

Teachers' Retirement System Of the State of Illinois



REQUEST FOR PROPOSAL FOR INVESTMENT AUDIT SERVICES

Issued February 4, 2019

Proposals due by 2:00 p.m. CST, on March 4, 2019

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I. Introduction

The Teachers' Retirement System of the State of Illinois (the System or TRS) is requesting proposals to provide investment audit services to assist the System's internal audit department in conducting a global fixed income audit, including the review of private debt. The objective of this Request for Proposal is to solicit competitive proposals from qualified firms in sufficient detail to permit objective evaluation of all proposals which may result in a contract to provide investment audit services to the Teachers' Retirement System.

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.

This Request for Proposal is neither a contract nor meant to serve as a contract. A proposer's preparation or 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 400,000 members and had over \$51.8 billion in assets held in trust for its membership as of September 30, 2018.

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 Comprehensive Annual Financial Report, as well as a variety of other information about TRS is available on the TRS Web site at <https://www/trsil.org>.

A thirteen-member 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.

Using the combined resources of external investment managers, internal staff, and consultants, TRS invests the trust assets in accordance with the general fiduciary rules of both state and federal

laws. The market value of the TRS total fund on September 30, 2018 was \$51.8 billion. The asset allocation as of September 30, 2018 was as follows:

Asset Class	09/30/18 Total Fund \$ Millions	% of Portfolio
Public Equity	\$19,067.6	36.8%
Private Equity	6,677.8	12.9
Real Estate (Opportunistic)	1,376.8	2.7
Real Estate (Core-Value Add)	5,771.4	11.1
Other Real Assets	1,279.5	2.5
Diversifying Strategies	5,472.9	10.5
Global Fixed Income	10,864.3	21.0
Short-term Investments	1,333.8	2.5
Total Fund	\$51,844.1	100.0%

The global fixed income asset class consists primarily of traditional fixed income investments and private debt strategies. As of September 30, 2018, traditional fixed income investments had approximately sixteen external investment managers in multiple sub-strategies such as core, core plus, high yield and emerging market debt. Private debt strategies had approximately twenty-nine external investment managers in multiple mandates including direct lending, specialty finance, bank loans, real estate debt, stressed credit and custom accounts. The TRS portfolio typically contains derivative securities such as currency forward contracts, options, futures and swaps (credit default swaps/index swaps, interest rate swaps and inflation linked swaps).

III. Services Required

TRS is seeking the services of a qualified and independent firm to lead and assist the internal audit department in conducting an audit of the System’s global fixed income asset class with an expected audit period of up to two fiscal years. The audit will be performed in fiscal year 2020 between July 1, 2019 and June 30, 2020. Responding firms must demonstrate experience and expertise in the areas of investment auditing and the capabilities to successfully perform the engagement. The engagement should be planned as a co-source and “knowledge transfer” process inclusive of the TRS internal audit department. All responding firms must meet the highest standards of professional competence and ethics.

The firm will be expected to plan, conduct fieldwork and report the results of the audit. Services are anticipated to include, but are not limited to, the following:

1. Preparation and completion of a detailed audit program
2. Preparation and completion of a risk assessment
3. Review of any potential issue(s) arising out of the risk assessment and/or interviews with staff
4. Review of TRS policies and procedures related to global fixed income
5. Review of global fixed income internal controls including the review of segregation of duties and reporting
6. Review of the portfolio oversight procedures including initial and ongoing due diligence for global fixed income
7. Review of the investment manager guideline process to ensure appropriate and adequate monitoring
8. Review of the derivatives monitoring process, collateral guidelines and related risks (i.e., market, credit, investment, liquidity, counterparty, valuation)
9. Review of associated legal documents (investment management agreements, limited partnership agreements, ISDA and CSA agreements)
10. Written audit report addressed to the Board of Trustees describing the results of the engagement.
11. Potentially presenting the final report to the Board of Trustees

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. 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 Board of Trustees of the Teachers' Retirement System of the State of Illinois, at any time prior to June 30, 2019.
2. A statement certifying that the proposer either: (a) 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 and/or the Illinois Open Meetings Act.
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.

B. Vendor Type Verification Form

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

C. Statement of Minimum Qualifications

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

D. Reference Checks

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

E. Questionnaire

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

F. Fee Proposal

Proposers must submit their fee 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 costs and expenses for providing the services to TRS as described in this RFP. Once finalists are selected, fees may be subject to a “best and final” offer process to be determined at the discretion of the System.

