
Teachers' Retirement System of the State of Illinois



REQUEST FOR PROPOSAL FOR PENSION ADMINISTRATION SYSTEM PROCESS IMPROVEMENT AND RFP CONSULTING

Issued March 6, 2024

Responses due by 2:00 p.m. CDT, on Wednesday, March 27, 2024

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I. INTRODUCTION

The Teachers' Retirement System of the State of Illinois (the System or TRS) is requesting proposals from qualified firms with in-depth knowledge and expertise in public pension plan administration and information systems technology to assist TRS in modernization of the System's current Pension Administration System (PAS). Experience with public pensions, and specifically, teacher pensions, is strongly preferred.

The objective of this Request for Proposal (RFP) is to solicit competitive proposals from qualified vendors in sufficient detail to permit objective evaluation of all proposals which may result in a contract to provide services to the System in the following areas, anticipated to occur in parallel:

- 1) Provide business process improvement consulting for employer reporting.
- 2) Provide PAS consulting services to analyze current systems and processes and identify opportunities for process improvement to align with best practices.
- 3) Document requirements for a new system and assist in the development of an RFP and the evaluation and selection of a commercial off-the-shelf system (COTS) PAS as described in Section III B below, including but not limited to assistance with evaluation of responses and vendor selection.

The successful vendor may, at the System's discretion, be asked to provide additional services to assess System data and make recommendations for action necessary prior to replacing the PAS and provide assistance with implementation of the selected COTS solution.

TRS is committed to increasing racial, ethnic, and gender diversity in all aspects of its utilization of vendors to provide goods and services to the System, to the greatest extent feasible, and within the bounds of financial and fiduciary prudence. To that end, the System strongly encourages qualified minority, female, disabled, and veteran-owned firms to submit proposals to this RFP.

A proposer's preparation and submittal of a proposal or subsequent participation in presentations or contract negotiations creates no obligation on the System to award a contract or to pay any associated costs. All proposals and related materials will be retained by the System and will be subject to disclosure as required in accordance with the Illinois Freedom of Information Act.

II. SUMMARY DESCRIPTION OF TRS

The General Assembly created the Teachers' Retirement System of the State of Illinois (TRS or the System) in 1939. TRS administers a multiple-employer public pension plan to provide its members with retirement, disability, and death benefits. Membership is mandatory for all full-time, part-time, and substitute Illinois public school personnel employed outside the city of Chicago in positions requiring certification by the Illinois State Board of Education. Persons employed at certain state agencies relating to education are also TRS members. The System serves over 448,000 members and had over \$68 billion in assets held in trust for its membership as of January 31, 2024.

The retirement system is administered as a qualified plan under the Internal Revenue Code. TRS benefits and investments are governed by Articles 1, 16, and 20 of the Illinois Pension Code, 40 ILCS 5. Funding comes from member contributions, contributions by TRS-covered employers, the state of Illinois, and investment income. The System's most recent Annual Comprehensive Financial Report as well as a variety of other information about TRS is available on the TRS website at <https://www.trsil.org>.

A Board of Trustees (the Board) is responsible for the general administration of the System, including the duties granted to it under Article 16 of the Illinois Pension Code, 40 ILCS 5/16. Under the direction of the Executive Director employed by the Board, the day-to-day administration of the System is delegated to the System's staff. The main office is in Springfield, Illinois and there are satellite offices in Lisle and Chicago, Illinois.

III. SERVICES REQUIRED

Scope of Work (SOW)

The System is seeking proposals for assistance from qualified firms with in-depth knowledge and expertise in public pension plan administration and information systems technology to assist TRS in modernization of the System's current PAS. Five years' experience providing PAS consulting services to public pensions is required. Experience with public teacher pensions is strongly preferred. The selected firm will work primarily with the System's Pension Administration System Program Director and subject matter experts.

Services required include:

A. Business process analysis and recommendations for improving employer reporting

TRS is currently developing and implementing a new employer reporting system to replace its legacy reporting system. The new system, known as "Gemini", has been implemented in phases, following an Agile methodology. The new system requires employers to send their member payroll and contribution information for the defined benefit and defined contribution plans on a pay period basis. In the legacy system employers reported only defined benefit information and only reported annually. The System anticipates significant additional work to deliver needed functionality and enhancements. TRS is searching for a consultant with extensive experience and expertise in the PAS field to conduct a review of current employer reporting processes and make recommendations for improvements and efficiencies to help achieve the following:

- Simplify reporting processes for employers, including report development.
- Document reporting rules, processes, and educational material to facilitate employer and employee training.
- More efficient audits of employer reporting.
- Assess employer and auditor processes and make recommendations on best practices

- to facilitate development decisions and streamline Employer Services auditing processes.
- Assess and review product backlog items.

B. Pension Administration System (PAS) RFP Development

The successful vendor will provide the following with respect to PAS RFP development:

- Assess TRS Gemini project for employer reporting and make recommendations as to the most cost-effective approach for project completion.
- Document requirements for PAS COTS RFP in collaboration with TRS PAS Program Director and subject matter experts.
- Draft full RFP with assistance from TRS and assist with the evaluation of proposals and vendor selection.

Successful vendor will document requirements for COTS RFP for member services functionality including annuitant payroll and accounting and any employer reporting functionality best served by COTS and integrations such as:

- Employer services reporting
- Records management system (Laserfiche)
- Accounting
- File generation for third party services including payroll, insurance, and death match services.
- Third party recordkeeping vendor for Defined Contribution (DC) plan participants, including Single Sign-on (SSO) abilities.

Documentation of all the business and technical requirements for member services and benefit administration modernization will entail both business and information systems analysis to review business operations, document current state and opportunities for improvement, requirements for integration with other systems, and development of requirements for operations. Requirements will be derived from the System's extensive documentation of business rules and processes, the System's governing benefit provisions in the Illinois Pension Code, 40 ILCS 5/1 and 5/16, TRS administrative rules at 80 Ill. Admin. 1650, policies, procedures, and interviews with subject matter experts. The successful vendor will collaborate with the TRS PAS Program Director to draft the RFP for a COTS PAS inclusive of the requirements after TRS approves them. The RFP will be issued by TRS.

C. Vendor RFP Response Evaluations

The successful vendor will assist TRS in evaluating RFP responses and potential PAS vendors on all aspects including platform configuration and adoption, transition project management, data preparation and migration, testing and maintenance procedures, training, customer service, issue resolution procedures, security, cost and cost effectiveness of platform operation and maintenance; system portals access and usability, including:

- Evaluating RFP proposals and potential PAS vendors on the firm’s security, stability, responsiveness, and financial soundness.
- Working with RFP review committees to interview finalist bidders and conduct reference checks.
- Assisting TRS in defining parameters for bidder proof of concept sessions.
- Assisting TRS in identifying and recommending the most cost-beneficial package from among the various bidders.

All of the above will be documented by the successful vendor in a summary analysis.

IV. PROPOSAL CONTENT

At a minimum, the proposal must include the following information to be considered for the engagement. For ease of review, each requirement should be addressed in a separate section preceded by an index tab to identify the subject of the section. The proposal should be formatted on consecutively numbered pages and include a table of contents. Failure to provide information in the prescribed format may result in rejection of the proposal. All responses will be subject to verification for accuracy. **Proposals containing false or misleading information will be rejected.**

A. Indexed Table of Contents

The proposal must include an indexed table of contents to facilitate the review process.

