always have well trained backup staff to ensure timely response to emails and other requests from participants and the state deferred compensation office.

### 2.3.15 Other Requirements

- A. If a current Investment Provider is not renewed at the end of the 2011 contract period, Participants with funds invested with the non-renewed Investment Provider will be required by the Bureau to transfer balances to an approved Investment Provider. Investment Providers shall accept the account value within 5 days after a Participant has chosen to pursue the transfer for a different company, with no costs to be borne by the Participant or the Department. For Participants who do not initiate a transfer to a new Investment Provider, funds will be mapped to funds with similar investment objectives, and transferred upon authorization of the Department. Participants in distribution must also be allowed to transfer to a new Investment Provider from the non-renewed Provider within 10 days after a Participant has chosen the transfer. In the case of the Brokerage Provider, the investments shall be transferred in-kind with trailing dividends to follow at no charge to the participant. There shall be no interruption to the participant's deferrals or investments.
- B. The Participant's accounts at the non-renewed Investment Providers will be divided among the approved companies with similar investment products, unless the participant chooses a different Investment Provider prior to the move.
- C. Participants will have the option to accept the Bureau's transfer recommendation or choose a different company. The Participant will be given no more than 60 days but no less than 30 days to make such a choice.
- D. The Investment Provider will comply with the State of Florida Unclaimed property procedures as identified in Exhibit D.
- E. The Investment Provider will comply with the Bureau's "Settlement" check distribution procedures as identified in Exhibit D.
- F. The Bureau would like Investment Providers to be ready to implement Roth 457(b) Plans by 01/01/2012.
- G. Formal, in-person portfolio, operation and administrative reviews will be conducted on a semi-annual basis with Investment Providers at the Bureau in February and August of each contract year. Prior to each semi-annual review, Investment Providers will be given a list of the subjects that will be discussed and responses expected from the Investment Providers. All Investment Provider investment analysts must be present as well as the Investment Provider's State of Florida manager. The investment analyst as well as the state manager must be available to the Bureau during normal business hours, during working hours to contact.
- H. A meeting with all Investment Provider state managers and their lead operations manager will be held on a semi-annual basis at the Bureau of Deferred Compensation each contract year. The meetings described in G above will be held during the same week. Failure to comply with G. and H. above will result in a \$200.00 service level credit for each meeting missed.

- I. At the Plan Administrator's discretion, an audit, investigation, or other evaluation of the accuracy of transactions relating to the Program will be conducted by an outside vendor to act as the Plan Administrator's agent. The Investment Providers will be required to provide the Plan Administrator's the requested Participant information at the request of the Plan Administrator.

### **2.3.16 Modifications**

The Scope of Services represents what the Department believes to be in the best interest of the State. The Department reserves the right to change, add, or delete any requirement from the Scope of Services if the Department deems it to be in the best interest of the State. In addition, the Department reserves the right to withdraw and/or cancel this solicitation at any time, at no cost to the State, prior to a duly authorized and executed contract.

## **SECTION 3: SPECIAL CONDITIONS**

- A. The Department is not liable for any cost incurred by a Vendor in responding to this solicitation. The Vendor is required to examine carefully the contents of the solicitation and be thoroughly informed regarding all of its requirements.
- B. No negotiations, decisions, or actions shall be initiated or executed by the bidder as a result of any discussions in reference to the ITN with any Department employees. Only communications which are in writing from the Department in reference to this Invitation to Negotiate may be considered as duly authorized communications on behalf of the Department. The Respondent shall not engage in any lobbying efforts or other attempts to influence the Department or the evaluation team, in an effort to be selected. The selection period shall begin according to the Timetable in Section 1.4.
- C. The Department reserves the right to reject any and all Replies or to waive minor discrepancies if it is in the State's best interest to do so. The Department may, by written notice, revise and amend the solicitation before the due date for the Replies.
- D. Any provisions of Section 2 above that are inconsistent with the provisions of PUR Form 1001 hereby incorporated in this Part III as Special Conditions, shall supersede the provisions of PUR Form 1001.
- E. The Investment Provider shall not be permitted to have a serious deficiency in regulatory compliance or be subject to any circumstance which undermines public confidence in the Vendor. Within the Reply, each Respondent shall provide a statement fully describing any investigatory or regulatory action which has been undertaken and/or filed against it or any of its affiliates or subcontractors that will be involved with performing any duties or responsibilities contemplated by this ITN, within the last five years. The statement shall also include a description of any litigation filed against it, or such affiliates or subcontractors. If an action has been filed, the Respondent shall identify the court, tribunal, or agency before which the action was instituted, together with the case or file number, and its status or disposition. If no such action has been taken, the Respondent shall so state. A regulatory investigation, dispute, action, or other litigation shall be a basis for rejection of a Reply, if the Department determines that such a circumstance would do any of the following:

1. pose any risk that the Vendor may be compromised in its ability to perform the services sought in this ITN
  2. tend to undermine the public trust
  3. cause a lack of confidence in the propriety of the Respondent
  4. result in a perceived detriment to the State or to Plan Participants.
- F. Compliance with the provisions of PUR Forms 1000 and 1001, as modified by any Special Conditions of this ITN, which provisions constitute Mandatory Requirements.
- G. All specifications that are identified in Technical Specifications and Scope of Work, Section 2 are mandatory unless otherwise indicated therein.
- H. All documents that a Respondent seeks to be incorporated into the Contract must be submitted with the Respondent's Reply. No documents other than the contract document negotiated between the Department and Investment Provider will be signed by the Department. The Department reserves the right to reject any document or provision that a Respondent fails to include in its Reply.
- I. Before being submitted for technical evaluation, the Replies will be screened for the compliance with the minimum requirements in Section 2.2 above. Replies shall satisfy these mandatory minimum requirements in order to proceed into the detailed evaluation phase. Any Reply that does not meet the minimum mandatory requirements shall not receive any further consideration.

### **3.1 Response Contents and Format**

Respondents are encouraged to minimize redundancy and provide concise responses. Prepare the Response concisely and economically, providing a straightforward description of services to be provided and capabilities to satisfy the requirements of this ITN the Responses to this solicitation are to be concise and follow the outline below:

#### **3.1.1 Tab A Cover Letter and Executive Summary**– Technical Proposal Section A

The cover letter shall be on the letterhead of the entity submitting the Response. The letter shall be addressed to the Department's Purchasing Agent, must be dated, and signed by an individual who has the authority to bind the Respondent. The Respondent must state that it agrees to each of the Department's requirements of this ITN to qualify for selection under this ITN.

#### **A. Tab A-1 Proposer's Statement of Agreement**

1. The Letter of Certification must also address the following Certifications:
  - a. Does the Respondent certify acceptance and compliance with all of the Terms and Conditions detailed PUR 1001 of the ITN document?



- b. Respondent is a registered vendor in MyFloridaMarketPlace (MFMP), has proper filings with the Department of State, and is eligible to conduct business with the State of Florida?
- c. Has the Respondent certified as its understanding and agreement with all items in Technical Sections of this solicitation, or has supplied functionally equivalent alternatives?
- d. Has the Respondent certified as to the accuracy of the Response; and a statement that Respondent agrees to not seek indemnification from the Department for any costs or services?
- e. The names, titles, addresses (including e-mail), and telephone numbers of the individuals who are authorized to make representations on behalf of the Respondent.
- f. Signature of person(s) authorized to legally bind the Respondent

**B. Tab A-2 Executive Summary**

The Respondent shall provide an Executive Summary to be written in non-technical language to summarize the Respondent's overall capabilities and approaches for accomplishing the requirements specified herein. The Respondent is encouraged to limit the summary to no more than three pages.

- 1. A brief statement of the Proposer's understanding of the work to be done;
- 2. The local business address from which the firm operates, business telephone/cell phone number(s), and the name of a local contact person must also be included in the Proposal. Include Proposer's certification as to the accuracy of the Proposal; and a statement that Proposer agrees to not seek indemnification from the Department for any costs or services.

**C. Tab A-3 Management Summary**

- 1. The Proposer must provide a management plan that describes administration, management, experience, personnel, qualifications, company history, and financial information.
- 2. Administration and Management
  - a. Proposer must include a description of the organizational structure established and the methodology to be used to control costs, provide service reliability, and maintain schedules; as well as the means of coordination and communication between the organization and the Department.
  - b. Experience and References
    - 1) Experience
 

Proposer must provide documentation of previous experience in conducting services similar to the requirements of this ITN. Experience should be reflective of the Proposer's ability to perform the services requested in this ITN.

2) References

- a) The submission of Client Reference Survey (Attachment F), listing at least four client references for whom investment and 457(b) plan administrative services have been provided within the past 12 months.
- b) The list must include the client name, address (physical and email), telephone number, and contract term.
- c) The Department reserves the right to contact these references and investigate their comments as part of the overall solicitation evaluation process.
- d) The Department reserves the right to reject any bid for failure to comply with this section. If the Respondent is an Investment Provider in the current contract period for the State of Florida 457(b) Plan, the Respondent shall use the Department as a client reference Identification of Project Personnel.

c. Key Personnel

- 1) Proposer must provide the name and title of each individual who will be engaged in this project. Include a description of the functions and responsibilities of each person relative to the task to be performed.
- 2) Proposer must include a listing of all persons who will work on this project together with their experience and qualifications. All of Proposer's personnel assigned to this project will be subject to Department approval. As part of the Minimum Qualifications, the Proposer will designate specific members of the project team considered to be essential to the services to be provided as key personnel. Key personnel will be those assigned to agreed-upon key roles. Key roles should be defined within the proposed organizational structure and fulfill the Minimum Requirement of a designated support team for the Services. The Department requires that the Proposer's Contract Manager is on the designated key personnel list.
- 3) Key personnel shall function as a designated support team for the Services provided. The Respondent shall include its lead operations manager on the designated key personnel list. Each key personnel shall a trained backup to ensure workflow is not interrupted.
- 4) Staff Information
  - a) List all staff assigned to this project, including any subcontractors. The following information must be provided for each:
    - Name;
    - Title;
    - Specific work or role to be performed and/or services to be provided. All personnel named for key roles shall be clearly designated as such;
    - Description of qualifications and relevant experience that makes proposed individual suitable for designated role on this project;
    - Percentage of time to be dedicated to this project if the Proposer is selected, and the number of other projects currently assigned;
    - Any additional information that indicates the individual's ability to aid the Proposer in successfully performing the work involved in this solicitation; and

- Résumé.
- b) Subcontractors may be used. However, the vendor will be responsible to meeting the timeframes provided regardless of delays caused by a subcontractor.