The fee proposal must expressly state that the proposed fees are guaranteed for the term of any resulting contract.

G. Contract

It is anticipated that one or more of the proposals submitted in response to this RFP 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 E. 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 firms submitting 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 addresses designated below **no later than 2:00 p.m. CST on March 4, 2019.** Shall submit five (5) hard copies of the proposal and one (1) copy on CD-ROM or thumb drive in a sealed package to:

Heidi Darow, Purchasing Officer
Teachers' Retirement System of the State of Illinois
P.O. Box 19253
2815 West Washington Street
Springfield, Illinois 62794-9253

One of the hard copies must be marked as the "Master Copy" and submitted in a loose-leaf, three-ringed binder which displays the proposer's name on the outside front cover. **Do not submit the Master Copy with spiral binding.**

Clearly identify the outside of the sealed proposal package with the proposer's name and return address in the upper left hand corner and the statement "**SEALED PROPOSAL- DO NOT OPEN** - Response to Request for Investment Audit Services, Issued February 4, 2019." Failure to clearly identify the outside of the proposal package may result in the rejection of the proposal. TRS is not responsible for receipt of any proposal which is improperly labeled.

TRS accepts no responsibility for lost and/or late delivery of proposals. Whether mailed, hand-delivered, or delivered by carrier, the proposer is responsible for timely delivery on or before the above date and time. **Proposals that arrive late for any reason whatsoever, including mail delay or any other cause beyond the control of the proposer, will not be considered and will be returned unopened.**

Except as specifically requested by TRS, submission of proposals or any portion thereof via facsimile transmission, electronic, or magnetic media will not be allowed.

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, firm, partnership, corporation, or combination thereof, will be considered for this assignment.

VI. Evaluation Process

A. Pre-Evaluation Review

Each proposal package will be date-stamped when received. Each proposal package will be inspected to ascertain that it is properly sealed and labeled. Proposals not passing this inspection may not be accepted. 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.

Fees 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:

- Quality and completeness of response to this request for proposal
- Ability to fulfill the requirements of this request for proposal
- Soundness of the approach and quality of the proposed services
- Firm qualifications including established record of success in similar work
- Individual qualifications of the assigned staff
- Proposed deliverables
- 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.

Finalists may be scheduled for one or more oral presentations or interviews with TRS staff. Not all proposers may be asked to participate. Finalist interviews will be approximately 1 hour and may be scheduled at the TRS office, on-site at the finalist's office, designated alternate location or via teleconference at the discretion of TRS. Further, finalists may be asked to present their credentials and program specifics to the Board of Trustees at a public meeting. No expenses or costs associated with interviews or Board presentations will be paid or reimbursed by TRS. TRS may require contract and fee negotiations to be completed prior to any presentation or interview. Once finalists are selected, fees may be subject to a "best and final" offer process to be determined at the discretion of the System.

VII. Anticipated Timeline
Subject to change at TRS discretion

Date RFP Issued	February 4, 2019
Proposals Due	March 4, 2019
Proposal Evaluation	March 4-25, 2019
Finalist Presentations (if necessary)	March 2019
Firm Selection	March 2019
Audit Conducted	Between July 2019 and June 2020

VIII. General Conditions

A. Clarification of the RFP

To maintain the integrity of the RFP process, interested proposers are expected to respond to this RFP to the best of their understanding without asking questions or requesting clarification. If a proposer discovers an error in this RFP, the proposer should immediately notify TRS of such error in writing to Heidi Darow at the following email address: Purchasing@trsil.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 website 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, consultant, or TRS Trustees, other than as specifically stated in this RFP, may disqualify the proposer from further consideration.**

C. 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.

D. No Confidentiality

Proposals and all materials submitted in response to this RFP cannot be considered confidential. 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.

E. Equal Opportunity

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

Appendix A: Vendor Type Verification Form

Please complete the information 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 a female _____

Minority Owned Business - Must be 51% independently owned by a minority _____

Persons with Disability Business - Must be 51% independently owned by a disabled person _____

Veteran Owned Business - Must be 51% independently owned by a veteran _____

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.

1. _____ The firm has at least five years of experience providing investment audit services.
2. _____ As of June 30, 2018, the firm has had at least five institutional pension fund clients within the last two years.
3. _____ As of June 30, 2018, the firm has conducted investment auditing in the area of global fixed income including private debt strategies.