B. Cover Letter

A cover letter, which will be considered an integral part of the proposal package, in the form of a standard business letter, must be signed by an individual authorized to bind the proposer contractually. This cover letter must indicate the signer is so authorized, and must indicate the signer’s title or position. An unsigned proposal will be rejected. The cover letter must also include:

1. A statement that the proposal meets all requirements of this RFP, and that the offer tendered by the proposal will remain in full force and effect until, and may be accepted by the Teachers’ Retirement System of the State of Illinois, at any time prior to 6/30/2024.
2. A statement certifying that the proposer either: (a) it is not required to register or (b) it is registered as a business entity with the State Board of Elections pursuant to the Procurement Code, 30 ILCS 500/20-160 and acknowledges a continuing duty to update such registration pursuant to the Procurement Code; and that proposer acknowledges that any Agreement awarded as a result of this RFP is voidable under Section 50-60 of the Procurement Code if the proposer fails to comply with the business entity registration requirements. **30 ILCS 500/20-160; 30 ILCS 500/50-60.**

3. A statement that the proposal is being made without fraud or collusion; that the proposer has not offered or received any finder's fees, inducements, or any other form of remuneration, monetary or non-monetary, from any individual or entity; and that the proposer has not conferred or promised to confer, on any individual or entity, any payment, loan, advance, services, or any other form of remuneration in connection with the award of this engagement.
4. A disclosure of any current business relationship or any current negotiations for prospective business with TRS, or with any member of the Board of Trustees or TRS staff, or any party currently rendering services to TRS.
5. **A statement that the proposer is willing to enter into an agreement in the form attached to the RFP as Appendix F, including all certifications and representations contained therein, and that the proposer acknowledges and understands that certain general provisions in the sample agreement mandated by Illinois state law to be included in contracts with agencies of the State of Illinois are not subject to negotiation.**
6. A statement that the proposer acknowledges that all documents submitted in response to this RFP may be subject to disclosure under the Illinois Freedom of Information Act, 5 ILCS 140, and the Illinois Open Meetings Act, 5 ILCS 120. TRS must comply with the Illinois Freedom of Information Act (5 ILCS 140/1 et seq.) TRS cannot represent or guarantee that any information submitted in response to this request for proposal will be confidential. No documentation will be provided under FOIA until the contract has been awarded.
7. An attestation by the signer that the information provided in the Proposal is true and accurate, and that the signer is aware that pursuant to the Illinois Pension Code, 40 ILCS 5/1-135, any person who knowingly makes any false statement or falsifies or permits to be falsified any record of a retirement system or pension fund created under this Code (i.e., the System) in an attempt to defraud the retirement system or pension fund is guilty of a Class 3 felony.

C. Vendor Type Verification Form

Proposers must complete and return the Vendor Type Verification form in the form contained in Appendix A.

D. Statement of Minimum Qualifications

Proposers must complete and return the Minimum Qualifications Certification in the form contained in Appendix B.

E. Reference Checks

Reference checks may be conducted for each finalist. Please provide reference authorization letter in the format prescribed in Appendix C.

F. Questionnaire

The questionnaire contained in Appendix D to this RFP must be completed and returned as part of the proposal.

G. Fee Proposal

Proposers must submit their fee proposal in the format prescribed in Appendix E. Any deviation from the prescribed format, which in the opinion of TRS is material may result in the rejection of the proposal. The proposed fee shall include all expenses for providing the services to TRS as described in this RFP.

The fee proposal must expressly state that any proposed fixed fee or hourly rate quoted is guaranteed for the term of any resulting contract.

H. Contract

This Request for Proposal is neither a contract nor meant to serve as a contract.

It is anticipated that one of the proposals submitted in response to this Request for Proposal may be selected as the basis for negotiation of a contract with the proposer. Such a contract is presently contemplated to contain, at a minimum, the terms and conditions set forth in the sample agreement included as Appendix F but will also incorporate the terms of the proposal submitted, as finally negotiated, and approved by the System. TRS reserves the right to negotiate additions, deletions, or modifications to the sample agreement and/or the terms of proposals submitted.

Certain provisions in the sample agreement are required by the State of Illinois and are therefore not subject to negotiation. **Thus, it is critically important that vendors submit proposals clearly and thoroughly identify any and all contractual concerns in their written proposal.** A proposer that waits until contract negotiation to object to TRS contract terms may be precluded from further consideration.

V. SUBMISSION OF PROPOSALS

All proposals must be received at the address designated below **no later than 2:00 P.M. CDT on Wednesday March 27, 2024. (Late submissions will be rejected as unresponsive).** Proposals should be in an Adobe Acrobat format and should be emailed to Holly Walton at bidsubmissions@trsill.org. Subject must contain **“Response to Request for Proposals for Pension Administration System Process Improvement and RFP Consulting – Name of Responder.”** Failure to clearly identify the proposal in the subject line may result in the rejection of the proposal. Only email submissions will be accepted. Paper submissions will be rejected as non-conforming. TRS is not responsible for receipt of any proposal which is improperly labeled. An email confirmation will be sent confirming receipt of the proposal.

All costs for developing proposals and attending presentations and/or interviews are entirely the responsibility of the proposer and shall not be chargeable to TRS. Only one proposal from an individual, firm, partnership, corporation, or combination thereof, will be considered for this assignment.

The proposals become the property of TRS upon submission. All costs for developing proposals and attending presentations and/or interviews are entirely the responsibility of the proposer and shall not be chargeable to TRS.

Only one proposal from an individual, vendor, partnership, corporation, or combination thereof, will be considered for this assignment.

VI. EVALUATION PROCESS

A. Pre-Evaluation Review

All proposals will be reviewed to determine if they contain all the required submittals specified in this RFP. Those not submitting all required information in the prescribed format will be rejected.

B. Proposal Evaluation

Proposals that pass the pre-evaluation review will undergo an evaluation process conducted by TRS staff. TRS will consider the following various elements in the decision process, ranked in no specific order, and will render a decision based on the perceived best value for the engagement. Cost will be one of the determining factors in this decision but will not be the primary determinative. Proposals will be evaluated based on criteria including:

- Overall quality and thoroughness of the response in demonstrating an understanding of the needs of TRS and the respondent's thorough recommendations and demonstration of their ability to partner with TRS for successful PAS modernization.
- Understanding of the proposed services outlined in Section D of Appendix D.
- Demonstrated Experience with Public Pension funds over a minimum of 5 years.
- Experience with Illinois public pension funds is preferred.
- Track Record of facilitating a minimum of 3 COTS selection and implementations in the Public Sector with at least one an Educator fund strongly preferred.
- Availability: Qualified resources available to start within a reasonable timeframe of signed contract. (30 - 60 days preferred).
- References: Minimum of 3 positive customer references in the Public Pension sector.
- Cost

During the evaluation process, proposers may be requested to provide additional information and/or clarify contents of their proposal. Other than information requested by TRS, no proposer will be allowed to alter the proposal or add new information after the filing date.