### **3.1.2 Tab B – Qualifications Requirements – Technical Proposal Section B**

All Proposals received will be screened for compliance with these minimum qualifications. Any Proposal that does not demonstrate satisfaction of the minimum qualifications will not receive any further consideration. The mandatory minimum qualifications are:

- A. Tab B-1 Provide a summary of the Respondent’s background (including its age, stability, financial viability), specifically providing the vendor’s managing officers and the qualifications and relevant experience any key personnel assigned to this project.
- B. Tab B-2 Provide a concise summary of the products and services offered to meet the State’s needs, the Respondent’s approach to providing the services, the benefits that the State will derive from completing the project, and documentation as to why the Responder is best qualified to perform this engagement.
- C. Tab B-3 Provide Respondent(s) Financial Statements: Include independent evidence of sufficient financial resources and stability for Responder(s) to provide the services sought, such as audited financial statements that includes balance sheets and income statements for the past two fiscal years
- D. Tab B-4 “As a minimum qualifications requirement, Respondent must have a Florida business registration, as required by Sec. 607.1501, Florida Statutes, which registration is with the Secretary of State.”
- E. Tab B-5 Provide a summary of the Respondent’s locations and staffing in Florida. Provide a summary of the Bidder’s ability to respond to the need for local contacts from the Department and the local communities served by the Department

### **3.1.3 Tab C - Technical Response – Technical Proposal Section C**

Include all mandatory requirements listed and respond to all technical requirements in Attachment C, Scope of Work, labeled in the order in which they are numbered in Attachment C.

### **3.1.4 Summary of Initial Responsiveness Mandatory Documents and Requirements – Technical Proposal**

- A. The Investment Providers systems must be able to transmit data to the Record Keeper, in the manner in which the Record Keeper requires. The Investment Provider shall report data to the current Record Keeper by way of daily electronic file transfer and pay all costs associated with the ability to transfer such data. (Exhibit C)
- B. The Respondents must have been providing investment services to a Plan Sponsored IRC 457(b) defined contribution program with at least twenty-five thousand (25,000) Participants.

- C. The Respondents must have a minimum of five years experience in administration and management of a public sector employer sponsored IRC 457(b) defined contribution plan.
- D. All Respondents must be able to completely fund all its own cost (including start-up costs) for this program
  - 1. The Proposal must be delivered timely.
  - 2. The Proposal must include an original of the Technical Proposal and the Price/Cost Proposals. Also include **5** paper copies of the Technical Proposal and the Price/Cost Proposals and **6** digital copies (compact disks) of the Technical Proposal. {modifies PUR 1001 ¶ 3}
  - 3. The Technical Proposal must include all Mandatory Requirements listed in the ITN, and respond to all technical requirements in Attachment C, Scope of Work, and must include all mandatory forms and attachments.
  - 4. The Technical Proposal must include evidence of Proposer’s qualifications.
  - 5. The separately sealed Price/Cost Proposal must include the proposed price and a signature by an authorized representative of the Proposer.
  - 6. The requirements of Section 2 of this ITN are complete.
  - 7. The Respondent complies with the requirement for not being placed on the Convicted Vendor list for committing a public entity crime within the last 36 months? (See Form PUR 1001 Section 7)
  - 8. The Respondent complies with the requirement for not being placed on the Discriminatory Vendor List per s. 287.134 F.S.? (See Form PUR 1001 Section 8)
  - 9. The Respondent meets the requirements for Insurance as outlined in Section 3.4.3 \_\_\_ of this ITN?
  - 10. The Respondent has certified acceptance of all Terms and Conditions of this solicitation?

Proposers are further reminded that conditions and specifications, which are considered mandatory requirements are expressed with the word “shall” or “must” in the description of the requirement. ITN Proposals that fail to demonstrate both willingness and ability to comply with such a condition or specification will be considered non-responsive. Responses shall be considered **nonresponsive if they contain disclaimers** in either the technical or price Response that the Response is for evaluation purposes only and should not be interpreted as a binding offer or commitment on the part of the Respondent.

### **3.1.5 Tab D Optional Forms– Technical Proposal Section D**

#### **Identical Tie Response (Optional)**

Whenever identical solicitation Response points are received, preference shall be given to the Response certifying in accordance with Section 60A-1.011, Florida Administrative Code and Florida Statutes. It is optional to include an Identical Tie Response Form attached as Attachment B, if applicable to the Respondent.

### **3.1.6 Cost Proposal (THIS INFORMATION SHALL BE SUBMITTED SEPARATELY FROM ALL OTHER SUBMISSION DOCUMENTS)**

The Cost Proposal must include the costs proposed and a signature by an authorized representative of the Respondent.

## **3.2 SUBMISSION INSTRUCTIONS**

### **3.2.1 Submittal of Response**

Responses shall be prepared simply and economically. The Department is not liable for any cost incurred by a Respondent in responding to this solicitation. The Respondent is required to examine carefully the contents of the solicitation and be thoroughly informed regarding all of its requirements.

The objective of this solicitation is to elicit firm contractual offers subject to negotiation. For a proposal to be responsive the respondent must be committed to enter into a contract based on this ITN and the respondent's proposal. If a proposal contains language which withdraws or negates commitments to requirements of the ITN, or qualifies the proposal such that it is not a firm offer to contract under terms consistent with the requirements of this ITN, the submission shall be subject to being deemed nonresponsive and rejected. Respondents are cautioned to carefully proofread responses to ensure the removal of boilerplate disclaimers which have the effect of negating commitments made elsewhere in the proposal.

### **3.2.2 Format and Copies**

- A. The Sealed Response must be received in the Purchasing Office at the 200 East Gaines Street, Larson Bldg., Attn: Fran Spivey, Purchasing Services, Tallahassee, FL 32399-0317 by the deadline listed in the Timeline in Section 1.4. All responses received by the deadline will be opened in the Purchasing Office at that time. Mark the Response package clearly on the outside with: RESPONSE NUMBER, DATE AND TIME OF RESPONSE OPENING box of binders as described below as noted below. Provide one (1) original and five (5) copies of the Response and 6 digital copies (compact disks). (This submission requirement replaces the submission instructions in PUR 1001 ¶ 3.)
- B. The “original” Proposal will contain the originals of any documents required to be signed as part of the proposal submission (e.g., cover letter). The original Proposal as submitted should bear the following printed information on both its outside front cover, and on its spine:
  - Proposer's exact legal name, in which name the contract would be awarded
  - Proposal regarding DFS TR ITN 11/12-02
  - ORIGINAL, Binder \_\_ of \_\_
- C. Include with the copies of the proposal photocopies of signed documents. Bind each copy in a 3-ring binder(s) just as the original, with a complete and exact duplicate of the original. For each copy, all sections may be contained in one binder clearly labeled at each section and tab. Each copy of the proposal should bear the following printed information on both its outside front cover, and on its spine:
  - Proposer's name in which the contract would be awarded
  - Proposal regarding DFS TR ITN 11/12-02

- Copy # \_\_\_\_, Binder \_\_ of \_\_

### **3.2.3 Communications**

- A. Notice required by statute: Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.
- B. No negotiations, decisions, or actions shall be initiated or executed by the Respondent as a result of any discussions with any Department employees. Only communications which are in writing from the Department may be considered as duly authorized communications on behalf of the Department. During selection the respondent, its agents and employees will not engage in any written or verbal communication with any department employees whether or not such individual is assisting in the selection of the respondent, regarding the merits of the respondent or whether the department should retain or select the respondent. The respondent will not engage in any lobbying efforts or other attempts to influence the department, the evaluation team, in an effort to be selected. The selection period shall begin according to the Timetable in Section 1.4.

**3.2.4 Clarifications/Revisions.** Before award, the Department reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all Respondents deemed eligible for Contract award. Failure to provide requested information may result in rejection of the Response.

### **3.3 EVALUATION PROCESS**

Responses shall be opened on the date and at the location indicated on the Timeline.

Respondents may, but are not required to, attend. The Department may choose not to announce prices or release other materials pursuant to s. 119.07(1) (b), Florida Statutes. Prices will not be read at the ITN Opening.

#### **3.3.1 Evaluation Team**

An evaluation team consisting of at least three members, appointed in writing by the Department, will evaluate the Responses. Each member will evaluate the technical Response independently of the others using Evaluation Criteria in Attachment C.

#### **3.3.2 Determination of Conformance**

- A. Responses must satisfy certain mandatory minimum (initial responsiveness) requirements in order to proceed into the detailed evaluation phase. All Responses will be reviewed for compliance with these mandatory minimum requirements. Evaluators will verify that all mandatory technical requirements are met and addressed. Responses that meet these requirements will be accepted into a detailed evaluation phase. **WARNING:** Responses that fail to meet these mandatory minimum requirements will be rejected and considered no further in the evaluation process.

- B. The objective of this solicitation is to elicit firm contractual offers subject to the Department's acceptance. For a proposal to be responsive the respondent must be committed to enter into a contract based on this ITN and the respondent's proposal. If a proposal contains language which withdraws or negates commitments to requirements of the ITN, or qualifies the proposal such that it is not a firm offer to contract under terms consistent with the requirements of this ITN, the submission shall be subject to being deemed nonresponsive and rejected. Respondents are cautioned to carefully proofread responses to ensure the removal of boilerplate disclaimers which have the effect of negating commitments made elsewhere in the proposal

### 3.3.3 Evaluation of Responses

- A. Each team member will evaluate their copy of the Response independent of the others and establish a competitive range of Responses reasonably susceptible of award, based on the evaluation criteria.
- B. In determining whether to select or reject a Response, the Department will consider and evaluate all information submitted in response to this ITN, including information presented during oral presentation, if required; and to this extent, each requirement for solicited information is an evaluation criterion. Responses that do not contain all the required information may be considered non-responsive and may be rejected. In its assessment of Responses, the Department will analyze the information submitted in relation to the information requirements and evaluation criteria of this ITN, the applicable provisions of the Florida Statutes, and the Florida Administrative Code, and will compare each Response to the other Responses submitted and establish a competitive range of Responses that are reasonably susceptible of award. The Department may then select one or more Responses within the Competitive Range with which to commence negotiations, or may reject all Responses.

### 3.3.4 Evaluation Criteria

3.3.4.1 Response Evaluation Criteria: The criteria that will be used for determining the selection of the vendors for negotiation and award are specified below.

Technical Criteria: The Department will assemble an evaluation team. Each member of the team will score the responses submitted. The scoring by each Team member will be aggregated to establish an overall ranking by the Team for each category in Evaluation Criteria below. **The points shall be allocated based of the fulfillment of the needs of the Department and the Participants and as indicated within this ITN.**

- A. Experience and Credentials (24 Points)
  - 1. Experience in administering other 457(b) plans. (5pts)
  - 2. Total of 457(b) plan assets under management. (5pts)
  - 3. Experience in administering other types of retirement plans. (2pts)
  - 4. Retirement plan assets under management. (2pts)
  - 5. Client references. References will be contacted to determine the services provided and the extent of client satisfaction. (10pts)

B. Regulatory Compliance and Financial Stability (20 Points)

1. Demonstrated evidence of financial strength. (10pts)
2. History of compliance with applicable State and Federal laws, rules, and regulations. (10pts)

C. Marketing and Education (25 Points)

1. The number of field representatives located in Florida and/or phone representatives to assist in the enrollment and servicing of Participants. (10pts)
2. Demonstrated products, website, experience and commitment to marketing and providing education related to deferred compensation programs. (10pts)
3. Financial advice- Respondents will offer free on-line financial advice using a third party. (5pts)

D. Innovation (10 Points)

The Department seeks to achieve the best value for the State in its service to Plan Participants. To that end, the Department seeks innovative proposals regarding ways to enhance the Plan for the benefit of Plan Participants. Replies containing proposals that will assist the Department in achieving its goal for the State may be awarded points for innovation. Those proposals relating to enhancement of the return, safety, and value of investment products are most encouraged.