Signed: _____ Date: _____

Title: _____

Appendix C: Reference Authorization Letter
[On prospective firm letterhead]

[Month, Day, Year]

[Reference Name]

[Reference Title]

[Company Name]

[Reference Address]

[City, State, Zip]

Dear [Reference Name]:

(Prospective Firm Name) has submitted a proposal to the Teachers' Retirement System of the State of Illinois ("System") with regard to providing investment audit services. The System is conducting its due diligence with regard to *(Prospective Firm Name)*. Through this written authorization, *(Prospective Firm 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 Firm 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 Firm Name)

(Authorized Signature and Title)

cc: Richard W. Ingram, Executive Director, TRS

Appendix D: Questionnaire

Please provide the name, title, address and telephone number of the person to be contacted regarding the responses to all of the following questions. Type your responses in the same order as the questions, listing the question first followed by your answer. Failure to follow this format may eliminate your responses from consideration.

1. Please provide your contact information: firm name, contact person (name and title), address, telephone and fax number, website (if applicable) and email.
2. Please provide a general description and history of the firm, its operations (please include any history of mergers and/or acquisitions), year founded, ownership structure, biographies of the principals and percentage ownership by current employees.
3. Briefly describe your firm's background and history of performing global fixed income investment related audits including the review of derivatives and private debt.
4. How many professionals are employed by your firm and what is their level of experience and professional credentials?
5. Please list the firm's professional staff that you perceive to be assigned to this engagement and an estimated timeframe for audit completion.
6. Describe the turnover of the firm over the past five years.
7. How many investment consulting engagements did you/your firm conduct in 2017 and 2018? Please indicate if any were specifically related to global fixed income (including private debt strategies) or derivatives auditing and provide a description of the services provided.
8. What experience do you/your firm have in reviewing international swaps and derivatives association agreements (ISDA) and/or collateral service agreements (CSA)?
9. What is your/your firm's view on reporting audit results to the Board of Directors or Board of Trustees? How frequently have you presented results to a Board?
10. Please provide three references (including at least one public pension fund client) from engagements that you/your firm have conducted in the last two years. By providing references, the proposer authorizes TRS to contact the reference to inquire about the proposer's services.

Appendix E: Fee Proposal

Please quote your fee for the following services. Please detail the scope of services to be provided under the proposed engagement and provide quotes for any additional services.

A. Fee for global fixed income audit \$ _____

B. Please certify that all travel related expenses pertaining to performance of on-site auditing work and attendance at board meetings is included in your fee proposal.

Appendix F: Agreement for Investment Audit Services SAMPLE AGREEMENT

This AGREEMENT FOR PROFESSIONAL SERVICES (this “Agreement”) is made and entered into this ___ day of _____, 2019, 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 the professional services of an investment audit firm to assist the System in achieving its investment objectives to ensure prudent management of TRS trust assets; and

WHEREAS, the System has determined through the Request for Proposal (RFP) process that Contractor meets all qualifications described in the RFP to perform the services set forth herein;

NOW THEREFORE, Contractor agrees to provide the following professional services to the System as more fully detailed below:

Professional services to be provided: In accordance with the terms of this Agreement and any attachments hereto, the Request for Proposal for Investment Audit Services issued February 4, 2019 (the “RFP”), and Contractor’s response to the RFP (the “RFP Response”), Contractor shall provide such professional services to the System, as provided more fully below. The RFP and the RFP Response are incorporated into this Agreement as though fully set forth herein. The System shall have the sole discretion to interpret any discrepancies or inconsistencies between this Agreement, the RFP, and the RFP Response, which interpretation shall be final. The following professional services shall be provided to the System:

[INSERT SERVICES AS PER RFP]

Compensation:

- a) Payment to Contractor for the professional services hereunder shall be as follows:
[INSERT FEES AS PER RFP]
- b) Unless otherwise agreed upon and stated herein, 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.
- c) Contractor understands and agrees that all travel expenses attributable to attendance of Contractor’s personnel, including, without limitation, transportation, lodging, and

meals during the period of travel, will be at Contractor's own expense, and the System shall have no responsibility to reimburse Contractor for any such travel expenses.

Billing: Contractor shall invoice at the completion of the Agreement unless invoicing is tied in this Agreement to deliverables, or other invoicing requirements agreed to elsewhere in this Agreement.

- a) The amount shown on the invoice shall be in accordance with the fee or rate schedule provided herein.
- b) By submitting an invoice, Contractor certifies that the professional services provided meet 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.
- c) Invoices submitted by Contractor for professional services 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.
- d) 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.