VII. ANTICIPATED TIMELINE

Subject to change at TRS discretion

Schedule	Dates
RFP Issued	Wednesday, March 6, 2024
Vendor Questions due	12:00 p.m. CDT Monday, March 18, 2024
TRS response to questions posted	By 5:00 p.m. CDT Friday, March 22, 2024
RFP Responses Due	2:00 p.m. CDT Wednesday, March 27, 2024
Evaluations & Selection	April 2024
Anticipated Project Start	April-May 2024

VIII. GENERAL CONDITIONS

A. Questions/Clarification of the RFP

Interested proposers are expected to respond to this RFP to the best of their understanding. Questions from interested proposers should be submitted in writing to Holly Walton at the following email address: Purchasing@trsill.org. Questions must be submitted by **12:00 p.m. CDT on Monday, March 18, 2024**. The subject of the email should read: “**re Questions Pension Administration System Process Improvement and RFP Consulting.**” The System will not respond individually to a submitted question. If a response is deemed necessary or appropriate in the System’s discretion, the System will post questions and responses to our website **by 5:00 p.m. on Friday, March 22, 2024**. Proposers must not contact TRS staff about this RFP except as outlined above for Q&A. If a proposer discovers an error in this RFP, the proposer should immediately notify TRS of such error in writing to Holly Walton at the following email address: Purchasing@trsill.org. If deemed necessary or appropriate in the System’s discretion, TRS may clarify or modify any part of this RFP by posting notice on the TRS Web site prior to the proposal deadline.

B. Restrictions on Communication

Proposers must not discuss or share the contents of their proposals with other potential proposers. TRS policy and the Illinois state ethics law strictly limit communication during the search process. **Any attempt to initiate contact with TRS staff or TRS Trustees, other than as specifically stated in this RFP, may disqualify the proposer from further consideration.**

C. Prior Deficiencies

A proposer that is or has been deficient in current or recent contract performance in dealing with TRS or other clients may be disqualified unless the deficiency is shown to have been beyond the reasonable control of the proposer. TRS may reject a proposal from any proposer

that is in default on any debt owed to, or contract with, TRS or other clients, or that is in default as surety or otherwise, upon any obligation to TRS, or has failed to perform faithfully any previous contract with TRS. Proposers that are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing non-responsible proposer may be disqualified unless the new organization can prove it was not set up for the purpose of avoiding an earlier declaration of non-responsibility.

D. Reservation of Rights

TRS reserves the right to withdraw this RFP, to accept or reject any or all proposals submitted, and to waive any immaterial deviation, defect, or irregularity, whenever it would be in the best interest of TRS to do so. Waiver of an immaterial deviation shall in no way modify the Request for Proposal or excuse a proposer from full compliance with all RFP requirements.

Proposals that contain false or misleading statements or that provide references which do not support an attribute or condition claimed by the proposer will be rejected. Issuance of the Request for Proposal creates no obligation to award a contract or to pay any costs incurred in the preparation of a proposal. Nothing in this RFP or any resulting contract shall preclude TRS from procuring services similar to those described herein from other sources.

E. No Confidentiality

Proposals and all materials submitted in response to this RFP cannot be considered confidential except as provided below. All proposals and related materials will be retained by TRS and will be subject to disclosure as required in accordance with the Illinois Freedom of Information Act, 5 ILCS 140. Simply marking all or portions of the proposal as “Proprietary” or “Confidential” will not protect it from disclosure in the event that a public record request is received. If a proposer is submitting proprietary information or strategies with the proposal, the proposer should submit, along with the un-redacted proposal, a redacted copy that removes only that material considered to be a trade secret, competitively sensitive, proprietary, privileged, or confidential such that disclosure would cause competitive harm to the proposer.

F. Equal Opportunity

TRS does not discriminate because of actual or perceived race, color, religion, sex, sexual orientation, age, marital status, pregnancy, order of protection status, military status, certain unfavorable discharges from military service, political affiliation, citizenship, ancestry, national origin, physical or mental disability, genetic information, or any other characteristic protected by law. It is the System’s intent to comply with all state, federal, and local equal employment opportunity laws, and public policies.

APPENDIX A: VENDOR TYPE VERIFICATION FORM

Please select business type below as it applies to you/your company. This form must be included with your proposal.

Female Owned Business - Must be 51% independently owned by female(s) _____

Minority Owned Business - Must be 51% independently owned by minority(s) _____

Persons with Disability Business - Must be 51% independently owned by disabled person(s) _____

Combination of Above – Any combination of one or more of the three classes above which collectively represents at least 51% ownership _____

Veteran Owned Business - Must be 51% independently owned by veteran(s) _____

None of the above _____

Representative Signature

Date

APPENDIX B: STATEMENT OF MINIMUM QUALIFICATIONS

(Firm Name) _____ certifies that it meets the following minimum qualifications.

Please initial each as applicable.

_____ The firm and/or its principals have a minimum of five years of experience in providing public pension PAS consultant services.

_____ The firm has a track Record of facilitating a minimum of three COTS selection and implementations for clients of similar size and complexity in the public sector with at least one Educator fund strongly preferred.

_____ The firm acts independently and is not affiliated with any pension administration software company and are not compensated by any pension administration software company for referrals. If you cannot provide this information, describe in detail any affiliation or factors that may impact your ability to act independently.

Signed: _____ Date: _____

Title: _____

APPENDIX C: REFERENCE AUTHORIZATION LETTER

[On prospective vendor letterhead]

[Month, Day, Year]

[Reference Name]

[Reference Title]

[Company Name]

[Reference Address]

[City, State, Zip]

Dear [Reference Name]:

(Prospective Vendor Name) has submitted a proposal to the Teachers' Retirement System of the State of Illinois ("System") with regard to providing PAS consulting services. The System is conducting its due diligence with regard to *(Prospective Vendor Name)*. Through this written authorization, *(Prospective Vendor Name)* hereby authorizes any individual, business, corporation, retirement system, state agency, or other entity to release any facts and information it may have concerning *(Prospective Vendor Name)*, its principals, employees and agents, to the System.

A copy of this authorization may be used as if it were an original. Thank you for your assistance.

Sincerely,

(Prospective Vendor Name)

(Authorized Signature and Title)

cc: R. Stanley Rupnik, CFA, Executive Director and CIO, TRS

APPENDIX D: QUESTIONNAIRE

The following questionnaire must be completed and included with your response to this RFP. Type your responses in the same order as the questionnaire, listing the question first followed by your answer.

A. Vendor Information

Name of Vendor: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Phone: _____ Fax: _____

Federal Employer Identification Number: _____

Contact Person(s):
Name: _____ Phone: _____
Title: _____ Fax: _____
Email: _____ Website: _____

B. General Vendor Information

1. Provide a historical overview of your company's services including ownership.

C. Clients

1. Provide the name, address, phone number, contact name of two clients within the last twelve months that provided services similar to those in this RFP. Include a summary of the project that was completed for each. Also indicate whether those vendors may be contacted as references.
2. Please indicate if you have worked with any public sector/pension fund clients who have annual reporting required by statute.