E. Services (30 Points)

1. Functional, industry standard computer systems which are compatible with the State's Record Keeper and meet all of the criteria in Exhibit C. (10pts)
2. An organizational structure, including a customer relations department that is compatible with the Bureau and which provides excellent service to Participants. (10pts)
3. Effective internal control and risk management procedures. (5pts)
4. Prior recordkeeping experience. (5pts)

F. Investment Products. The Investment Providers' Replies will be evaluated as identified in Paragraphs 1-7 below.

1. Equity Investment Products

- a. Fund reimbursement fees. (4pts)  
( $\leq 26$ bps=4pts, 27-29bps=3pts, 30-35bps=2pts, 36-40bps=1pt,  $>40=0$ pts)
- b. Aggregate Performance – 3 year rolling average fund category percentile ranking. (4pts)  
(1-20%=4pts, 21-30%=3pts, 31-40%=2pts, 41-50%=1pt,  $>50=0$ pts)
- c. Ability and ease to change investment funds on an Investment Provider's platform. (4pts)

2. Fixed Income Investment Products

- a. Floor rate proposed. (4pts)  
(400-350bps=4pts, 349-300bps=3pts, 299-200bps=2pts, 199-50bps=1pt,  $<50$ bps=0pts)
- b. Deposit products. (1pt)



- c. Stable value fund. (4pts)
3. Target Date Funds
    - a. Aggregate Performance- 3 year rolling average fund category percentile ranking. (4pts)  
(1-20%=4pts, 21-30%=3pts, 31-40%=2pts, 41-50%=1pt, >50%=0pts)
    - b. Aggregate fund reimbursement fees. (4pts)  
(<30bps=4pts, <32bps=3pts, <34bps=2pts, <35bps=1pt, >35bps=0pts)
  4. Investments with a Guaranteed Retirement Amount
    - a. Ability to transfer product to another vendor. (1pt)
  5. Advice or Managed Account Service
    - a. Ease of enrolling and exiting the service. (0.2pts)
    - b. Cost of Managed Portfolio (full service). (0.4pts)  
(<40bps=0.4pt, 40-49bps=0.3pt, 50-60bps=0.2pt, 61-65bps=0.1pt, >65bps=0pts)
    - c. Cost of Hybrid Service. (0.4pts)  
(<25bps=0.4pt, 26-34bps=0.3pt, 35-45bps=0.2pt, 46-50bps=0.1pt, >50bps=0pts)
  6. Brokerage Service
    - a. Cost of Electronic Trades (stocks, nonproprietary ETFs). (0.5pt)  
(<\$8.95=0.5pt, >\$8.95=0pts)
    - b. Cost of Electronic Trades (Proprietary ETFs). (0.25pt)  
(\$0=0.25pt, >\$0=0pts)
    - c. Cost of Broker Assisted Trades (stocks, ETFs). (0.25pt)  
(Electronic commission+\$25=0.25pt, >=0pts)
    - d. Cost of Electronic Trades (mutual funds). (0.5pt)  
(≤56bps of principal=0.5pt, >56bps of principal=0pts)
    - e. Cost of Broker Assisted Trades (mutual funds). (0.25pt)  
(≤70bps of principal+\$25=0.25pt, >70bps of principal+\$25=0pts)
    - f. Minimum/Maximum for Purchases and Sales. (0.25pt)  
(\$35-\$49.95=0.25pt, >\$35-\$49.95=0pts)
  7. Plan Administrative Fees.  
(\$0=5pts, >\$0=0pts)

### **3.3.5 Reservations**

3.3.5.1 The Department reserves the right to reject any and / or all Responses, or to waive minor discrepancies if it is in the Department's best interest to do so. The Department may, by written notice, revise and amend the solicitation before the due date for the Responses.

3.3.5.2 In determining Respondent's responsibility as a vendor, the Department shall consider all information or evidence which is gathered or comes to the attention of the Department which demonstrates the Respondent's capability to fully satisfy the requirements of the solicitation and the contract.

3.3.5.3 The Department reserves the right to perform an on-site visit to the location(s) where contract services are proposed to be performed to verify information submitted in the Investment Provider's Reply. If the Department elects to perform such a visit, the Department will contact the Investment Provider to make such arrangements. Any discovery that information contained in a Reply is materially untrue will be a basis to reject a Reply as non-responsive. Information obtained in an on-site visit may be used by the Department to assist in the selection process, based on the standard of the best value for the State. The contract entered into pursuant to this ITN shall fully replace any contract previously entered into between the Department and an Investment Provider.

### **3.3.6 Negotiation Stage**

3.3.6.1 The Department may select one or more Respondents within the Competitive Range of scores assigned by the evaluation team with which to commence negotiations. The number of respondents that will be invited to the negotiation stage has not been determined. The decision will be made by the selection committee based on the desire to make a broad variety of investment choices available to participants while optimizing the used of the Department's administrative resources. The best interest of the state in its fulfillment of its obligation to serve the Plan Participants will be the guiding principle in deciding how many Respondents to invite to negotiations.

3.3.6.2 Selected Respondent(s) will be invited to provide more detailed clarifications of their Responses, to provide interactive presentations of the Responses, and to enter into negotiations with the Department. Based on the clarifications, presentations and negotiations, the Department will either (i) award the contract to the Respondents who provide the best value for the Department and the State based on the selection criteria, or (ii) reject all Responses. The Department reserves the right to negotiate concurrently or sequentially with competing Respondents.

### **3.3.7 Contract Award**

3.3.7.1 After negotiations are conducted, the Department shall award the contract to the responsible and responsive Respondent that the Department determines will provide the best value to the state and the Plan Participants, based on the Selection Criteria. The Department may enter into a contract with the Respondents- who offer- the best value for the State while collectively providing the array of products and services sought through this ITN to best meet the needs of Participants.

3.3.7.2 The Department will coordinate a contract for signature, substantially in the form attached as Attachment D, between the Department and the successful Respondent(s), that incorporates this Invitation to Negotiate and the awarded Respondent's Response as soon as possible after the posting of the notice of award on the Vendor Bid System (VBS) website, [http://fcn.state.fl.us/owavbs/owa/vbs\\_main\\_menu](http://fcn.state.fl.us/owavbs/owa/vbs_main_menu)

3.3.7.3 The Department is not bound to enter into a contract with the winning Respondent unless the Department is able to negotiate the conditions and price that it considers fair, competitive, and reasonable.

3.3.7.4 After selection of the Contractor, the Invitation to Negotiate (including addenda thereto, if any), the Proposal of the Contractor, and the executed Contract will constitute the entire agreement of the parties and will supersede any prior representations, commitments, conditions, or agreements between the parties. In the event of conflict among the terms and conditions of the various documents, the Contract shall prevail over the Invitation to Negotiate and the Invitation to Negotiate shall prevail over the terms of the Proposal. The term “Proposal” includes both the Technical and Price Proposals submitted in response hereto.

3.3.7.5 The Contract shall be substantially in the form attached as Attachment D to the ITN, with only such non-substantive changes therein as shall be necessary to the orderly administration of the program/Project.

3.3.7.6 Modifications as noted in response to the Proposers' questions and any other Addenda to the ITN are incorporated into the ITN. The Department reserves the right to amend this Invitation to Negotiate by an addendum prior to the date for Proposal submission. If there are any perceived inconsistencies among any of the provisions of the ITN and its attachments, Proposers shall bring these inconsistencies to the attention of the Department prior to the submission of the Proposal.

### **3.3.8 Nonexclusive Contract**

This procurement will not result in an exclusive license to provide the services/products described in this ITN or the resulting contract. The Department may, in compliance with applicable law, contract with other vendors to provide the same or similar services.

## **3.4 ADDITIONAL CONTRACT TERMS**

### **3.4.1 Entire Contract; Order of Precedence**

3.4.1.1 The Contract document, substantially in the form attached as Attachment D, and listed addenda, and the Contractor's Response and in that order, state all of the rights and responsibilities of, and supersede all prior oral and written communications between, the parties. The Department objects to and shall not consider any terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response, which are inconsistent with or contrary to the requirements, terms, or conditions of the ITN. In submitting its response, a Respondent agrees that any such inconsistent or contrary terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect.

Notwithstanding the requirement of paragraph 3.4.1 above, in the event there is only one Reply and that Reply is non-responsive in that it deviates from material requirements of this ITN, the Department reserves the right to negotiate with the Respondent making the Reply to form a contract that meets the requirements of applicable law and is, in the sole judgment of the Department, in the best interest of the State in its service to Participants. In the event that an incumbent vendor possesses information about the services to be provided which creates a material advantage over other respondents, the respondent possessing the information shall provide a mitigation plan and provide all documentation supporting a description of the technical and service requirements. If such mitigation plan is not provided 24 hours prior to the due date for solicitation response to questions to be posted, such vendor's solicitation response, if

competing, may be deemed nonconforming or the Department may subtract evaluation points from the evaluation of the vendor's proposal for failure to provide a timely mitigation plan.

### **3.4.2 Renewal and Termination**

By mutual agreement of the parties, and pursuant to section 287.057(13), Florida Statutes, the Department may renew the Contract for one or more periods not exceeding a total of five years collectively. The Department shall have the right to terminate or suspend the Contract, by providing the Contractor a notice of non-renewal. The Contractor shall not perform any Services after it receives the notice of termination, except as necessary to complete the transition or continued portion of the Contract, if any. The Investment Provider will cease writing new business. Within 90 days the Investment Provider shall accomplish a transfer of 100% of its Participant accounts to other vendors as requested by the Bureau.

### **3.4.3 Performance and Fidelity Bonds**

#### **3.4.3.1 Contract Performance Bond**

Before the effective date of the contract, the Investment Provider must furnish a Performance Bond or Letter of Credit written by an insurance company having a certificate of authority to do business within the State of Florida. The Performance Bond or Letter of Credit shall contain a specific provision for the payment to the Chief Financial Officer on behalf of the State, of liquidated damages in the amount of \$500,000.00) in the event that the Investment Provider is terminated for cause, to compensate the Plan Administrator for damages and expenses incurred. As an alternative, the Investment Provider may deposit \$500,000 in the State Treasury Cash Deposit Trust Fund for this purpose. Funds placed in this trust fund will earn interest for the Investment Provider.