Payment: Payments will be paid in accordance with the Prompt Payment Act, 30 ILCS 540. Payment will be made in the amount earned to date of 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 sound accounting standards. TRS shall not be liable to pay for supplies or equipment provided or services rendered, including related expenses, incurred prior to the execution of this Agreement by all parties and the beginning of the term of this Agreement.

Term of the Agreement: The Professional services under this Agreement shall be provided between the date of execution and _____ (not to exceed five years) unless earlier terminated in accordance with this Agreement.

Agents and Employees: Contractor shall be responsible for the negligent acts and omissions of its agents, employees, and subcontractors in their performance of Contractor's duties and obligations under this Agreement. Contractor represents that it shall utilize the services of individuals skilled in the profession for which they will be used in performing services hereunder. In the event that the System determines that any individual performing services for Contractor hereunder is not providing such skilled services, it shall promptly notify Contractor and Contractor shall promptly replace that individual.

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.

Applicable Law: This Agreement and Contractor's obligations and services hereunder are hereby made and must be performed 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, Contractor 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.

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.

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.

Building Security: Contractor shall comply with the System's security procedures during the time Contractor's personnel are on the premises.

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:

- a) **Educational Loan:** Contractor, in accordance with the Educational Loan Default Act, is not in default on an educational loan. **5 ILCS 385.**
- b) **Ethics:** Contractor acknowledge that 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. Contractor agrees to complete ethics training upon request. **5 ILCS 430.**
- c) **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.**
- d) **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.**

- e) **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.**
- f) **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 ILCS 500/50-60.**
- g) **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.**
- h) **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.**
- i) **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 500/50-14(c), 410 ILCS 45.**
- j) **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 500/50-13, 30 ILCS 500/50-15, 30 ILCS 500/50-35.**

- k) **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.**
- l) **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.
- m) **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.**
- n) **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.**
- o) **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.**
- p) **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.**
- q) **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.**

- r) **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.**
- s) **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.**
- t) **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.**
- u) **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.**
- v) **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.**
- w) **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.**
- x) **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).**

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.

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. The System hereby designates all information received or accessed pursuant to this Agreement as confidential unless otherwise designated in writing by the System. Contractor shall not unnecessarily communicate such data or information within Contractor's operations. No such data or 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 must return all such data and 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. The foregoing obligations do not apply to confidential data or information lawfully in the receiving party's possession prior to acquisition under this Agreement, received in good faith from a third party not subject to any confidentiality obligation, that is or becomes publicly known through no breach of confidentiality obligation, or that is independently developed by the receiving party without the use or benefit of the System's data or information.

Consultation: Contractor shall consult with and keep the System fully informed as to the progress of delivery of professional services and all matters under this Agreement. Contractor shall promptly furnish the System with copies of all correspondence and documents in connection its performance under this Agreement.

Contact Person: Contractor's principal contact person for all services rendered hereunder shall be _____.

Employment Status:

- a) Contractor, and all professionals who provide services pursuant to this Agreement, are not employees of the System and amounts paid pursuant to this Agreement do not constitute compensation paid to an employee of the System. The System assumes no liability for actions of Contractor or the professionals who provide services under this Agreement and this Agreement is not subject to the State Employee Indemnification Act, as amended, 5 ILCS 350.
- b) Contractor represents, warrants, and agrees that all professionals who provide services pursuant to this Agreement are partners or employees of Contractor, are treated as partners or employees of Contractor for tax reporting purposes, and are provided all benefits of such partnership or employment that are provided or accrue to Contractor's partners and employees, including, without limitation, health insurance, life insurance, disability insurance, workers' compensation, vacation, paid holidays, sick leave, and the like.

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. Any provision of this Agreement officially declared void, unenforceable, or against public policy, shall be ignored and the remaining provisions shall be interpreted, as far as

possible, to give effect to the parties' intent. 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.

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.

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: _____

Legal status of business: _____

Tax classification: S = S Corporation
[Check only if legal status is C = Corporation
a limited liability company] P = Partnership

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 services 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 services 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 services set forth in this Agreement, in which event the System, at its own option, may immediately terminate this Agreement upon written notice to Contractor.

Indemnification: Contractor shall indemnify, defend, save and hold harmless the System, its 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, which are the result of an error, omission or negligent act of Contractor or any of its employees or agents arising out of or resulting from the provision of Goods and/or performance of services under this Agreement, except where such is due to the active negligence of the party seeking to be indemnified. 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.