D. Proposed Services

1. Provide a description of your proposed approach, detailed services to be provided and an estimated timeline for each bullet point of the proposed services outlined in Section III. Please copy and paste each bullet in section III as a separate item and explain your experience in each area.
2. Please include information regarding what work you would do remotely, and to what extent you would expect to work onsite with TRS staff.
3. Please provide a sample of your RFP requirements you have recommended for another PAS solution client.
4. Identify all staff that are being proposed to work on the project. Submit resumes for all proposed staff along with the proposal.
5. Provide an estimate of the time and type of TRS resources that must be available to you to complete the deliverables.

APPENDIX E: FEE PROPOSAL

The fee proposal shall be in the form provided below and must include all fees, expenses and costs related to the completion of the services identified in this RFP.

For services described in RFP Section III A, please provide an hourly fee schedule and include all team members hourly rates and total hour estimations related to completion of services for Employer Services business process improvement. (SOW A).

Hourly Fee Proposal for PAS business process analysis and recommendations (RFP Section III A)

Team Member/Position	Hourly Rate	Estimated Hours

A fixed cost proposal is required for services related to documentation of requirement and creation the COTS RFP (RFP Sections III B and C) and must include all out-of-pocket expenses attributable to the performances of services, i.e. all travel expenses including but not limited to lodging, transportation, meals, telephone, facsimile, Internet, or other communication devices, postage, delivery, copying, clerical time, and overtime.

Fixed Fee Proposal for RFP development and response evaluations (RFP Sections III B and III C) - \$ _____

APPENDIX F: [SAMPLE] MASTER SERVICES AGREEMENT

(Pension Administration Process Improvement and RFP Consulting Services)

This MASTER SERVICES AGREEMENT (this “Agreement”) is made and entered into this [] day of [], 202[] by and between the Teachers’ Retirement System of the State of Illinois (“TRS” or the “System”), a retirement system established under and pursuant to the laws of the State of Illinois, and *[NAME], (“Contractor”), a *[LEGAL STATUS], with offices at *[ADDRESS].

WHEREAS, the System has need to obtain Pension Administration Process Improvement and RFP Consulting services; and

WHEREAS, the System has determined through the RFP process that Contractor meets all qualifications described in the RFP to perform the Work set forth herein;

NOW THEREFORE, in accordance with the terms and conditions of this Agreement, Contractor agrees to provide the Work to the System as more fully detailed below:

1. **Definitions:** Capitalized terms used in this Agreement that are not defined in context shall have the meanings ascribed to such terms in Exhibit A (Definitions).
2. **Services:**
 - 2.1. **Generally:** In accordance with the terms of this Agreement and any attachments hereto, the Request for Proposal for Business Process Improvement Consulting Services, issued on March 6, 2024 (the “RFP”), and Contractor’s response to the RFP (the “RFP Response”), Contractor shall provide to the System the services described in the Statement of Work attached to this Agreement as Exhibit XXX.. Notwithstanding anything to the contrary, if any services, functions, deliverables, or responsibilities not specifically described in this Agreement are an inherent, necessary, or customary part of the Work, or are required for the System’s use and enjoyment of the Work, then such services, functions, and responsibilities shall be deemed to be included within the scope of the Work and shall be delivered to the System without cost, as if such services, functions, deliverables or responsibilities were specifically described in this Agreement.
 - 2.2. **SLAs and Maintenance:** If the Work contains Deliverables that are software, then [the RFP] shall set out support and maintenance obligations and service level agreements (if applicable) for such Deliverables.
3. **Term of the Agreement:** The term of this Agreement shall begin on the Effective Date and shall continue for a period of [] months] until XX/XX/XX, unless earlier terminated in accordance with **Section 35** of this Agreement (the “Term”).

4. **Compensation:**

- 4.1. The System shall pay the fees as follows: [INSERT] (the “Fees”). Contractor shall not be entitled to increase the Fees unless the System provides prior written approval, and such approval may be withheld for any reason and at any time.
- 4.2. The Fees shall be inclusive of all normal business expenses, including all overhead expenses associated with Contractor’s business, such as clerical time and overtime, computer usage, telephone calls, tele-facsimiles, photocopying, and mailing an express delivery expenses.
- 4.3. All out-of-pocket expenses attributable to performance of the Work under this Agreement and attendance of Contractor’s personnel at all regular meetings of the System’s Board of Trustees and the Investment Committee thereof, including without limitation, transportation, lodging, and meals during the period of travel, shall be at Contractor’s own expense, and the System shall have no obligation to reimburse Contractor for any such out-of-pocket expenses.
- 4.4. Unless otherwise agreed by the System and stated in this Agreement, this Agreement does not allow for reimbursement of any expenses incurred by Contractor, including but not limited to telephone, facsimile, Internet, or other communications device, computer, postage, delivery, copying, travel, transportation, lodging, food and per diem, clerical time, and overtime.

5. **Billing:** Contractor shall submit quarterly invoices for the Work provided hereunder in accordance with terms outlined below:

- 5.1. By submitting an invoice, Contractor represents, warrants, and certifies that the Work provided meets all requirements of the Agreement, that the amount billed is as allowed in the Agreement, and that any expenses billed are reimbursable under this Agreement.
- 5.2. Invoices shall be signed by Contractor and shall set out Contractor’s social security number or FEIN. All invoices shall include reasonable detail explaining the basis for the invoiced amounts, and Contractor shall provide additional supporting material upon the System’s reasonable request.
- 5.3. Invoices submitted by Contractor for the Work performed prior to July 1 must be presented to the System no later than July 15 of that year in order to ensure payment under this Agreement. Failure by Contractor to seek payment of invoices prior to July 15 may require Contractor to seek payment in the Illinois Court of Claims.
- 5.4. Contractor shall not bill for any taxes unless accompanied by proof that TRS is subject to the tax. If necessary, Contractor may request the applicable Illinois tax exemption number and federal tax exemption information.

6. **Payment:** Payments will be paid by the System in accordance with the Prompt Payment Act, 30 ILCS 540. Payment will be made by the System in the amount earned to the date of the

applicable invoice, less previous partial payments. Final payment may be adjusted by the System if such adjustment is supported by a System audit. All recordkeeping shall be in accordance with generally accepted accounting principles (GAAP). TRS shall not be liable to pay for supplies or equipment provided or Work rendered, including related expenses incurred, prior to the Effective Date of this Agreement.