#### **3.4.3.2 Contract Fidelity Bond**

The Investment Provider shall, as of the contract effective date and at all times during the contract term, maintain a fidelity bond or cash deposit with the State Treasury in the amount of 10% of Plan assets invested with Investment Provider under the Plan at the end of each calendar year. The fidelity bond will ensure against crime, including computer crime and must be issued by an insurer holding a valid certificate of authority from the Florida Office of Insurance Regulation. The bond must provide coverage against intentional acts as well as negligent acts or omissions in connection with its activities under the Contract and shall name the Department as an additional named insured. The fidelity bond must be made available for inspection by the Plan Administrator, and shall not be changed, cancelled, or altered without express written approval by the Department

3.4.3.3 Contractor shall require each of its subcontractors to secure and maintain the above insurance coverage and Contractor shall also be a named insured. Such coverage may be reduced with the consent of the Contract manager since certain subcontractors have potentially less exposure in liability than other subcontractors. Except as agreed in a separate writing, no self-insurance coverage shall be acceptable unless Contractor is licensed or authorized to self-insure for a particular coverage listed above in the state of Florida, or is an insured member of a self-insurance group that is licensed to self-insure in the State of Florida.

### **3.4.4 Public Records**

3.4.4.1 Notwithstanding any provisions to the contrary, public records shall be made available pursuant to the provisions of the Public Records Act. Trade secrets are not solicited or desired as submissions with Proposals. Section 812.081, Florida Statutes, defines trade secrets. If the Proposer submits a Proposal containing trade secrets, the Proposer shall submit a statement titled "Notice of Trade Secrets." This Notice shall clearly identify specific sections of the Proposal that are trade secrets and identify the reason for each designation. If the Department receives a public records request related to the Proposal, the Proposers who have filed Notices of Trade Secrets shall be notified of the request. The Proposer shall be solely responsible for taking whatever action it deems appropriate to legally protect its claim of exemption from the public records law. Such protection shall be accomplished within 15 business days of the notification of the public records request by the Department. Failure to protect the trade secret shall constitute a waiver of any claim of confidentiality and the Department shall release the requested document. Any prospective Proposer acknowledges that the protection afforded by section 815.045, Florida Statutes, is incomplete, and it is hereby agreed that that no right or remedy for damages arises from any disclosure. (modifies PUR 1000 ¶33 and PUR 1001, ¶19). The successful Proposer shall retain such records for the longer of (3) three years after the expiration of the awarded Contract or the period required by the General Records Schedules maintained by the Florida Department of State (available at: [http://dlis.dos.state.fl.us/recordsmgmt/gen\\_records\\_schedules.cfm](http://dlis.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm)).

3.4.4.2 The Contractor shall require the Contractor's employees and its subcontractors to comply with public records laws, specifically to:

- A. Keep and maintain the public records that ordinarily and necessarily would be required by the Department in order to perform the service or activity.
- B. Provide the public with access to such public records on the same terms and conditions that the Department would provide the records and at a cost that does not exceed that provided in Chapter 119, F.S., or as otherwise provided by law.
- C. Ensure that records that are exempt or records that are confidential and exempt are not disclosed except as authorized by law.
- D. Meet all requirements for retaining records and transfer to the Department, at no cost, all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

### **3.4.5 Modification of Terms**

- A. Any terms and conditions that the Contractor provides with or before or after delivery that attempt to modify the Contract or add additional restrictions of usage, license conditions, or requirements have no effect and are not enforceable under the Contract. (modifies PUR 1000 ¶42) Any proposed software license agreement, service level

agreement, or any other draft agreement submitted in the Response shall not contain any provisions, unless such provisions are expressly negated in the Response, which:

1. are inconsistent with Florida law,
  2. exclude, prohibit, or negate other contract documents,
  3. subject the State of Florida to the jurisdiction of another state, or
  4. provide that the State will indemnify the contractor or any other person,
- B. All work materials developed or provided by [*Contractor/Consultant/your term here*] under this [*agreement/contract/your term here*] and any prior agreement between the parties shall be deemed to be work made for hire and owned exclusively by the State of Florida, Department of Financial Services.

### **3.4.6 Background and employment eligibility verification**

- A. Pursuant to the Governor's Executive Order 11-116, upon hiring any new employees during the term of the Contract, the Contractor must participate in the federal E-Verify Program for Employment Verification under the terms provided in the "Memorandum of Understanding" with the federal Department of Homeland Security governing the program. The Contractor agrees to provide to the Department, within thirty days of hiring new employees, documentation of such enrollment in the form of a copy of the E-Verify "Edit Company Profile" screen, which contains proof of enrollment in the E-Verify Program.
- B. The Contractor further agrees that it will require each subcontractor that performs work under the Contract to enroll and participate in the E-Verify Program upon hiring new employees during the term of the Contract. Participation in the E-Verify Program extends to the Contractor's and subcontractor's Florida employees and those employees hired to work directly on the Contract. The Contractor shall obtain from the subcontractor(s) a copy of the "Edit Company Profile" screen indicating enrollment in the E-Verify Program and make such record(s) available to the Department upon request.
- C. Compliance with the terms of this Employment Eligibility Verification provision will be an express condition of the Contract and the Department may treat a failure to comply as a material breach of the Contract.
- D. The Contractor is responsible for payment of costs if any, and retaining records relating to, employment eligibility verification, which records are exempt from Chapter 119, F.S.

### **3.4.7 Limitation of Liability**

- A. The Indemnification provisions of this ITN and its incorporated PUR 1000-19 shall apply with the following clarifications, except that each party shall be responsible for its own attorney fees. The procedures set forth below shall apply to all indemnity obligations under this Contract. (except as otherwise expressly provided below):

1. The Contractor shall be fully liable for the actions of its agents, employees, partners, or Subcontractors and shall fully indemnify, defend, and hold harmless the State and Customers, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to:
  - (a) Any claim by, on behalf of, or pertaining to a Contractor Subcontractor or Contractor personnel in relation to the Contract or the Services. In the case of a claim by employees of Contractor (or of any of its Subcontractors), Contractor's indemnification of the State and Customers will be to the same extent as if the claim was made by a person who is not an employee of Contractor (or its Subcontractor) – i.e., the Contractor's indemnification obligations to the will not be subject to any limitation of the Contractor's liability to the person claiming injury under workers' compensation or similar Laws;
  - (b) Any claim that, if true, would constitute a breach of the Contractor's obligations with respect to any Confidential Information or data security;
  - (c) Any claim that any Personal Information (as defined in Sec. 817. 5681, F. S.) was misused or improperly disclosed due to any act or omission of the Contractor (or any entity or person for which the Contractor is responsible);
  - (d) Any claim that, if true, would arise from or be attributable to a breach of Contractor's obligations to comply with Laws;
  - (e) Any claim that, if true, would arise from or be attributable to a breach of the Contractor's warranties regarding non-infringement of Deliverables;
  - (f) Any claim that, if true, would arise from or be attributable to fraud, theft, or embezzlement by any Contractor (or Subcontractor) personnel;
  - (g) Any claim that, if true, would arise from or be attributable to an intentional tort, willful misconduct (including intentional breach of contract), unlawful conduct, or gross negligence of the Contractor (or any entity or person for which the Contractor is responsible);
  - (h) Personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by the Contractor, its agents, employees, partners, or Subcontractors,
  - (i) Notwithstanding anything to the contrary, nothing in this section will be construed to impose any limitation on compliance with Rule 60A-1.006 (3), F.A.C. The Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or a Customer.

### **3.4.8 Security and Confidentiality**

3.4.8.1 Contractor, its employees, subcontractors and agents shall comply with all security procedures of the Department in performance of this Contract. The Contractor shall provide immediate notice to the Department in the event it becomes aware of any security breach and any unauthorized transmission of State data or of any allegation or suspected violation of security procedures of the Department. Except as required by law or legal process, and after notice to the Department, Contractor shall not divulge to third parties any confidential information obtained by Contractor its employees, subcontractors or agents in the course of performing the Services. Contractor shall not be required to keep confidential information that is publicly available through no fault of Contractor, material that Contractor developed independently without relying on the State's confidential information or information that is otherwise obtainable under state law as a public record.

3.4.8.2 Providers under contract with the agency are required to comply with all the Department's policies, procedures and guidelines governing security including AP&P 4-03, Information Technology Security Policy (CSIRT). The contract shall identify the security requirements applicable to the contract as network access or on-site access to physical resources such as servers.

3.4.8.3 Ensure all access is promptly terminated for every provider staff upon completion of contract.

3.4.8.4 The Contractor is responsible for security of all Contractor services outlined within the Contract. Data containing any confidential or exempt information shall be readily identifiable. The Contractor will initiate internal CSIRT procedures as defined by the Contractor's security policies.

### **3.4.9 Audit Requirements**

- A. Contractor agrees to maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement.
  
- B. These records shall be available at all reasonable times for inspection, review, or audit by Department personnel and other personnel duly authorized by Department. The term "reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

### **3.4.10 No Advertising or Endorsements**

The Contractor's services to the Department may be generally stated and described in the Contractor's professional resume. The Contractor may not give the impression in any event or manner, that the Department recommends or endorses the Contractor

### **3.4.11 Conflict of Interest.**

During the term of the Contract, Contractor shall not knowingly employ, subcontract with, or sub-grant to any person (including any non-governmental entity in which such person has an employment or other material interest as defined by section 112.312 (15), Florida Statutes) who is employed by the State or who has participated in the performance or procurement of the Contract, except as provided in section 112.3185, Florida Statutes



### **3.4.12 Dispute Resolution**

The provisions of PUR 1000 ¶31 are intentionally omitted. Except as otherwise provided by law and the resulting contract, the Parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this ITN or the resulting contract. (This modifies PUR 1000 ¶31.)

### **3.4.13 Acceptance**

DFS reserves the right to reject any proposal as incomplete, inadequate, or unacceptable.

## ATTACHMENT A

### Cost/Price Proposal

Aggregate fund reimbursement fee for mutual funds and comingled trusts <i>(aggregate fees of portfolio may not be &gt;40bps)</i>	_____	bps
Aggregate target date fund reimbursement fee <i>(aggregate reimbursement fees may not be &gt;35bps)</i>	_____	bps
Cost of Guaranteed Retirement Amount Investment Account	_____	bps
Managed Account/Advisory Service <i>(may not be &gt;60bps)</i>		
Full Service Portfolio Management (Do it for me)	_____	bps
Hybrid Service (Some Management)	_____	bps
Internet/Phone Rep Advisory Services (Do it myself)	_____	bps
Fixed Account (Guarantee of principal and interest) floor rate	_____	bps
Stable Value Fund fees <i>(fees must be <math>\leq</math> 32bps)</i>	_____	bps
Brokerage Services		
<b>Stocks</b>		
Electronic Trades		
Stocks and non-proprietary ETFs	\$ _____	trade
Proprietary ETFs	\$ _____	trade
Broker Assisted	\$ _____	trade
<b>Mutual Funds</b>		
Electronic Trades	_____	bps
Purchase/Sale	min    \$ _____    max    \$ _____	
Broker Assisted	_____	bps
Purchase/Sale	min    \$ _____    max    \$ _____	
Plan Administrative Fee	\$ _____	

## ATTACHMENT B

### Identical Tie Response Certification

Preference shall be given to the vendor, in the event of identical tie Responses, who (check the applicable block) certifies one or more of the following:

- A. The response is from a certified minority-owned firm or company;
- B. The response is from a Florida-domiciled entity
- C. The commodities are manufactured, grown, or produced within this state;
- D. Foreign manufacturer with a factory in the State employing over 200 employees working in the State.
- E. Businesses with drug-free workplace programs. Whenever two (2) or more solicitation Responses which are equal with respect to price, quality and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a solicitation Response received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie solicitation Responses will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under solicitation a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees, as a condition of working on the commodities or contractual services that are under contract, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any State, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

I certify that this firm complies fully with the above-selected requirements. (If item E above is selected, subsections "1" through "6" have been met.)