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 services 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 actions of Contractor or its employees under this Agreement and this Agreement is not subject to the State Employee Indemnification Act, 5 ILCS 350.

Insurance: Contractor shall, at its sole cost and expense, procure and maintain in full force and effect during the term of this Agreement, a Certificate of Insurance naming the System as 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. Contractor shall provide in the following minimum 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.

Nonexclusive Agreement: Contractor understands, acknowledges, and agrees that Contractor does not have an exclusive agreement with the System to provide the professional services hereunder, and that the System may engage others to provide the same or similar goods and/or services without any obligation to Contractor.

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

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.

Progress Reports: Contractor shall submit to the System upon request, oral or written reports detailing the status of the work performed under this Agreement. All written reports, including any final comprehensive reports, shall be the property of the System. All documents, including reports and all other work products, produced by Contractor under this Agreement, shall become and remain the property of the System.

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.

RFP or Bid: The System's Request for Proposal (RFP), Invitation to Bid, or any similar document soliciting contractors for the work set forth herein, and Contractor's response thereto, 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 or bid document and this Agreement, this Agreement shall prevail.

Schedule of Work: Any work performed on TRS premises shall be done during the hours designated by TRS and performed in a manner that does not interfere with TRS business and its personnel.

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.

Subcontracting and Assignment:

- a) This Agreement may not be assigned or transferred in whole or in part without a written amendment duly executed by both parties.
- b) If Contractor intends to utilize one or more subcontractors in 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.

Termination:

- a) This Agreement may be terminated at any time by the mutual consent of the System and Contractor.
- b) Either party may, without the consent of the other party, terminate this Agreement upon 30 days' prior written notice to the other party.
- c) 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.
- d) Upon notice of termination, Contractor shall cease 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 services 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 services that were not rendered by Contractor.
- e) 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.

Unavoidable Delay: If Contractor is obstructed or delayed in the commencement, execution or completion of any part of the work to be provided hereunder by any cause which the System shall determine to be entirely beyond the control of Contractor, the time fixed for completion of such work may be extended for a period equivalent to the time lost by reason of any such cause. No such extension of time shall be made unless Contractor delivers a written request therefore to the

System, and Contractor satisfies the System that the delay so claimed was unavoidable, caused substantial cessation of the work, and could not have been reasonably anticipated or guarded against. Any extension of time granted by the System under this paragraph shall in no way operate as a waiver by the System of any of its rights under this Agreement.

Use and Ownership: All work performed or created by Contractor under this Agreement, whether written documents or data, goods, or deliverables of any kind, shall be deemed work-for-hire under copyright law and all intellectual property and other laws, and the System is granted sole and exclusive ownership to all such work, unless otherwise agreed to herein. Contractor hereby assigns to the System all right, title, and interest in and to any 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 data or information contained in such work shall be subject to all confidentiality provisions of this Agreement.

Warranty of Service: Contractor warrants that all services will be performed in a good and professional manner to industry standards by trained and competent personnel. Contractor shall monitor performance of each individual and shall reassign immediately any individual who is not performing to professional standards, who is not efficient or effective in performing the work under this Agreement, who is disruptive or not respectful of others in the workplace, or who in any violates the Agreement or TRS policy.

Work Product: Unless otherwise agreed in writing, all work product produced under this Agreement, including but not limited to, written or electronic documents, reports, information, documentation of any sort, data, records and ideas, whether preliminary or final, shall become and remain the property of the System, including any patent, copyright, or other intellectual property rights. With the exception of ideas, all such work products shall be considered works made for hire within the meaning of 17 USC 101. To the extent that any portion of such work is not a work made for hire, Contractor completely and without reservation assigns to the System all right, title, and interest in and to such portion of the work product, as well as all related intellectual property rights, including patent and copyright. The System shall exercise all rights of ownership in all such work product without restriction or limitation and without compensation to Contractor, and Contractor shall have no right or interest therein. Contractor shall not acquire or have any right to use, disclose, or reproduce the work product or any equipment, documents, information, media, software, or know-how obtained from the System except to perform this Agreement. Nothing herein shall be construed as precluding the use of any information independently acquired by Contractor without such limitation. The ideas, methodologies, processes, inventions, and tools, including computer hardware and software where applicable, that Contractor previously developed and brings to the System in furtherance of performance of the Agreement shall remain the property of Contractor. Contractor grants the System a nonexclusive license to use and employ such software, ideas, concepts, methodologies, processes, inventions, and tools solely within its operations.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the dates below.

[SIGNATURE BLOCK]

SAMPLE