7. **Amendment and Changes:** This Agreement may be amended in writing from time to time by mutual consent of the parties. All amendments to this Agreement must be in writing and fully executed by the parties.
8. **Applicable Law:** This Agreement and Contractor's obligations and Work hereunder are hereby made, and Contractor must perform its obligations under this Agreement and the Work, in compliance with all applicable federal and state laws. This Agreement shall be construed and governed in accordance with the laws of the State of Illinois to the extent that such laws are not pre-empted by the laws of the United States of America. By entering into this Agreement, each party agrees to submit to the exclusive jurisdiction of the state and federal courts of Illinois and agrees that any action or proceeding against the System arising out of or in connection with this Agreement shall be instituted in the Illinois Court of Claims. The System shall not enter into binding arbitration to resolve any dispute arising out of this Agreement. The System does not waive sovereign immunity by entering into this Agreement.
9. **Authorization:** Each party to this Agreement represents and warrants that: (a) it has the right, power, and authority to enter into and perform its obligations under this Agreement; (b) it has taken all requisite action (corporate, statutory, or otherwise) to approve execution, delivery, and performance of this Agreement; and (c) this Agreement constitutes a legal, valid, and binding obligation upon itself in accordance with its terms.
10. **Representations and Warranties:** Contractor represents, warrants, and covenants to the System as follows:
 - 10.1. **Qualified Personnel:** That (a) the Work shall be performed in a good, workmanlike and timely manner, by fully qualified personnel; (b) while on the System premises, Contractor personnel shall conduct themselves in a professional and businesslike manner; and (c) Contractor will not act in a manner, which, in the System's opinion, has or is likely to have a material adverse effect on the System's business, operations, or reputation.
 - 10.2. **General Performance:** That the Work shall be performed and be in compliance with all applicable laws, rules, regulations, Good Industry Practice, the RFP, the RFP Response, related Documentation, and the System's reasonable expectations.
 - 10.3. **Non-Infringement:** The Work does not and shall not infringe or misappropriate any third party's Intellectual Property Rights.
 - 10.4. **Reciprocal or Copyleft Open Source Software License:** Unless otherwise agreed to in this Agreement, the RFP, or the RFP Response, the Work does not, and shall not, include open source software. Contractor represents, warrants, and covenants that in no

event shall the Work include any open source software licensed under a “reciprocal” or “copyleft” open source license (such as the GPL or MPL) that would require the System to subsequently license or otherwise make available source code to a third party.

- 10.5. **Surreptitious Code:** With respect to any Deliverables that comprise or contain software or other computer-readable files, such Deliverables shall be free of viruses, material defects, worms, Trojan horses, destructive mechanisms, hidden or locked files, code that would cause any of the Deliverables to replicate, transmit or activate itself without control of a person operating the computer equipment on which it resides, code that would alter, damage or erase any data or computer programs without control of a person operating the computer equipment on which it resides (except to the extent expressly contemplated in the RFP), any key, node lock, time-out, “back door,” “trap door,” “booby trap,” “drop dead device,” “data scrambling device,” or other similar illicit code. Contractor covenants that no software or other files will be installed, executed or copied on the System’s equipment without the prior written approval of the System.
11. **Bankruptcy:** Contractor shall promptly notify the System if Contractor becomes insolvent, files a petition in bankruptcy, becomes a party to an involuntary bankruptcy proceeding, or makes an assignment for the benefit of creditors. In such an event, the System may immediately cancel all or any portion of this Agreement upon written notice.
12. **Building Security** Contractor shall comply with the System’s security procedures and other written policies related to the System’s premises made available to Contractor during the time Contractor’s personnel are on the premises.
13. **Certifications and Conflicts:** Contractor certifies that it is not legally prohibited from contracting with TRS or the State of Illinois, has no known conflicts of interest, and further specifically certifies as follows:
- 13.1. **Educational Loan:** Contractor, in accordance with the Educational Loan Default Act, is not in default on an educational loan. **5 ILCS 385.**
- 13.2. **Ethics:** Contractor acknowledges that the employees and trustees of TRS are subject to the State Officials and Employees Ethics Act, that TRS has adopted a gift ban more restrictive than required by state law, and agrees to refrain from bestowing or offering gifts of any monetary or non-monetary value to TRS employees or trustees. **5 ILCS 430.**
- 13.3. **Bribery:** Contractor has not been convicted of bribing or attempting to bribe an officer or employee of the State of Illinois or any other state, nor made an admission of guilt of such conduct that is a matter of record. TRS shall declare this Agreement void if this certification is false. **30 ILCS 500/50-5.**
- 13.4. **Felony:** If Contractor has been convicted of a felony, at least five years has passed after the date of completion of the sentence for that felony, unless no person held

responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business. TRS shall declare this Agreement void if this certification is false. **30 ILCS 500/50-10.**

- 13.5. **Sarbanes-Oxley:** If Contractor has been convicted of a felony under the Sarbanes-Oxley Act of 2002, or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953, 815 ILCS 5, at least five years has passed from the date of conviction. Contractor is not barred from being awarded a contract under 30 ILCS 500/50-10.5, and acknowledges that TRS shall declare this Agreement void if this certification is false. **30 ILCS 500/50-10.5.**
- 13.6. **Debt Delinquency:** Contractor and its affiliates are not delinquent in the payment of any debt to the State, or if delinquent, have entered into a deferred payment plan to pay off the debt. Contractor further certifies that it is not barred from being awarded a contract under 30 ILCS 500/50-11, and acknowledges that TRS may declare this Agreement void if this certification is false, or if Contractor later becomes delinquent and has not entered into a deferred payment plan to pay off the debt. **30 ILCS 500/50-11; 30 ILCS 500/50-60.**
- 13.7. **Illinois Use Tax:** Contractor is not barred from being awarded a contract under 30 ILCS 500/50-12, and acknowledges that TRS may declare this Agreement void if this certification is false. Contractor shall collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act, and acknowledges that failure to comply can result in this Agreement being declared void. **30 ILCS 500/50-12.**
- 13.8. **Environmental Protection:** Contractor has not committed a willful or knowing violation of the Environmental Protection Act (EPA) relating to civil penalties within the last five years, and is therefore not barred from being awarded a contract. If this certification is later determined to be false, Contractor acknowledges that the System may declare this Agreement void. **30 ILCS 500/50-14.**
- 13.9. **Lead Poisoning:** Contractor is not in violation of the Illinois Procurement Code provision prohibiting owners of residential buildings who have committed a willful or knowing violation of the Lead Poisoning Prevention Act from doing business with the State until the violation is mitigated. **30 ILCS 500/14.5, 410 ILCS 45.**
- 13.10. **Conflict of Interest:** Contractor does not have any public or private interest, direct or indirect, and shall not acquire directly or indirectly any such interest which does or may conflict in any manner with Contractor's obligations under this Agreement. Contractor has disclosed, and agrees it is under a continuing obligation to disclose to TRS, financial or other interests, public or private, direct or indirect, that may be a potential conflict of interest or which would prohibit Contractor from entering into or continuing to perform under this Agreement. Contractor further certifies that, in the performance of this Agreement, no person having any such interest shall be employed by Contractor. If any elected or appointed State officer or employee, or spouse or minor child of same has any ownership or financial interest in Contractor or this Agreement, Contractor

certifies that it has disclosed that information to TRS, and any waiver of the conflict has been issued in accordance with applicable law and rule. Membership in the Teachers' Retirement System of the State of Illinois does not constitute a conflict of interest within the meaning of this paragraph. **30 ILCS 105/8.40, 30 ILCS 500/50-13, 30 ILCS 500/50-15, 30 ILCS 500/50-35.**