Contractor's Name: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

## ATTACHMENT C

### SCOPE OF WORK & TECHNICAL SPECIFICATIONS QUESTIONNAIRE

#### VENDOR QUESTIONNAIRE

This questionnaire can only be completed and submitted by a Vendor who is eligible to respond. Each Vendor is required to answer all questions and any questions not answered will be scored at zero and the scores will be included in the overall evaluation.

Provide a statement of your company's commitment to the services you are proposing to provide, and a statement of your company's commitment to the minimum mandatory requirements in **Section 2.2** of the ITN.

If you are a new vendor responding to this ITN, submit your conversion plan with this questionnaire.

#### SECTION A: EXPERIENCE AND CREDENTIALS

1. Provide a brief history of your company including the following:
  - a) year of organization;
  - b) history and philosophy;
  - c) year IRC 457(b) services were initiated;
  - d) development of 457(b)-business line;
  - e) development of other major business lines;
  - f) identify company's ownership;
  - g) nature of relationships with affiliated companies or joint ventures; and
  - h) financial strength
2. Provide a brief summary of the following: Please state if your company is a current Investment Provider in the Florida 457(b) Plan.
  - a) the largest three 457(b) plans that your company currently has a contact with;
  - b) the size of the 457(b) above plans (number of participants and amount of assets);
  - c) administration/record keeping and education of the above plans; and
  - d) are brokerage services offered in the above plans?
3. Provide the name, asset size, number of participants, contact person, and phone number of four existing 457(b) clients whom we may contact for references. Ensure the four references are similar to the Program for which your company provides services, comparable to those proposed. If your company has previously been in the State of Florida 457(b) Plan, please use Florida as a reference. Please provide this information on attachment E.
4. Provide the name and number of 457(b) clients your company has gained or lost in the past three years. Include assets lost, number of plans lost, and reasons for loss or non-renewal.
5. If you are a current Investment Provider, please provide a plan cost analysis sheet.

## **SECTION B: REGULATORY COMPLIANCE AND FINANCIAL STABILITY**

1. Provide a copy of your company's most recent audited annual report.
2. Is there any pending litigation or regulatory action against your company? If so, give details and provide an opinion of counsel that the pending litigation or regulatory action will not impair company's performance or financial stability.
3. Has there ever been any litigation or formal complaint against your company resulting from its current or past involvement with any public employee deferred compensation plan or public or private pension plan? If so, please describe fully. Failure to disclose this information will constitute grounds for rejection of any proposal or termination of contract.
4. Describe any pending agreements to merge or sell your company to the extent that such information is public.
5. Describe how you keep your participants and Plan sponsors informed of changing legislative issues.
6. Describe the system and controls used to assure administration and investment services that will be provided to the State's plan in accordance with proper standards of care, regulatory requirements, and the executed agreement for services.
7. When will your company's system be in compliance with the Department of Labor (DOL) fee transparency guidelines for ERISA?

**SECTION C: INVESTMENT PRODUCTS** – If you are bidding a brokerage service answer the question for your company's investment platform as well as for the brokerage platform. Make a statement that you fully understand and will adhere to Exhibit A.

1. Identify what types (and number) of investment products available through your company's platform:  
Full Service Investment Provider
  - a) Mutual funds or Trust accounts
  - b) Fixed income products
  - c) OtherBrokerage Services
  - d) Stocks traded on national exchanges
  - e) Stocks traded over the counter
  - f) Exchange Traded Funds
  - g) Corporate Bonds
  - h) Government Issued Bonds
  - i) Options
  - j) Other
2. If your company is currently in the State's Plan, please keep your current investment products. Your company may offer additional funds. Please provide a list of the mutual

funds your company plans to offer. Include in the list: Morning Star fund category; Morning Star 5 year rating; ticker symbol; inception date; 1,3,5,10 year historical rates, 5 year percentile ranking and comparative index; net fees (identify reimbursement fees, frequent trading fees, 12b-1 fees, redemption fees).

3. Confirm that your company will provide to the State Plan on a quarterly basis the mutual fund data identified in question #2 above as well as the information in #6 for the fixed income product.
4. Identify your company's investment analyst and your company's commitment to have them available at least twice a year for the State's plan investment review.
5. Describe your company's process to add or replace a mutual fund during the contract period.
6. Describe your company's fixed income product. Provide the most current information below for your fixed income products:
  - a. Average Maturity and Average Life of the fixed account
  - b. Effective Duration to Average Maturity and Average Life, as appropriate for use in the Crediting Rate Formula.
  - c. Market Value vs. Book Value
  - d. Investment Policy Statement Compliance Letter (semi-annually)
  - e. Underlying Investment Portfolio guidelines regarding allocation to Sectors, Ratings, Derivatives, types of securities.
  - f. Sector weightings
  - g. Average ratings of corporate bonds held and % of whole portfolio with ratings below BBB+
  - h. Crediting Rate Formula
  - i. Reporting of any changes in the operation of the fund
  - j. List of people who can make changes involving the fund
  - k. Spread of credit rate for participants
  - l. Historical rates
7. Is your fixed income product fully liquid?
8. Provide a statement of your company's commitment to the services you are proposing to provide. Include the issues that you consider most relevant and important.
9. On your company's investment platform are there any limitations on the number of changes to investment allocations or exchanges between investment options? Are the limitations clearly identified to the participants prior to the exchange?
10. Describe and provide a timeline of a participant's purchase and sale of the investment products you are offering.
11. Does your company's recordkeeping system have any restriction on the number of investment products it can offer?
12. Is there a minimum investment required in order to utilize the self-directed brokerage account? If so, disclose.

13. What is the number of participants currently serviced through your brokerage window?
14. What is the size of assets currently serviced within your brokerage window?
15. What is the number of plans currently offering your brokerage window or do you contract with a private vendor?
16. Does your firm offer a stand-alone brokerage window?
17. What is the name of the firm providing brokerage services?
18. Identify any third parties involved in the offering of the Self-Directed Brokerage Option and explain their role(s).
19. Does the brokerage firm allow fractional share purchases (for equity securities)?
20. Describe the brokerage firm's process to notify a participant of a "frequent trade" fee.
21. How do participants enroll with your company's brokerage firm?
22. If on-going contributions can be allocated directly into the brokerage account, are they invested in a money market vehicle or can the participant make a standing order regarding the security to be purchased?
23. How are dividends and investment income handled within the brokerage window? Are additional securities automatically purchased or are the dividends and investment income returned to the plan's core funds?
24. To execute a trade out of one security and into another, can a participant make a single contact to initiate the sale and identify the security for purchase or must second contact be initiated once the sold security has settled?
25. Where is the un-invested cash within the brokerage account held? Is interest posted to the participant's account?
26. How are distributions handled when a participant terminates on your platform as well as through the brokerage firm? Who completes the 1099?
27. Describe the process of a participant's sale of a security, from the day of execution to settlement date, to delivery, to participant. What is the method of delivery?
28. Describe how account balances will be transferred efficiently to and from the brokerage window.
29. Once enrolled, how do participants transact in the brokerage window?

## SECTION D: COMMUNICATION AND EDUCATION

1. Is your company currently prepared to enroll, market, and educate 457(b) prospective participants as well as current participants? Please describe in detail and give examples of your company's 457(b) enrollment package, communication and education program.
2. Describe how you will conduct educational and enrollment presentations to state employees.
3. Do you offer an interactive retirement planning tool? Please describe.
4. Will you provide a retirement planning newsletter to your participants or prepare articles for distribution? Will these be provided in your participants quarterly statements? Give examples.
5. In any of your relationships with plan sponsors do you ever:
  - a) Distribute any promotional materials to plan participants for products or services not contracted for by the plan sponsor? If so, please describe fully.
  - b) Actively solicit participants before, during or after seminars or workshops you conduct? If so, please describe in detail.
6. Do you provide communication and education material in a foreign language? If so, what language(s) and what material?
7. Describe the languages that are supported by customer service.
8. Attach samples of the participant communication materials that you will distribute on a regular basis. These materials should include investment product description booklets and prospectuses, information on retirement planning, newsletters and other topical materials.
9. How do you ensure that participants receive consistent and accurate information from each of your call center education/advice employees, your workshop/seminar employees, and your one-on-one education/advice employees?
10. Has your financial education/advice practice ever been the subject of litigation or claims? If so, for each instance, describe the nature of the suit or claim, including its resolution or its current status.
11. Does your company propose to distribute information that provide participants and beneficiaries models of asset allocation portfolios of hypothetical individuals with different time horizons and risk profiles?
  - a) Describe the generic asset classes that are utilized in the model, the historic return and risk data used by the model and what defined time periods the data is drawn from.
  - b) Describe all material facts and assumptions on which such models are based and how these facts and assumptions are disclosed to participants.



- c) Are your company's asset allocation models accompanied by a statement indicating that in applying particular asset allocation models to their individual situations, participants and beneficiaries should consider their other asset, income and investments, in addition to their program assets?
  - d) Does your company's asset allocation model output identify any specific investment option that would be available under the program (e.g., your company's products)?
12. Does your firm propose to provide participants interactive materials, including software, which allows a participant or beneficiary the means to estimate future retirement income needs and assess the impact of different asset allocations on retirement income?
    - a) Describe the generic asset classes that are utilized in the interactive materials, the historic return and risk data used by the interactive materials and what defined time periods these data are drawn from.
    - b) Does your company's proposed interactive material generate an asset allocation that identifies any specific investment option available under the program (e.g., your company's products)?
  13. How readily can a participant receive product-specific investment advice from you concerning his or her entire portfolio (e.g., his 457(b) or 403(b) assets plus their FRS, and IRA assets)?
  14. Do your investment advice strategies undergo regular review by finance academia, investment practitioners, investment consultants, peer groups or investor focus groups? Explain the review process and identify reviewing parties.
  15. Describe the minimum credentials and training your education service personnel must have. Provide the number of hours, the training methodology (classroom, on-line, outside classes, other), the qualifications of instructors, and the performance requirements for satisfaction of training program. What special training or experience do you require personnel who render advice?
  16. How long, on average, have the current on-site education/advice representatives of your company been working with 457(b) retirement plans? How long, on average, have the current phone service education/advice personnel been working with 457(b) retirement plans?
  17. What evidence do you have, other than opinion surveys, that your education for participants on investment fundamentals has been successful?
  18. What are the qualifications of the individuals responsible for customer service?
  19. Does your company provide investment and financial education to the Plan Administrator? Please describe (i.e. participant investment psychology).
  20. Describe what you believe distinguishes your company's educational/advice services from those of your investment provider competitors.

21. Describe your company's approach to continual improvement with respect to its education/advice practice.
22. Describe all of your company's participant education services including, but not limited to the following:
  - a) methods of instruction (in person, through an 800 number, or other technology);
  - b) description of each education/advice product or services offered;
  - c) descriptions of any electronic education tools you provide, both software-based and web-based (provide the address and necessary access codes or passwords so the Bureau can test your Internet facilities);
  - d) the minimum level of service you guarantee to each participant with respect to each element of your education/advice services; and
  - e) innovations that you envision in your service and product offerings within the next two years.
23. Are there limits to the frequency with which an employee may receive face-to-face counseling? Describe. If your company doesn't offer this service, please disclose.
24. Do you provide written financial plans to participants upon request? How much time, on average, is spent on employee consultation prior to issuing a written plan? Describe the process. Provide a sample financial plan and indicate the reading level of the personal plan.
25. If you currently offer call center services for providing participant education/advice:
  - a) Are your phone services provided through a toll free number?
  - b) What operating hours are typical?
  - c) Does your toll free number for voice response utilize a voice response system or a human operator as the first contact?
  - d) How long does your average caller have to wait before a financial consultant answers?
  - e) How long do you expect the average telephone conversation on education to last? On investment advice?
  - f) Is the caller able to obtain the identity of the financial consultant (i.e., will they be able to seek out specific individuals on future calls)?
  - g) Are there Specialists who field particular types of questions?

## **SECTION E: SERVICES**

1. Provide a copy of your company's organizational chart. Include home office, State of Florida office, and investment division. Briefly describe the organizational structure of your company's 457(b) departments, include the staff working with Record Keeper. For each employee that will be responsible for Florida's 457(b) Plan, include years employed with your company, years of experience servicing 457(b) Plans, and a brief description of their duties. Provide any plans for a physical Florida office and the number of personnel.

2. Name the client manager or state director that will have overall responsibility to coordinate the administration, operations and marketing of the Florida 457(b) Plan. Provide a description of his/her experience of 457(b) plans and the size of those 457(b) plans. How many other clients will he/she be responsible for? What is the location of their office? Will you have a Tallahassee office that will coordinate the State's Program activities?
3. Fully discuss staff training and staff backup policies. Provide staff names and their backup, primary functions, and toll free number(s) include extensions that will be responsible for the Program.
4. Describe the organization of personnel and the manner in which they would be utilized to service the Program. Include the following services in your response:
  - a) enrollment;
  - b) communication of plan rules;
  - c) pre-retirement, financial and tax planning services provided to eligible employees, participants and retiring participants;
  - d) problem resolution processes for participants and the Program Administrator;
  - e) marketing and education;
  - f) investment advice.
5. Will you service participants in-house or do you plan to contract with an outside vendor? Please describe how you will provide service for the following and give examples:
  - a) contributions;
  - b) participant account information (financial and non-financial);
  - c) quarterly statements (will be produced by the vendor);
  - d) payout of participant account (lump sum and periodic);
  - e) company to company transfers;
  - f) domestic relation orders (include how you will track these accounts);
  - g) delayed distributions;
  - h) updated addresses of participants (active and inactive);
  - i) distribution of W-2 and 1099 forms;
  - j) participant confirmations for in-house exchanges;
  - k) plan-to-plan transfers (IRA's, 401(k), other pension plans), include confirmations;
  - l) loans;
  - m) communication of trading fees to participants; and
  - n) communications to the State plan's centralized Record keeper both electronically, problem resolution, and correction of the daily rejection report. (Please speak specifically about all participant changes both demographics and financial)
6. Please make a statement that your company has read and will follow the procedures in Exhibit F.
7. At the participant's request, describe your company's distribution process for participant's forms (email and postal distributions). Include in your description how often your company updates any packages which include participant's forms.

8. If you plan to contract with an outside service, describe the proposed relationship with that service.
9. Does your company provide a voice response system (VRS) and a website specifically for its State of Florida 457(b) participants? Please describe and include the following;
  - a) types of changes participants are allowed to make to their accounts;
  - b) can your VRS and website be modified to reflect the Program provisions and restrictions?
  - c) can employees enroll over the phone and on the website? Please describe the process for both.
10. Can you process a participant's request for asset allocation changes via the VRS and website?
11. Can you process a participant's request for an exchange of existing balances from one option to another investment option(s) via VRS and website? How long does your company retain account history from the VRS and website? Are confirmations sent to the participants?
12. Do your customer service representatives record notes from participants after the call is disconnected? If so, how long are those phone call messages retained?
13. Does your company allow the Plan Administrator to listen to recorded calls if requested? Describe the process. What is the time frame? How long are the recorded conversations retained?
14. Are representatives available through the toll free number to answer questions? If yes, please describe the following:
  - a) hours of availability;
  - b) length of training received by representatives on the State of Florida 457(b) Plan;
  - c) average wait time before call is answered; and
  - d) describe the training process for your phone representatives for the Program.
15. Describe the types of payout options available for your 457(b) plan participants.
16. Describe how you process beneficiary accounts.
17. Describe your loan processing system. Can your company process payments through ACH? Provide a statement that your company will comply with Exhibit E.
18. Describe your company's process and any restrictions regarding loans to 457(b) plan participants.
19. If your organization is selected, from what locations will the primary client-level support services be delivered? Explain.
20. How does your company measure and evaluate client-level satisfaction? How does your company intend to report the results of such measurement to the Bureau?

21. What distinguishes your client-level service program for 457(b) plans from that of other companies?
22. What documentation and audit procedures does your company have in place to ensure the integrity and protection of the State's plan records and transactions?
23. Provide a copy of your policy and procedures manual that your company will use to service the 457(b) Program.
24. Include your company's policy on confidentiality of participant's accounts.
25. To safeguard against computer crime, i.e., deletion of participant records, sabotaging records, introducing computer virus, etc., the Investment Provider, at a minimum, must follow the steps below. Please describe your ability to perform each step:
  - a) utilize anti-virus computer software (please give product name);
  - b) assign a unique password to each employee working on the Florida Plan;
  - c) perform daily backup of participant records;
  - d) restrict access to the Program's participant files to a designated group of people;
  - e) require more than one employee to understand and have control of one particular task. For example, cross-train on reconciliation of bi-weekly and monthly investments, reconciliation of monthly retiree payroll, etc. vs. specialization of employees;
  - f) set up a system of checks and balances to ensure that participant records are in order;
  - g) set up internal disciplinary actions for employees who use any computer without authorization;
  - h) An off-site computer data backup.
  - i) Describe how your company's participants records are safe from outside and viral intrusion.
26. Describe your company's backup capabilities for disaster recovery. Are the State's files to be mirrored or replicated on a second system? When was the last full-scale disaster recovery test? What were the results?
27. Provide copies of your latest internal control opinion issued by an independent auditor and performed in accordance with Auditing Standards.
28. What audits are conducted to ascertain Plan Sponsor satisfaction with software changes? How do you resolve complaints, evaluate software quality, and improve software performance?
29. Do you have an internal audit staff that regularly evaluates all controls, systems, record keeping, and risks associated with your investment and technology services? If yes, please describe your internal audit procedures.
30. Describe the various types of insurance coverage. List amounts of coverage and any limits. Please state that your company will pay for any deductions.

31. What procedures are used to assure that changes to computer programs produce the desired results? Describe fully your quality control system.
32. Describe your process for conversion of an existing plan to your proposed plan. Please include reduction of fees, transfer restrictions, representatives and account records.
33. Provide a detailed description of your last comparable implementation including details of specific problems and solutions.
34. Describe the working relationship between the implementation team and the 457(b)-Plan Administrator.
35. Is your company willing to commit time and other resources necessary to train the Bureau of Deferred Compensation's staff? Will your company send representatives to the Bureau to receive training on programs and procedures?
36. Describe your investment in technology, communication and other services you are proposing to provide this year, and in the next five years. Specify the areas targeted, the reasons for targeting those areas, and the percentage of total company revenues allocated.
37. Is your company willing to commit all necessary resources (money, time, etc.) to develop and implement a dedicated enhanced web-based system for the State of Florida Program?
38. Describe your company's record-keeping abilities and methodology. Confirm that you can process and provide all of the files required for transmission to the Record Keeper in the manner and within the times stated in Exhibit C.
39. Describe your system capabilities and operating procedures to ensure that the Program and each participant's account are in balance with respect to deferrals, exchange and transfers in and out.
40. How do you account for corrections in a prior accounting period? Can you post transactions as of a prior effective date? How are errors handled for:
  - a) receipt of deferrals;
  - b) benefits payments (both over and under);
  - c) earnings of interest or dividends;
  - d) company-to-company transfers;
  - e) tax withholdings;
  - f) plan-to-plan transfers;
  - g) special supplemental payments;
  - h) withdrawals;
  - i) court appointed participant (CAP) accounts; and
  - j) purchases and sales of investment product.
41. If amounts are erroneously invested due to company's error, confirm that the participant will be made whole at your company's expense.

42. What information do you maintain in a participant's account record? Confirm that the information is sufficient to meet requirements set by the Bureau and federal regulations to maintain an eligible 457(b) plan. What is your edit process?
43. Confirm that you perform and are liable for any tax withholding, reporting, and timely distribution of any required 1099-R or W-2 forms.
44. Confirm that you can provide quarterly participant statements. Please submit a completed sample statement. Does your statement list detailed transactions? Confirm your quarterly statements will be mailed within 10 business days of the end of each quarter. When will 457(b) participant's statements be in compliance with the new DOL fee transparency rules?
45. What is your company's procedure for reporting changes to participants' and beneficiaries' addresses to the State's centralized Record Keeper?
46. Confirm that you can provide direct deposit of periodic benefit payments to participant's checking and savings accounts.
47. Will your company offer pre-authorize withdrawals?
48. Describe how your company will provide nightly feeds (i.e. participant account values) to the Record Keeper. What is the earliest time of night/morning you could provide the feed?
49. Can your system distinguish between pre-tax and after-tax contributions, as they would relate to "Roth IRAs"? When will your company's interface with Record Keeper be completed for Roth IRAs? When will your company's system be ready to accept Roth 457(b) money?
50. What methods of customer service quality controls do you utilize? Do you monitor or record telephone conversations?
51. Within your participant support phone service, do you utilize personnel with differing credentials/experience/training depending on the question asked? Describe.
52. What are the five most significant risks a self-directed retirement plan participant faces, in order of importance? How does your company respond to the risks?
53. Can participants initiate transactions through phone representatives, voice response and Internet?
54. To make a trade through a service representative, which of the following are options available to the participant?
  - a) Call the voice response system and experience a "soft" transfer to your service representatives;
  - b) Call the voice response system and request the transaction; and

- c) Call your representatives directly
55. How would a participant make a trade through your company's internet?
  56. How do you relay information to the record-keeper regarding the value of the participant's brokerage account and when?
  57. If you are able to relay the value of the participant's brokerage account daily, by what time (EST) will the value be available?
  58. How is detailed information regarding brokerage account holdings made available your company and how soon after the quarter-end is it available?
  59. How is information regarding brokerage account holdings made available to the plan sponsor?
  60. Will you accept an allocation of on-going contributions directly into the brokerage window or will only transfers from the other investment options be permitted?
  61. During what hours of the day are client service representatives available to respond to participant trading and service calls? Are these calls monitored and recorded for audit purposes? Give the time periods for storing these recordings.
  62. Indicate the incidence (as a percentage of total trades) of trading errors within the directed brokerage system. If specific figures are unavailable, provide the best estimate, and indicate that the figures are an estimate.
  63. Discuss the application, disclosure, and waiver forms as it pertains to the brokerage window.
  64. For participant reporting, will the total brokerage balance be transmitted to your company in order to be incorporated on the quarterly plan statement?
  65. Describe the Web services available for the Self-Directed Brokerage Window.
  66. Is information available to participants through any means other than the Internet?
  67. Discuss participant communications as it pertains to the brokerage window.