- 13.11. **Inducement:** Contractor has not offered or paid any money or valuable thing to induce any person not to bid for a State contract, and has not accepted any money or valuable thing, or acted upon the promise of same, for not bidding on a State contract. **30 ILCS 500/50-25.**
- 13.12. **Non-Solicitation:** Contractor has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement, and has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award of making of this Agreement.
- 13.13. **Revolving Door:** Contractor is not in violation of the “revolving door prohibition” on procurement activity relating to a State agency. **30 ILCS 500/50-30.**
- 13.14. **Anticompetitive Practices:** Contractor will report to the Illinois Attorney General and the Chief Procurement Officer any suspected collusion or other anticompetitive practice among any bidders, offerors, contractors, proposers, or employees of the State. **30 ILCS 500/50-40, 30 ILCS 500/50-45, 30 ILCS 500/50-50.**
- 13.15. **Business Entity Registration:** Contractor certifies either: (a) it is not required to register or (b) it is registered as a business entity with the State Board of Elections pursuant to the Procurement Code, 30 ILCS 500/20-160 and acknowledges a continuing duty to update such registration pursuant to the Procurement Code. Contractor acknowledges that this Agreement is voidable under Section 50-60 of the Procurement Code if Contractor fails to comply with the business entity registration requirements. **30 ILCS 500/20-160; 30 ILCS 500/50-60.**
- 13.16. **ERI:** Contractor has informed the System in writing if Contractor was formerly employed by the System and received an early retirement incentive prior to 1993 under 40 ILCS 5/14-108.3 or 16-133.3 of the Illinois Pension Code, and acknowledges that contracts made without the appropriate filing with the Auditor General are not payable from the “contractual services” or other appropriation line items. Contractor has not received an early retirement incentive in or after 2002 under 40 ILCS 5/14-108.3 or 40 ILCS 5/16-133.3 of the Illinois Pension Code, and acknowledges that contracts in violation of Section 15a of the State Finance Act are not payable from the “contractual services” or other appropriation line items. **30 ILCS 105/15a.**
- 13.17. **Drug Free Workplace:** Contractor will provide a drug free workplace and will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance during the performance of this Agreement. This certification

applies to contracts of \$5,000 or more with individuals, and to entities with 25 or more employees. **30 ILCS 580.**

- 13.18. **International Boycott:** Neither Contractor, nor any substantially owned affiliate, is or shall participate in an international boycott in violation of the U.S. Export Administration Act of 1979 or applicable regulations of the U.S. Department of Commerce. This certification applies to contracts that exceed \$10,000. **30 ILCS 582.**
- 13.19. **Forced Labor:** In accordance with the State Prohibition of Goods from Forced Labor Act, no foreign-made equipment, materials, or supplies furnished under this Agreement have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction. **30 ILCS 583.**
- 13.20. **Child Labor:** In accordance with the State Prohibition of Goods from Child Labor Act, no foreign-made equipment, materials, or supplies furnished under this Agreement have been or will be produced in whole or part by the labor of any child under the age of 12. **30 ILCS 584.**
- 13.21. **Bid Rigging/Rotating:** Contractor has not been convicted of bid rigging or bid rotating or any similar offense of any state or of the United States. **720 ILCS 5/33E-3, E-4.**
- 13.22. **Nondiscrimination/Equal Employment Opportunity:** Contractor will comply with applicable provisions of the State and Federal constitutions, laws, and regulations pertaining to unlawful discrimination, harassment, and equal employment opportunity, including but not limited to the U.S. Civil Rights Act, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act, the Public Works Employment Discrimination Act, and the Illinois Human Rights Act. **42 USC 12101 et seq., 775 ILCS 5, 775 ILCS 10.**
- 13.23. **Discriminatory Club:** Contractor does not pay dues or fees, or subsidize or otherwise reimburse its employees or agents for any dues or fees to any discriminatory club. **775 ILCS 25.**
- 13.24. **Affiliates:** Contractor shall disclose the names and addresses of (i) itself; (ii) any entity that is a parent of, or owns a controlling interest in Contractor; (iii) any entity that is a subsidiary of, or in which a controlling interest is owned by, Contractor; (iv) any persons who have an ownership or distributive income share in Contractor that is in excess of 7.5%; or (v) who serves as an executive officer of Contractor. **40 ILCS 5/1-113.14(c)(5).**
14. **Compliance with Law:** Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, orders, federal circulars, and all license and permit requirements in the performance of this Agreement. Contractor shall, at all times during the Term of this Agreement, maintain compliance with all applicable tax requirements and be current in payment of such taxes.

- 15. Confidential Data and Information:** Contractor, including its personnel, agents, and subcontractors, may have access to, collect, or receive confidential data, member records, or other information owned or maintained by the System in the course of carrying out its responsibilities under this Agreement that is (a) marked as “Confidential” or “Proprietary;” (b) is otherwise reasonably identifiable as the confidential or proprietary information of the System; or (c) should reasonably be understood to be the confidential or proprietary information of the System given the nature of the information and the circumstances surrounding its disclosure (collectively, “Confidential Information”). The System hereby designates all information received or accessed by Contractor pursuant to this Agreement as Confidential Information unless otherwise designated in writing by the System. Contractor shall not unnecessarily communicate such Confidential Information within Contractor’s operations. No such Confidential Information shall be used for competitive purposes nor disclosed or disseminated except as authorized by law and with the written consent of the System, either during the period of this Agreement or thereafter. Contractor shall only access and use the Confidential Information of the System as required to and for the limited purpose of performing its obligations under this Agreement; provided, that Contractor may disclose the Confidential Information of the System to its employees, contractors, and professional advisors who need to know such information in order to perform their obligations related to this Agreement and who are contractually bound by confidentiality obligations that are at least as protective as those in this Agreement. Contractor shall use at least the same degree of care in safeguarding the System’s Confidential Information as it uses in safeguarding its own Confidential Information, but shall not use less than reasonable care and diligence. Contractor must return all such Confidential Information, in whatever form it is maintained, promptly at the end of the Agreement or earlier at the request of the System, or shall notify the System in writing of its destruction. Except with respect to Personal Data for which there are no exceptions, the foregoing obligations do not apply to Confidential Information: (i) that is lawfully in the receiving party’s possession prior to acquisition under this Agreement, (ii) that was received in good faith from a third party not subject to any confidentiality obligation, (iii) that is or becomes publicly known through no breach of confidentiality obligation, or (iv) that is independently developed by the receiving party without the use or benefit of the System’s data or information. Contractor shall be responsible for any breach of this Agreement by its employees, representatives, and agents, and any third party to whom it discloses Confidential Information in accordance with this Agreement.
- 16. Contact Person:** Contractor's principal contact person for all Work rendered hereunder shall be [_____].
- 17. Employment Status:** Contractor and all personnel that Contractor assigns to perform the Work under this Agreement are not employees of the System and amounts paid pursuant to this Agreement do not constitute compensation paid to any employee of the System. The System assumes no liability for actions of Contractor or its personnel under this Agreement and this Agreement is not subject to the State Employee Indemnification Act, as amended, 5 ILCS 350.
- 18. Entire Agreement:** This Agreement, together with any exhibits or attachments hereto, constitutes the entire agreement between the parties concerning the subject matter of this Agreement, and supersedes all prior proposals and contracts between the parties concerning

the subject matter of this Agreement. All provisions that by their nature would be expected to survive, shall survive termination. In the event of a conflict between the System's and Contractor's terms, conditions, and attachments, the System's terms, conditions, and attachments shall prevail.

19. **Execution of Originals:** This Agreement may be executed in two or more counterparts, any one of which shall be an original without reference to the others.
20. **FEIN Certification:** Under penalties of perjury, Contractor certifies that the legal name of business, taxpayer identification number, and legal status listed below are correct.

Contractor's legal name of business: _____

Taxpayer Identification Number: _____

Tax classification:

- ☐ S = S Corporation
☐ C = Corporation
☐ P = Partnership
☐ Individual/Sole Proprietor
☐ Limited Liability Company

21. **Inability to Perform:** Contractor agrees that if, due to death, illness, departure, or any other occurrence, any principal or principals of Contractor become unable to perform the Work set forth in this Agreement, neither Contractor nor the surviving principals shall be relieved of their obligations to complete performance hereunder. Contractor may substitute other professionals to perform such Work only upon approval of the System. Contractor shall immediately notify the System of any occurrence resulting in the inability of any principal or principals of Contractor to perform the Work set forth in this Agreement, in which event the System, at its own option, may immediately terminate this Agreement upon written notice to Contractor.
22. **Indemnification:** Contractor shall indemnify, defend, save and hold harmless the System, its affiliates, and their board members, trustees, officers, agents and employees, in both individual and official capacities, from and against any and all suits, actions, claims, demands, damages, losses, costs, and expenses, including attorney's fees and all expenses, arising out of or resulting from: (a) any claim that the Work, the Pre-Existing Contractor Materials, or any other items provided, delivered, or made available by Contractor infringe upon or misappropriate the Intellectual Property Rights or other proprietary rights of a third party; (b) a breach by Contractor of Section 14 (Compliance with Law); Section 15 (Confidential Data and Information); (c) personal injury or property damage caused by the acts or omissions of Contractor; or (d) the fraud, gross negligence, or intentional misconduct of Contractor. This paragraph is applicable to the full extent allowed by the laws of the State of Illinois and not beyond any extent that would render this paragraph void or unenforceable. In accordance with Article VIII, Section 1(a),(b) of the Constitution of the State of Illinois, the State may not indemnify private parties absent express statutory authority permitting the indemnification.

23. **Independent Contractor:** Contractor is an independent contractor in the performance of this Agreement, and is not an agent, employee, partner, or in joint venture with the System. All payments by the System shall be made on that basis. Contractor and its employees are not employees of the System and amounts paid pursuant to this Agreement do not constitute compensation paid to an employee of the System. All personnel performing Work pursuant to this Agreement are employees of Contractor, are treated as employees of Contractor for tax reporting purposes, and are provided all benefits of such employment that are provided or accrue to Contractor's employees, including, without limitation, health insurance, life insurance, disability insurance, workers' compensation, vacation, paid holidays, sick leave, and the like. The System assumes no liability for the actions of Contractor or its employees under this Agreement and this Agreement is not subject to the State Employee Indemnification Act, 5 ILCS 350.
24. **Insurance:** Contractor shall, during the Term of this Agreement and any renewals or extensions, at its sole cost and expense, procure and maintain in full force and effect, a Certificate of Insurance naming the System as an additional insured for all required bonds and insurance. Certificates may not be modified or canceled until at least 30 days' notice has been provided to the System by Contractor. Contractor shall carry the following minimum coverage amounts: (a) General Commercial Liability-occurrence form in the amount of \$1,000,000 per occurrence (Combined Single Limit Bodily Injury and Property Damage) and \$2,000,000 Annual Aggregate; (b) Auto Liability, including Hired Auto and Non-owned Auto, in the amount of \$1,000,000 per occurrence (Combined Single Limit Bodily Injury and Property Damage); and (c) Worker's Compensation Insurance in the amount required by law. Insurance shall not limit Contractor's obligation to indemnify, defend, or settle any claims.
25. **Nonexclusive Agreement:** Contractor understands, acknowledges, and agrees that Contractor does not have an exclusive agreement with the System to provide the supplies, equipment, and/or Work hereunder, and that the System may engage others to provide the same or similar goods and/or Work without any obligation to Contractor.
26. **Notices:** Notices and any other communication provided for herein shall be given in writing to the contacts designated below by registered or certified mail, return receipt requested, by receipted hand delivery, by courier (UPS, Federal Express, or other similar and reliable carrier), by email, or by fax showing the date and time of successful receipt. Each such notice shall be deemed to have been provided at the time it is actually received. By giving notice, either party may change the following contact information:

Contractor: [Company Name]
Attention:
[Mailing Address]
[City, State Zip Code]
Phone:
Fax:
Email:

TRS: Teachers' Retirement System of the State of Illinois
Attention: Holly Walton, Purchasing Manager

2815 W. Washington St., P.O. Box 19253
Springfield, Illinois 62794-9253
Phone: 217-814-2049
Fax: 217-753-0969
Email: Purchasing@trsil.org

27. **No Waiver:** Except as specifically waived in writing, failure by either party to exercise or enforce a right or obligation under this Agreement shall not affect any subsequent ability to exercise or enforce a right or obligation.
28. **Record Retention – Right to Audit:** Contractor and its subcontractors agree to comply with Section 20-65 of the Illinois Procurement Code, 30 ILCS 500/20-65, and shall maintain adequate books and records relating to the performance of this Agreement and necessary to support amounts charged to the System under this Agreement. Books and records, including information stored in databases or other computer systems, shall be maintained by Contractor and its subcontractors for a period of three years from the later of the date of final payment under the Agreement or completion of the Agreement. Such three-year period shall be extended for the duration of any audit in progress at the time of that period's expiration. Such books and records shall be available for review or audit by the Auditor General, other governmental entities with monitoring authority, and the System, upon reasonable notice and during normal business hours. Contractor and its subcontractors shall cooperate fully with any such review or audit. Failure to maintain such books and records shall establish a presumption in favor of the System for the recovery of any funds paid by the System under this Agreement for which adequate books and records are not available. Contractor shall not impose a charge or pass on fees or costs for review or audit of such books and records. Contractor shall take reasonable steps to ensure that its subcontractors are in compliance with this Section.
29. **RFP or Bid:** The System's RFP, and the Contractor's RFP Response, are hereby incorporated by reference into this Agreement as though fully set forth herein. To the extent that there are any conflicts between the RFP, the RFP Response, and this Agreement, this Agreement shall prevail.
30. **Severability:** Any provision, covenant, or condition of this Agreement which is held by a court of competent jurisdiction to be invalid or not enforceable in any jurisdiction, shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.
31. **Solicitation of Employees:** Contractor agrees not to recruit, solicit, employ, or induce TRS personnel, directly or indirectly, to apply for employment with Contractor, during and for one year following the termination or expiration of this Agreement.
32. **Subcontracting and Assignment:**
- 32.1. This Agreement may not be assigned or transferred by Contractor, in whole or in part, without the prior written consent of the System. This Agreement shall be binding on

the parties and their respective successors and permitted assigns. Any assignment in contravention of this Section shall be null and void and of no further effect.

- 32.2. If Contractor intends to utilize one or more subcontractors in the performance of this Agreement, Contractor shall provide prior written notice to the System identifying the names and addresses of all such subcontractors to be utilized by Contractor in the performance of this Agreement, together with a description of the Work to be performed by the subcontractor and the anticipated amount of money that each subcontractor will receive from Contractor for such Work. This Agreement shall apply to and bind all subcontractors utilized by Contractor in the performance of this Agreement as fully and completely as Contractor is hereby bound and obligated. For purposes of this Section, subcontractors are those specifically hired to perform all or part of the Work or to provide equipment or supplies covered by the Agreement.