**ATTACHMENT D**  
**PROVIDER CONTRACT**

between the Department of Financial Services and [Insert contractor's name]

THIS CONTRACT ("Contract") is entered into by and between the State of Florida, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0346 ("Department") or its successor, and \_\_\_\_\_ ("Contractor"), effective as of the last date signed below.

WHEREAS, the Department has determined that it is in need of certain services as described herein; and

WHEREAS, the Contractor, as an independent contractor of the Department, has the expertise and ability to faithfully perform such services.

NOW THEREFORE, in consideration of the services to be performed and payments to be made, together with the mutual covenants and conditions hereinafter set forth, the parties agree as follows:

**1. Services and Deliverables.**

The Contractor agrees to render the services or other units of deliverables as set forth in the Contractor's accepted proposal responding to the Department's Invitation To Negotiate (ITN) for services, ITN # \_\_\_ and its Attachments. The Contractor's performance shall be subject to all the terms, conditions, and understandings set forth in said ITN and the attachments to the ITN and PUR 1000 and 1001 incorporated by reference into the ITN, copies of which are attached hereto.

**2. Delivery Schedule.**

The services or other units of deliverables specified in Paragraph 1 above shall be delivered or otherwise rendered on behalf of the Department in accordance with the schedule in the Contractor's accepted proposal and consistent with the ITN. The Contractor's performance shall be subject to all the terms, conditions, and understandings set forth in said ITN and the attachments to the ITN.

**3. Term of Contract.**

The term of the Contract is five years. By mutual agreement of the parties, and pursuant to section 287.057(13), Florida Statutes, the Department may renew the Contract for one or more periods up to a total of five years. The renewal shall be contingent upon availability of funds and satisfactory performance by the Contractor. The renewal price is set forth in Attachment. No other costs for the renewal may be charged. Any renewal is subject to the same terms and conditions as the original contract.

The Department shall have the right to unilaterally terminate or suspend the Contract by providing the Contractor 120 calendar days written notice.  
(see PUR 1000 ¶ 27)

#### **4. Payment.**

The operations of the Bureau are funded solely by the Investment Providers. Legislation authorizing establishment of the Florida Deferred Compensation Program does not authorize any expenses of the Florida Deferred Compensation Plan to be paid from State funds. All such costs are borne directly by the Investment Provider companies. The Bureau pays indirect costs to the Department. The funds to operate the program are generated from a monthly fee of \$1.70, per participant account (with a balance greater than \$0), from each Investment Provider. The \$1.70 is not withdrawn from a participant's account. All start-up or implementation costs will be paid by each selected Investment Provider.

#### **5. Acceptance.**

The services provided under this plan are to be continuously provided throughout the duration of this Contract. These services as specified in the scope of work are the Deliverables. All of Contractor's Deliverables related to these services shall be subject to the supervision of Department's Contract Manager for review and approval. The Department reserves the right to reject deliverables as outlined in the Scope of Work as incomplete, inadequate or unacceptable due in whole or in part to Contractor's lack of satisfactory performance under the terms of this Contract. The Department, at its option, may allow additional time within which Contractor may remedy the objections noted by the Department and the Department may, after having given Contractor a reasonable opportunity to complete, make adequate or acceptable said deliverables, including but not limited to reports, declare this Contract to be in default. All status reports must be submitted timely showing tasks or activities worked on, attesting to the level of services provided, hours spent on each task/activity, and upcoming major tasks or activities. Failure to use the appropriate technical requirements as identified in the Scope of Work will result in automatic task rejection.

#### **6. Information and Data Security and Confidentiality.**

- a.** Contractor, its employees, subcontractors and agents shall comply with all security procedures of the Department in performance of this Contract. The Contractor shall provide immediate notice to the Department in the event it becomes aware of any security breach and any unauthorized transmission of State data or of any allegation or suspected violation of security procedures of the Department. Except as required by law or legal process and after notice to the Department, Contractor shall not divulge to third parties any confidential information obtained by Contractor or its employees, subcontractors or agents in the course of performing the services. Contractor shall not be required to keep confidential information that is publicly available through no fault of Contractor, material that Contractor developed independently without relying on the State's confidential information, or information that is otherwise obtainable under state law as a public record.
- b.** Loss of Data. In the event of loss of any Participant data or record where such loss is due to the negligence of Contractor or any of its subcontractors or agents, Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Department at Contractor's sole expense, in addition to any other damages the Department may be entitled to by law or the Contract.
- c.** Data Protection

- 1) No Participant data or information will be transferred or stored offshore or out of the United States of America.
  - 2) Contractor shall encrypt all data transmissions. Remote data access must be provided via a trusted method such as VPN or a comparable protocol approved by the Department and the Record Keeper.
  - 3) Contractor agrees to protect, indemnify, defend and hold harmless the Department from and against any and all costs, claims, demands, damages, losses and liabilities arising from or in any way related to Contractor's breach of data security or the negligent acts or omissions of Contractor related to this subsection.
  - 4) All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Department. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial information in the possession of the State or the Department.
- d. Participant data transmission will be transferred to the State's Record Keeper in the manner identified in Attachment C.
  - e. All participant data will be secured and protected from any person and organization that is not previously approved by the State.

## 7. Insurance.

- a. **During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. At a minimum, this includes the following types of insurance for anyone directly or indirectly employed by Contractor and the amount of such Insurance shall be the minimum limits as follows, unless otherwise approved by the Contract Managers.**
- b. **The Investment Provider shall furnish the State a performance bond in the amount of \$500,000.00 written by an insurance company licensed to do business within the State guaranteeing the performance by Investment of the terms of this ITN.**
- c. The Investment Provider shall at all times maintain a fidelity bond in the amount of 10% of the Plan assets invested with Investment Provider under the Plan at the beginning of each calendar year. The Investment Provider is responsible for paying any deductible associated with the bond.
- d. **Workers' compensation and employer's liability insurance covering all employees engaged in any Contract work, in accordance with Chapter 440 of the Florida Statutes.** Such coverage may be reduced with the consent of the Contract Manager since certain subcontractors have potentially less exposure in liability than other subcontractors. Except as agreed in a separate writing, no self-insurance coverage shall be acceptable unless Contractor is licensed or authorized to self-insure for a particular

coverage listed above in the state of Florida, or is an insured member of a self-insurance group that is licensed to self-insure in the State of Florida.

## **8. Termination.**

- a. The Department may, in its sole discretion, terminate the Contract at any time by giving 120 calendar days written notice to the Contractor.
- b. All services performed by the Contractor prior to the termination date of this Contract shall be professionally serviced to conclusion in accordance with the requirements of the Contract. Should the Contractor fail to perform all services under the Contract, the Contractor shall be liable to the Department for any fees or expenses that the Department may incur in securing a substitute provider to assume completion of those services.
- c. As provided in section 287.058, Florida Statutes, the Department may terminate the Contract immediately in the event that the Department requests in writing that the Contractor allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, which are made or received by the Contractor in conjunction with the Contract, and the Contractor refuses to allow such access. However, nothing herein is intended to expand the scope or applicability of Chapter 119, Florida Statutes, to the Contractor. The Contractor shall not be required to disclose to the public any proprietary copyrighted trade secrets or other materials protected by law as pursuant to section 119.07, Florida Statutes.
- d. As provided in section 287.135, Florida Statutes, the Department may terminate the Contract in the event the Contractor's company is found to have submitted a false certification as provided under s. 287.135 (5), F.S., or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.
- e. If at any time the Contract is canceled, terminated, or expires, and a contract is subsequently executed with a firm other than the Contractor, the Contractor has the affirmative obligation to assist in the smooth transition of Contract services to the subsequent contractor. The Contractor agrees to provide, for up to six (6) months after termination or until the subsequent provider is fully operational, whichever occurs first, all reasonable termination assistance requested by the Department to facilitate the orderly transfer of such services to the Department or its designees. Six months prior to termination, the Contractor will provide the Department an explanation of the functional equivalent of the technical requirements of any services or proprietary products used to carry out the contract and all documentation supporting a description of the technical and service requirements. Such termination assistance shall be at no additional charge to the Department if the termination is due to Contractor default and otherwise shall not exceed software maintenance rates or other direct expenses pre-approved by the Department's Contract Manager. In the event the Department terminates the Contract for its own convenience, all completed or partially completed Deliverables prepared by the Contractor pursuant to this Contract shall, at the option of the Department, become the Department's property, subject to the terms of Contract Section 12, State Property. Regardless of the basis for the termination, the Department is not obligated to pay, or

otherwise compensate, the Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the Department.

- f. If the Contractor defaults in the performance of any covenant or obligation contained in the Contract, including without limitation the minimum requirements contained in the Scope of Work, or in the event of any material breach of any provision of the Contract by the Contractor, the Department may, in its sole discretion, provide notice and an opportunity to cure the default rather than exercise the remedy of termination. If the default or breach is not cured within thirty (30) calendar days after written notice is given to the Contractor specifying the nature of the alleged default or breach, then the Department, upon giving written notice to the Contractor, shall have the right to terminate the Contract effective as of the date of receipt of the default notice.

## **9. Events of Default.**

Provided such failure is not the fault of the Department or outside the reasonable control of the Contractor, the following events, acts, or omissions, shall include but are not limited to, events of default:

- a. Failure to pay any and all entities, individuals, and the like furnishing labor or materials, or failure to make payment to any other entities as required herein in connection with the Contract;
- b. Failure to complete and maintain, within the timeframes specified between the Department and the Contractor, the applicable system installation, ongoing performance, maintenance, and provision of Services;
- c. The commitment of any material breach of this Contract by the Contractor, failure to timely deliver a material deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Contract;
- d. Employment of an unauthorized alien in the performance of the work;
- e. One or more of the following circumstances, uncorrected for more than ten(10) calendar days unless within the specified ten (10) day period, the Contractor (including its receiver or trustee in bankruptcy) provides to the Department adequate assurances, reasonably acceptable to the Department, of its continuing ability and willingness to fulfill its obligations under the Contract:
  - 1) Entry of an order for relief under Title 11 of the United States Code;
  - 2) The making by the Contractor of a general assignment for the benefit of creditors;
  - 3) The appointment of a general receiver or trustee in bankruptcy of the Contractor's business or property;
  - 4) An action by the Contractor under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation;
  - 5) Entry of an order revoking the certificate of authority granted to the Contractor by the State or other licensing authority;

- f. The Contractor makes or has made an intentional material misrepresentation or omission in any materials provided to the Department or fails to maintain the required insurance.

## **10. Liability and Indemnification**

- a. In addition to the provisions in PUR 1000 regarding liability, the following provisions apply: No provision in this Contract shall require the Department to hold harmless or indemnify the Contractor, insure or assume liability for the Contractor's negligence, waive the Department's sovereign immunity under the laws of Florida, or otherwise impose liability on the Department for which it would not otherwise be responsible. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this contract.
- b. The Contractor hereby agrees to protect, indemnify, defend and hold harmless the Department from and against any and all costs, claims, demands, damages, losses and liabilities arising from or in any way related to the Contractor's breach of this Contract or the negligent acts or omissions of the Contractor.

## **11. Damages for Delay.**

- a. Contractor acknowledges that its failure to meet an agreed upon deadline for delivery of services will damage the Department but that by their nature such damages are impossible to ascertain presently and will be difficult to ascertain in the future. Accordingly, the parties agree upon a reasonable amount of liquidated damages which are not intended to be a penalty and are solely intended to compensate for unknown and unascertainable damages. Accordingly liquidated damages shall be assessed on the Contractor for \$500.00 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 the Contract. Allowing completion after the time allowed shall not act as a waiver of liquidated damages.
- b. Nothing in this section shall be construed to make the Contractor liable for delays that are beyond its reasonable control. Nothing in this section shall limit the Department's right to pursue its remedies for other types of damages.

**12. State property.** Title to all property furnished by the Department under this Contract shall remain in the Department, and Contractor shall surrender to the Department all property of the Department prior to settlement upon completion, termination, or cancellation.

**13. Contract Modification.** This Contract may be amended only by a written agreement between both parties subject to the provisions of Chapter 287, Florida Statutes.

## **14. Nonexclusive Contract.**

This procurement will not result in an exclusive license to provide the services described in the ITN or the resulting contract. The Department may, without limitation and without recourse by the Contractor, contract with other Vendors to provide the same or similar services.

### **15. Statutory Notices.**

The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. Such violation shall be cause for unilateral cancellation of this Contract. An entity or affiliate who has been placed on the public entity crimes list or the discriminatory vendor list may not submit a Proposal on a contract to provide any goods or services to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity pursuant to limitations under Chapter 287, Florida Statutes.

### **16. Compliance with Federal, State and Local Laws.**

Contractor and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, worker's compensation, licenses and registration requirements.

By signing this Contract, the Contractor certifies that the company is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List (See <http://www.state.gov/s/ct> ) and is otherwise subject to s. 287.135, F.S.

### **17. Background and employment eligibility verification.**

The Provider is responsible for payment of costs if any, and retaining records relating to, employment eligibility verification, which records are exempt from Chapter 119, F.S., which verification requires the following:

- a. Verify Employment Verification
  - 1) Under the Governor's Executive Order 11-116, the Contractor must participate in the federal E-Verify Program for Employment Verification under the terms provided in the "Memorandum of Understanding" with the federal Department of Homeland Security governing the program if any new employees are hired to work on this Contract during the term of the Contract. The Contractor agrees to provide to the Department, within thirty days of hiring new employees to work on this Contract, documentation of such enrollment in the form of a copy of the E-Verify "Edit Company Profile" screen, which contains proof of enrollment in the E-Verify Program.
  - 2) The Contractor further agrees that it will require each subcontractor that performs work under this contract to enroll and participate in the E-Verify Program if the subcontractor hires new employees during the term of this Contract. The Contractor shall include this provision in any subcontract and obtain from the subcontractor(s) a copy of the "Edit Company Profile" screen indicating enrollment in the E-Verify Program and make such record(s) available to the Department upon request.
  - 3) Compliance with the terms of this Employment Eligibility Verification provision will be an express condition of the Contract and the Department may treat a failure to comply as a material breach of the Contract.

## 12. Miscellaneous.

- a. This Contract, and any referenced or attached addendum embodies the entire agreement of the parties. There are no other provisions, terms, conditions, or obligations. This Contract supersedes all previous oral or written communications, representations or agreements on this subject. In any conflict between this Contract and any referenced or attached addendum, the terms and conditions of this Contract shall take precedence and govern. Acceptance of service or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of any proposed modification to terms and conditions.
- b. Any dispute concerning performance of the Contract shall be decided by the Department's designated Contract Manager, who shall reduce the decision to writing and send a copy to the Contractor at a previously provided address. In the event a party is dissatisfied with the dispute resolution decision, jurisdiction for any dispute arising under the terms of the Contract will be in the courts of the State of Florida, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Contract.
- c. The laws of the State of Florida and the Department's rules govern this Contract.
- d. The Contractor agrees that no funds received by it under this Contract will be expended for the purpose of lobbying the Legislature or a state agency pursuant to section 216.347, Florida Statutes, except that pursuant to the requirements of section 287.058(6), Florida Statutes, during the term of any executed contract between the Contractor and the state, the Contractor may lobby the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding that contract.
- e. The Contractor is an independent contractor, and is not an employee or agent of the Department.
- f. All services contracted for are to be performed solely by the Contractor and may not be subcontracted or assigned without the prior written consent of the Department. The Department may refuse access to or require replacement of any Contractor employee, subcontractor or agent for cause, including but not limited to technical or training qualifications, quality of work, change in security status, or non-compliance with a Department policy or other requirement. Such action shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract.
- g. The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Contract, including without limitation, the obligations regarding confidentiality, proprietary interests, and limitations of liability, shall survive termination, cancellation or expiration of this Contract.



- h. The Department shall not be deemed to assume any liability for the acts, omissions to act or negligence of the Contractor, its agents, servants, and employees, nor shall the Contractor disclaim its own negligence to the Department or any third party.
- i. If a court of competent jurisdiction deems any term or condition herein void or unenforceable, the other provisions are severable to that void provision, and shall remain in full force and effect.

**13. Execution in Counterparts and Authority to Sign.**

This Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument. Each person signing this Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

**14. Contract Administration.**

- a. The Department’s Contract Manager is Kandi Winters located at 200 E Gaines, Tallahassee, FL 32399-0346.
- b. The Contractor’s Contract Manager is \_\_\_\_\_ located at \_\_\_\_\_.
- c. All written and verbal approvals referenced in this Contract must be obtained from the parties' Contract Managers designated in this Section or designees. Notices required to be in writing must be delivered or sent to the intended recipient by hand delivery, certified mail or receipted courier and shall be deemed received on the date received or the date of the certification of receipt.

IN WITNESS WHEREOF, the Department of Financial Services and \_\_\_\_\_, by their duly authorized representatives, have signed this Contract.

\_\_\_\_\_  
 Contractor Representative:  
 Title:

\_\_\_\_\_  
 Department of Financial Services  
 The CFO or his designee

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

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

## CERTIFICATION OF AUDIT LETTER

Re:

Audit of Financial Statements; Fiscal Year Ending: \_\_\_\_

Dear \_\_\_\_:

This Firm has received a request to provide you with information with respect to certain legal matters in connection with the audit \_\_\_\_\_ is performing of the financial statements of \_\_\_\_\_ as of \_\_\_\_\_, and for the year then ended. This report will furnish the requested information regarding pending or threatened litigation, claims, and assessments (excluding unasserted claims and assessments) involving matters with respect to which this firm has been engaged and to which the firm devoted substantive attention on behalf of \_\_\_\_\_ in the form of legal consultation or representation with the time period described above.

For purposes of the information provided, our response will only include pending or threatened litigation, claims, assessments or regulatory actions involving Contractor or any of Contractor's partners, subsidiaries, employees, subcontractors, or agents, pertaining to workers' compensation contract disputes, and workers' compensation services, including but not limited to clinical case management, clinician services, pharmaceuticals, durable medical equipment, and any other treatment authorized, provided, or denied pursuant to a workers' compensation claim.

Pending or Threatened Litigation, Claims and Assessments (excluding unasserted claims and assessments)

As of \_\_\_\_\_ and through the effective date of this response, this firm was not engaged by \_\_\_\_\_ with respect to pending or threatened litigation, claims or assessments, which meet the definition of materiality as described in the above paragraph, and this firm knows of none pending, nor has it been advised of any such pending or threatened litigation. However, the firm has been engaged by \_\_\_\_\_ in \_\_\_\_\_. Additionally, the firm has \_\_\_\_\_.

Unasserted Claims and Assessments (considered by management to be probable of assertion and which, if asserted, would have at least a reasonable possibility of an unfavorable outcome, or a favorable outcome if asserted by the Company):

As of \_\_\_\_\_ and through the effective the date of this response, this firm was not engaged by \_\_\_\_\_ any matter involving unasserted claims and assessments.

Other Matters

There were no material claims and assessments, or litigation relating to \_\_\_\_\_ that this Firm settled during the period included in this response.

This response is limited by, and in accordance with, the ABA Statement of Policy Regarding Lawyers' Responses to Auditor's Requests for Information (December, 1975); without limiting the generality of the foregoing, the limitations set forth in such Statement on the

scope and use of this response (Paragraphs 2 and 7) are specifically incorporated herein by reference, and any description herein of any “loss contingencies” is qualified in its entirety by Paragraph 5 of the Statement and the accompanying Commentary (which is an integral part of the Statement). Consistent with the last sentence of Paragraph 6 of the ABA Statement of Policy, this will confirm as correct \_\_\_\_\_’s understanding that when, in the course of performing legal services for \_\_\_\_\_ with respect to a matter recognized to involve an unasserted possible claim or assessment that may call for a financial statement disclosure, we have formed a professional conclusion that the entity must disclose or consider disclosure concerning such possible claim or assessment, we, as a matter of professional responsibility to \_\_\_\_\_, will so advise, and will consult with \_\_\_\_\_ concerning the question of such disclosure and the applicable requirements of the Statement of Financial Accounting Standard No. 5.

The amount of indebtedness incurred by \_\_\_\_\_ through \_\_\_\_\_ for services rendered, billed or unbilled, is \$ \_\_\_\_\_.

If you need additional information, please feel free to contact the undersigned.

**ATTACHMENT E**

**CLIENT REFERENCES**

The Respondent must list three (3) separate and verifiable clients of the Respondent's firm. The clients shall be listed on this form. Any information not submitted on this form shall not be considered. The clients listed shall be for services similar in nature to that described in this solicitation. Information on each client must be provided on this page:

1. \_\_\_\_\_

Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number Extension

\_\_\_\_\_  
Contact Person Title

2. \_\_\_\_\_

Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number Extension

\_\_\_\_\_  
Contact Person Title

3. \_\_\_\_\_

Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number Extension

\_\_\_\_\_  
Contact Person Title

I authorize the Department to contact these references.

\_\_\_\_\_  
Respondent Signature