33. Termination:

- 33.1. This Agreement may be terminated at any time by the mutual consent of the System and Contractor.
- 33.2. If either party is in material breach of any obligation under this Agreement, the non-breaching party may terminate this Agreement for cause upon written notice after (a) first providing the other party with written notice of the breach (a "Notice of Breach"), and (b) providing thereafter a thirty (30) day opportunity to cure beginning on the date of receipt by the alleged breaching party of the Notice of Breach (the "Cure Period"). If, the System determines that such material breach is not curable, then the System may exercise such termination right immediately without providing Contractor with the Cure Period.
- 33.3. Notwithstanding any contrary provision in this Agreement, this Agreement may be terminated at the option of the System whenever the System determines that such termination is in its best interests, upon 15 days' prior written notice to Contractor.
- 33.4. Upon notice of termination, Contractor shall cease provision of the Work under this Agreement, except Work that TRS directs in writing to be completed, and take all necessary or appropriate steps to limit disbursements and minimize costs, and cooperate in good faith with TRS during the transition period between notification of termination and substitution of any replacement contractor. Contractor shall be entitled to payment for satisfactory supplies, equipment and/or Work provided under the Agreement. In the event the System and Contractor cannot agree to the amount of payment due Contractor, Contractor will receive a percentage of payment provided under the Agreement equal to the percentage of Work completed prior to termination of the Agreement. Contractor shall immediately return to TRS any payments for supplies, equipment, or Work that were not rendered by Contractor.
- 33.5. Termination of this Agreement shall not relieve either party of any obligations hereunder which were incurred prior to the date upon which the termination is effective.

34. Use and Ownership:

- 34.1. **System Ownership of Deliverables:** Unless otherwise specified in this Agreement, and except for Pre-Existing Contractor Materials, Contractor acknowledges and agrees that, as between the parties, the System is the sole and exclusive owner of all the right, title, and interest, in and to the Work, including all associated Intellectual Property Rights. Contractor hereby assigns and transfers to the System all right, title, and interest in and to such Work including any related Intellectual Property Rights, and/or waives any and all claims that Contractor may have to such Work including the so-called “moral rights” in connection with the Work. Confidential Information and other System Information contained in the Work shall be subject to all confidentiality and data security provisions of this Agreement.
- 34.2. **Grant of Rights to the System in Pre-Existing Contractor Materials:** To the extent that Contractor incorporates Pre-Existing Contractor Materials into the Work, Contractor, under its Intellectual Property Rights, hereby grants to the System a perpetual, irrevocable, worldwide, non-exclusive, transferrable, sublicensable, fully paid-up, royalty-free license to access, use, and exploit as it sees fit the Pre-Existing Contractor Materials as incorporated into the Work.
- 34.3. **Bankruptcy Code Section 365(n):** The licenses granted to the System herein are rights to “intellectual property” for purposes of Section 365(n) of the U.S. Bankruptcy Code, and the System shall be entitled to exercise all rights provided by Section 365(n). Contractor agrees that it shall not interfere with the System’s exercise of such rights, and further agrees that the System shall maintain the licenses under the terms of this Agreement, even if Contractor ceases operations or is purchased or merges into another entity.
- 34.4. **No Implied Rights:** Nothing in this Agreement shall be construed to grant either party any rights other than those expressly provided herein. Any rights granted to a party under this Agreement must be expressly provided herein, and there shall be no implied rights pursuant to this Agreement, based on any course of conduct or other construction or interpretation thereof. All rights and licenses not expressly granted herein are reserved.
- 34.5. **Information Security:** Contractor has implemented and shall maintain an information security program that includes reasonable and appropriate physical, technical and administrative measures to safeguard System Information consistent with Good Industry Practice and applicable law. “System Information” shall mean any data or information transferred, made available, or provided to Contractor by or on behalf the System in connection with this Agreement. Contractor agrees that System Information shall be deemed “Confidential Information” and shall be used by Contractor only in connection with its performance under this Agreement.
35. **Non-Publicity:** Contractor agrees that (a) it shall not use the System’s (and its affiliates’) names, logos, tag lines, or any other identifying information in any manner, including, but not limited to, in advertisements, publications, press releases, articles, websites, or social media,

without the System's prior written approval (the "Publicity Prohibition"), which may be withheld, conditioned, or withdrawn for any reason, and (b) the Publicity Prohibition applies to the System and all of its related or affiliated entities.

36. **Remedies Cumulative:** No right or remedy in this Agreement conferred upon or reserved to either party is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy under this Agreement, or under applicable law, whether now or hereafter existing. The election by a party of any remedy provided for in this Agreement or otherwise available to such party shall not preclude such party from pursuing any other remedies available to such party at law, in equity, by contract or otherwise.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

[SIGNATURE BLOCK]

EXHIBIT A

DEFINITIONS

1. **Deliverables.** The term “Deliverables” means those deliverables that Contractor is obligated to provide pursuant to this Agreement (including the RFP and RFP Response). By way of clarification, and not limitation, all Documentation that Contractor provides to the System pursuant to this Agreement shall constitute Deliverables.
2. **Documentation.** The term “Documentation” means all printed, electronic, or verbally provided: (a) user manuals and training materials; (b) product descriptions and other specifications (including performance standards); (c) requirements in the RFP; (d) technical and operating manuals; and (e) specifications.
3. **Good Industry Practice.** The term “Good Industry Practice” means the exercise of the skill, care, due diligence, prudence, foresight, and judgment in relation to any undertaking or any circumstances that would be expected from an expert provider of work similar to one or more components of the Work that Contractor is providing under this Agreement.
4. **Intellectual Property Rights.** The term “Intellectual Property Rights” means any rights (whether owned or licensed) existing now or in the future under patent law, copyright law, trademark law, data and database protection law, trade secret law, and any and all similar proprietary rights. The term “Intellectual Property Rights” means those rights as they exist as of the Effective Date, and all such rights subsequently acquired.
5. **Personal Data.** The term “Personal Data” means any information: (a) relating to an identified or identifiable natural person; (b) that could be used to: (i) identify a natural person; (ii) authenticate such natural person; or (iii) commit identify theft or impersonation; or (c) that is classified as “personal data,” “personal information,” “PII,” or the like under applicable law. The term Personal Data expressly includes all information relating to the System’s customers, employees, and clients.
6. **Pre-Existing IP.** The term “Pre-Existing IP” means, collectively: (a) Intellectual Property Rights that, as between the parties, Contractor owns prior to the Effective Date; and (b) Intellectual Property Rights that Contractor develops independently of its obligations under this Agreement after the Effective Date.
7. **Pre-Existing Contractor Materials.** The term “Pre-Existing Contractor Materials” means work or materials that: (a) are identified with specificity as such in this Agreement; and (b) embody Pre-Existing IP.
8. **Services.** The term “Services” means those services that Contractor provides to the System pursuant to this Agreement.
9. **Work.** The term “Work” means, collectively: (a) Deliverables; and (b) Services.

SAMPLE